

SPECIAL COMMITTEE REPORTS

Spec. Com. Rep. 1

Your Committee on Credentials begs to report that it has examined the Letter of Appointment of Honorable Gerald K. Machida and finds that he is qualified to fill the vacancy in the Senate created by the resignation of State Senator Henry Takitani for the Tenth Legislature of the State of Hawaii, Regular Session of 1980.

Signed by Senators Yamasaki, Mizuguchi and Anderson.

Spec. Com. Rep. 2

Your Senate Committee on Judiciary and your House Committee on Judiciary, respectively directed to review, during the 1979 legislative interim,¹ the possible codification of the proposed Hawaii Rules of Evidence, beg leave to jointly report as follows:

COMMITTEE APPROACH

Your Senate and House standing Committees on Judiciary held eight joint work session meetings, during October, November, and December 1979, to analyze, consider, and draft legislation to codify the proposed Hawaii Rules of Evidence. These rules would generally apply in State courts in both civil and criminal proceedings except as otherwise provided in the rules.

During these meetings, your Committees closely reviewed the following:

- (1) The proposed Hawaii Rules of Evidence drafted by the Judicial Council of Hawaii's Rules of Evidence Committee, chaired by retired Circuit Court Judge Masato Doi, and transmitted to the House and Senate Judiciary Committees during the 1979 Regular Session.
- (2) Parts of the proposed but as yet unfinished commentary to the rules drafted by Professor Addison M. Bowman of the University of Hawaii School of Law who is serving as reporter to the Judicial Council's Rules of Evidence Committee.
- (3) The Federal Rules of Evidence (Public Law 93-595; 88 STAT. 1926) on which the Judicial Council's Rules of Evidence Committee's draft of the proposed rules is based and patterned after.
- (4) Pending legislation to codify the proposed Hawaii Rules of Evidence, especially H.B. No. 1009-79 which incorporates in bill form the Judicial Council's draft of the proposed rules.

During the interim work session meetings, your Committees were substantially and very ably assisted by Professor Bowman who served, without remuneration, as the reporter to your Committees in our joint endeavor to consider and draft legislation to codify the proposed Hawaii Rules of Evidence.

BACKGROUND

Unlike many other states, Hawaii has not yet codified the rules of evidence applicable in our State courts, depending instead upon rules of evidence developed in case law or established by numerous and disparate sections in statutory law.

The proposed Hawaii Rules of Evidence are based on the Federal Rules of Evidence which were adopted by Congress in 1974 (P.L. 93-595; 88 STAT. 1926) and took effect in the federal courts on July 1, 1975.

Rules of evidence, such as the proposed Hawaii Rules of Evidence, generally deal with such matters, among others, as rulings and admissibility of evidence; relevancy of evidence; the taking of judicial notice by the courts of certain kinds of facts and certain kinds of law; presumptions in civil and criminal proceedings; privileges to refuse to disclose confidential communications to a clergyman or between such persons as lawyer and client, physician and patient, and husband and wife; testimony by and the impeachment and cross-examination of

¹The Senate Committee on Judiciary was appointed and authorized to conduct such interim review pursuant to S.R. No. 509, adopted by the Regular Session of 1979.

The House Committee on Judiciary was appointed and so authorized pursuant to H.R. No. 844, adopted by the Regular Session of 1979.

witnesses; opinion testimony by lay and expert witnesses; the general rule as to non-admissibility of hearsay and exceptions to this general rule; authentication or identification of evidence as a condition to its admissibility; proving the contents of writings, recordings, and photographs, and the admissibility of duplicates.

FINDINGS AND RECOMMENDATIONS

Findings. Your Committees make the following findings:

(1) Rather than having to rely upon rules of evidence developed in various judicial decisions or established by numerous and disparate sections in Hawaii statutes, the codification of evidentiary rules to apply in our State courts, as one chapter of the Hawaii Revised Statutes, will be very helpful to, and mean less research time expended on evidence rules by judges, lawyers, and legal researchers.

The codification of evidentiary rules will also benefit litigants, or clients of attorneys, because the less time an attorney has to spend in legal research as to applicable rules of evidence, the less time he will need to charge for such research.

(2) Codification of a uniformly worded set of rules of evidence (accompanied by explanatory commentary) should also help promote uniformity among judges in their rulings and decisions on evidentiary matters. The reason is that such codified or statutory rules should reduce the need for individual judges to interpret or construe various court decisions establishing, applying, or construing rules of evidence.

Moreover, where there is a void or hiatus in Hawaii case or common law as to particular evidentiary matters, statutory rules of evidence in those areas should greatly assist judges, lawyers, and litigants, and should also help promote uniformity of judicial rulings and decisions.

(3) The proposed Hawaii Rules of Evidence follows the format and to a great extent the substance of the Federal Rules of Evidence. Basing the Hawaii Rules of Evidence on the Federal Rules of Evidence has at least four major advantages:

(a) Members of the Hawaii bar who practice in both State and federal courts will need to learn, generally speaking, only one basic set of evidence rules (except in areas where the Hawaii and federal rules differ).

This means that Hawaii lawyers would be more proficient in serving their clients in whichever of these two systems of forums they may be litigating.

(b) A growing number of other states have either adopted or are in the process of adopting state evidence codes based on the Federal Rules of Evidence. Moreover, the 1974 Uniform Rules of Evidence (as approved by the National Conference of Commissioners on Uniform State Laws in August 1974, superseding the 1953 version) very closely tracks and is therefore substantially similar to the Federal Rules of Evidence.

This means that members of the Hawaii bar, who are also licensed to and who do practice in other states and their state courts, should find it very helpful and convenient if Hawaii adopts an evidence code which tracks the Federal Rules of Evidence.

(c) Both judges and attorneys in construing and applying particular rules in the Hawaii Rules of Evidence which are identical or very similar to corresponding rules in the Federal Rules of Evidence, can look to and obtain valuable guidance from the fairly substantial body of federal case law, interpreting the federal rules, which has developed over the five-year period since the federal rules took effect in 1975.

Hawaii judges and attorneys can also look to the case law of other states which have adopted state evidence codes tracking the Federal Rules of Evidence.

(d) Substantial similarity between the Hawaii Rules of Evidence and the Federal Rules of Evidence should help promote uniformity in Hawaii federal district court and State court rulings or decisions relating to evidentiary rules and matters.

Such similarity in evidence rules and such uniformity in the construction and application of similar rules may in turn discourage forum shopping by litigants between State courts and the federal district court in cases where an action may be brought in either State court or the federal district court--the litigant understandably seeking the system of courts operating under evidence rules more favorable to his cause of action or defense.

(4) The various rules in the proposed Hawaii Rules of Evidence should be accompanied

by explanatory commentary.

The commentaries are primarily designed to give the reader a better understanding of the various rules; to point out and explain differences between a particular rule and its counterpart in the Federal Rules of Evidence or whether a rule is identical with the parallel rule in the Federal Rules of Evidence; to indicate any significant similarities to other evidence codes, such as the California Evidence Code and Uniform Rules of Evidence; to cite relevant decisions of the Hawaii Supreme Court and the United States Supreme Court and, if necessary, of other courts; to indicate whether a particular rule modifies or restates and codifies existing Hawaii case law; to cite relevant provisions of the Hawaii Revised Statutes or provisions therein superseded by a particular rule; and to indicate relevant or parallel provisions in the Hawaii Rules of Civil Procedure and the Hawaii Rules of Penal Procedure.

As in the Hawaii Penal Code (see section 701-105, Hawaii Revised Statutes), the commentary will be published and may be used as an aid in understanding the rules, but not as evidence of legislative intent.

Recommendation. Your Senate Committee on Judiciary and your House Committee on Judiciary recommend that the proposed Hawaii Rules of Evidence be enacted by the Legislature in the form either of Senate Bill No. 1827-80 or House Bill No. 1771-80 (companion bills), as may be appropriately amended during the legislative process.

The proposed Hawaii Rules of Evidence in the two companion bills substantially follow or track the Federal Rules of Evidence. Deviations from the federal rules will be noted or explained in the commentary to the rules. The commentary is expected to be completed and available for public inspection or study during the 1980 Regular Session.

Signed by Senators O'Connor, Cobb, Campbell, Chong, Kuroda, Machida, Mizuguchi, Ushijima, George and Carroll. Senator Saiki was excused.

Signed by Representatives D. Yamada, Honda, Aki, Baker, Blair, Dods, Garcia, Larsen, Lee, Masutani, Nakamura, Shito, Uechi, Ikeda and Medeiros.

CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 1-80 on H.B. No. 1494

The purpose of H.B. No. 1494, H.D. 1, S.D. 2 is to amend Section 78-1, Hawaii Revised Statutes, to allow nationals and permanent resident aliens to be employed as appointive officers (other than as 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. However, a non-citizen who is appointed to office under Section 78-1 must diligently seek citizenship upon becoming eligible to apply for United States citizenship in order to continue his employment.

Your Committee finds, however, that H.B. No. 1494, H.D. 1, S.D. 2 in its present form contains a technical error in that the bill follows the wording of Section 78-1 before the section was amended by Act 211, Session Laws of Hawaii 1977, and Act 101, Session Laws of Hawaii 1978. Your Committee further notes that the bill proposes to limit the application of subsection (a) of Section 78-1 to elective officers. As drafted, however, subsection (a) does not fully conform to the Ramseyer method of drafting, since the words "their appointment" have been deleted without bracketing and new words "assumption of office" have been added without underscoring.

Accordingly, your Committee upon further consideration has made the following amendments to H.B. No. 1494, H.D. 1, S.D. 2:

(1) Subsection (a) of Section 78-1 has been further amended by reinserting the words "their appointment" in brackets immediately after the word "preceding" and before the word "assumption" in lines 9 and 10, page 1, of the bill and the words "assumption of office" have been underscored.

(2) In order to reflect the changes made to Section 78-1 by Act 211, Session Laws of Hawaii 1977, and Act 101, Session Laws of Hawaii 1978, the existing provisions of Section 78-1, other than subsection (a) thereof, as indicated in the 1979 Supplement of the Hawaii Revised Statutes, have been substituted for the provisions designated as subsections (c) through (f) of H.B. No. 1494, H.D. 1, S.D. 2. Appropriate changes in subsection designations have been made to the substituted provisions to reflect the addition of a new subsection (b). Also, the substitution of the words "more often" for the word "oftener" is reflected in subsection (d).

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1494, 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. 1494, H.D. 1, S.D. 2, C.D. 1.

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

Representatives Stanley, Kunimura and Marumoto
Managers on the part of the House

Conf. Com. Rep. No. 2-80 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 for 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 has amended this bill to conform to the language of S.B. No. 578, passed by the Legislature during the 1979 Session. Senate Bill No. 578 proposes an amendment to Article XVII, Section 2, to increase the requirement for ratifying an amendment to the State Constitution from at least 35 per cent to at least 50 per cent of the total votes cast at the election. Accordingly, S.B. No. 1703, S.D. 1, H.D. 1, C.D. 1, has been amended to reflect this change.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1703, S.D. 1, H.D. 1, C.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. 2.

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

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

Conf. Com. Rep. No. 3-80 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 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 publicizing the amendment or revision has also been specified to require the Constitutional Convention to make available for public inspection the full text of any proposed amendment for 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 be responsible for a program of voter education to inform the public of the proposed amendments or revision. While S.B. No. 1703, S.D. 1, H.D. 1, C.D. 2, outlined a basic program of voter education your Committee has deleted such specific references and has instead required that the convention follow the procedures as provided by law. This change has been made by your Committee as it was its decision that the Constitution should provide the broad authority to give the Convention the power to provide for a voter education program and that the statutes should fill in the details of that program.

Your Committee on Conference has further amended this bill to conform to the language of S.B. No. 578, passed by the Legislature during the 1979 Session. Senate Bill No. 578 proposes an amendment to Article XVII, Section 2, to increase the requirement for ratifying an amendment to the State Constitution from at least 35 per cent to at least 50 per cent of the total votes cast at the election. Accordingly, S.B. No. 1703, S.D. 1, H.D. 1, C.D. 2, has been amended to reflect this change.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1703, S.D. 1, H.D. 1, C.D. 2, 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. 3.

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

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

Representatives Larsen and Medeiros did not sign the report.

Conf. Com. Rep. No. 4-80 on S.B. No. 2134-80

The purpose of this bill is to enable the consumers of this State to obtain a cost-savings

when having a prescription filled. Under this bill, a pharmacist may substitute an equivalent drug product under a prescription which prescribes a trade or brand name drug product. Before substituting for a brand or trade name product, the pharmacist is required to choose an approved generic drug which costs less than the drug ordered. The pharmacist is also required to inform the consumer on 1) the availability of substitution, 2) the price difference between the drug prescribed and the drug substituted, and 3) his or her right to refuse.

This bill also provides for the establishment of a drug product selection board which will be responsible for developing a safe drug formulary of equivalent drug products for the purpose of substitution. The board will be composed of persons in the community with expertise in medicine, public health and pharmaceutical practice, to be appointed by the governor with the advice and consent of the Senate. The Director of Health or his designated representative is included in the Board's membership as the seventh member. Your Committee recognizes the heavy schedule imposed on the Director of Health, and realizes that the Director may not always be able to attend the board's meetings, therefore, he may appoint a representative in his place. However, because of the importance of this board, it is your Committee's intent that insofar as practicable, the Director should appoint the same person to serve as his representative on all occasions when the Director is unable to attend meetings, and that the representative should have the requisite expertise to be an effective member of the Board.

Under this bill, the board is placed under the Department of Health for administrative purposes only. Since the Department of Health is administratively responsible for the generic drug product selection board, the bill also requires the Department to provide for distribution and revisions of the formulary to all dispensers and prescribers licensed in this State and to other appropriate individuals. The Department is further required to provide the public with information on generic drug substitution as provided by this bill, and to monitor the effects of this bill.

A posting requirement is included in the bill to require every pharmacy to post a sign informing the public of the availability of substitution. It is the intent of your Committee that such a sign on substitution be posted in any physician's office in which a pharmacy is in operation.

Further, it is your Committee's intent that prescriptions obtained from any commissioned medical, dental, osteopathic, veterinary, or podiatry officer in the United States Army, Navy, Marine Corps, or public health service, be exempt from the provisions of this bill. We find that this group of prescribers may be unaware of Hawaii's substitution law and their intent in prescribing a particular drug product may be thwarted if substitution occurred.

In deliberating over this bill, your Committee finds that emphasis should be placed on the importance of educating the public on the subject of generic drug products, as well as its availability. To this end, we find that it is incumbent upon physicians to inform their patients on the topic of generic drug equivalents.

Your Committee upon further consideration has made the following amendments to S.B. No. 2134-80, H.D. 1:

(1) To give the responsibility of choosing substitution to the consumer, the provision permitting pharmacists to substitute is changed to require the pharmacist to:

- (A) Offer to the consumer substitutable and lower cost equivalent drug products from the formulary adopted by the drug product selection board;
- (B) Inform the consumer of the retail price difference between the brand name drug product and the substitutable drug product; and
- (C) Inform the consumer on his or her right to refuse substitution.

The dispenser shall substitute if the consumer consents, and shall not substitute if the consumer refuses. Subsection (d) on page 3 is deleted because its requirements have been included in the above amendment.

(2) The specification for staggered terms of the members of the Generic Drug Product Selection Board is replaced with reference to section 26-34, Hawaii Revised Statutes. This section appropriately provides for the appointment and length of terms of initial and subsequent members on all boards and commissions within the state government.

(3) The appointment of the chairman of the Board is placed within the responsibility of the Board.

(4) To ensure that a quality drug formulary is adopted as soon as possible, the adoption date is changed to January 1, 1981.

(5) In order to conform with the amendment to the bill requiring pharmacists to inform consumers regarding substitution, the sign required to be posted in every pharmacy is changed to read: "HAWAII LAW REQUIRES THAT LESS EXPENSIVE GENERICALLY EQUIVALENT DRUG PRODUCTS BE OFFERED TO THE CONSUMER. CONSULT YOUR PHYSICIAN AND PHARMACIST CONCERNING THE AVAILABILITY OF THE LEAST EXPENSIVE DRUG PRODUCT FOR YOUR USE."

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2134-80, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2134-80, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 5-80 on H.B. No. 159

The purpose of this bill is to provide for the representation of dental hygienists on the Board of Dental Examiners.

Under present law, the nine member board is composed of seven dentists (one each from the counties of Hawaii, Kauai and Maui, and four from the City and County of Honolulu), and two lay persons.

Your Committee feels that it is in the best interests of the dental hygiene profession and the dental health care system in general to provide for the representation of dental hygienists on the board that regulates them.

This bill would increase the membership of the board to eleven by adding another dentist from the City and County of Honolulu and a dental hygienist.

Your Committee has amended the bill to correct an internal inconsistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 159, 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. 159, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 6-80 on H.B. No. 1986-80

The purpose of this bill is to clarify certain provisions of Chapter 294, Hawaii Revised Statutes, relating to the operation of the Hawaii No-Fault Law.

This bill amends four areas of Hawaii's No-Fault Law which have in the past caused uncertainties in application.

First, Section 294-2(10)(c), Hawaii Revised Statutes, is amended to clarify the amount of no-fault monthly earnings loss benefits. Presently, there is some confusion whether or not an insurance carrier need pay any benefits to a claimant who is earning \$800 per month even though that claimant is suffering a monthly earning loss as a result of a motor vehicle accident. This bill makes clear that lost wage benefits are to be paid in that situation and in any situation where there is a monthly wage loss up to the \$800 limit.

Second, Section 294-10(b) and (c), Hawaii Revised Statutes, are amended by this bill to facilitate the commissioner's calculation of the medical-rehabilitative threshold figure. Present law refers to the date to be utilized in an inconsistent manner, thereby making ambiguous the basis used in such calculation. This bill would simplify this basis by including only those no-fault benefits paid or reserved.

Third, Section 294-39(a), Hawaii Revised Statutes, is amended to close what has been a loophole in the penalty provisions of the Penal Code. Your Committee finds that the

intent of the legislature in the passage of the no-fault law was to impose a mandatory fine of at least \$100 per violation of Chapter 294. Judicial interpretation, however, has added the option of the suspension of such fine. This bill would re-establish the minimum mandatory fine as well as provide additional mandatory penalties for multiple offenders. Section 805-13(c), Hawaii Revised Statutes, is also amended to conform with these penalty provisions.

Fourth, a new section is added to Chapter 294 to provide the commissioner with exclusive jurisdiction over contested no-fault claims not in excess of \$5,000. Present law is silent as to the commissioner's authority in this area. Your Committee agrees with the testimony presented by the Department of Regulatory Agencies that the commissioner should be authorized to conduct such hearings and that such hearings be pursuant to the Administrative Procedures Act.

Your Committee feels that these amendments are in furtherance of the stated purposes of Hawaii's No-Fault Law and will clarify various uncertainties that have arisen since its inception.

Your Committee has made a technical, non-substantive change.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1986-80, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1986-80, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 7-80 on S.B. No. 2253-80

The purpose of this bill, as referred to your Committee, is to regulate the time share industry. Your Committee has amended this bill to delete material relating to time sharing, and to provide language which requires a person who owns or rents a lodging unit for transient rental use to submit a disclosure statement to the Real Estate Commission. The disclosure statement would not be required for normal hotel operations or for any gratuitous use.

The disclosure statement would include the name, address, and telephone number of the offeror, the lodging unit, and the managing agent. The responsibilities and authority of the managing agent would also be required to be disclosed. If a lodging unit were added to any rental pool by the offeror, the same type of information would be required to be submitted by the offeror or the managing agent.

The bill allows the Real Estate Commission to adopt rules and forms, pursuant to Chapter 91, and requires the submission of an annual report. The bill also makes a wilful violation of the chapter a "violation" under the Penal Code.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2253-80, S.D. 1, H.D. 1, as amended herein, and requests that it pass Final Reading in the form attached hereto as S.B. No. 2253-80, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Blair, Aki, Larsen, Masutani, Shito and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 8-80 on S.B. No. 1516

The purpose of this bill is to regulate time sharing in the State of Hawaii.

In its resolution of the several issues involved in this bill, your Conference Committee has taken note of the growth of time sharing over the past several years, both in the State of Hawaii and in other tourist destination areas. Your Committee is aware that time sharing has generated controversy among the various interested parties, including the governments of the State and of the several counties, persons in the time share industry, and residents most directly affected by the growth of time sharing and its potential for expansion.

Simply stated, those who favor time sharing see it as a continuing stimulus to the economy of the State through the creation of additional jobs for residents of Hawaii and expenditures by time share participants. Opponents challenge the conclusion that time sharing constitutes

an economic advantage to the State, and consider it to be disruptive, particularly within areas where permanent residents live. The opponents would prefer the strict limitation or prohibition of time sharing, while its proponents favor enabling legislation to establish definite guidelines and procedures for its statutory regulation.

Your Committee concludes that it is necessary and timely for time sharing to be placed under strict governmental regulation if the interests of the State, the time sharing industry, the purchasers of time share units and above all, the people of Hawaii, are to be served. Accordingly, it is the intention of your Committee that careful regulatory oversight of time sharing in the State of Hawaii be provided.

The following are some of the more significant areas of regulation addressed in this measure:

Sec. -3 Taxation. Provides for reliable and efficient administration of real property and excise taxes.

Sec. -4 County authority. This mandate will be particularly helpful in efforts to clarify hotel, resort and transient vacation rental areas. The counties do not presently zone for the less traditional forms of transient visitor accommodations, and should address this in the near future.

Sec. -5 Geographic limitations. Provides a general prohibition, except as specifically allowed in the enumerated subsections. The first exemption is a "grandfather" provision to avoid any retroactive effect of this section.

The second exemption subsection provides for two exemptions from the prohibitory language. First, time sharing and transient vacation rentals are allowed in hotels. Second, time sharing and transient vacation rentals are allowed where designated for hotel use, resort use, or transient vacation rentals use, pursuant to county authority under Section 46-4, Hawaii Revised Statutes, or where the county, by its legislative process, designates hotel, transient vacation rental or resort use.

It is the clear intention of your conferees that time sharing and transient vacation rental use are identical uses of land, without regard to ownership, and that both uses of land should be addressed in a coequal manner by the counties. Your conferees further note that county land use decisions are not based on ownership, but on the use of the land in question. As such, time sharing and transient vacation rentals should be either permitted or prohibited on an equal basis within an area deemed appropriate by the county.

Your Committee further notes several areas of non-enforcement of their own zoning ordinances by some of the counties. In this regard, it is not the present character of the neighborhood, but its intended use by the county that is also important. The legislature intends by this Act that the counties will be guided by the notion that time sharing and transient vacation rentals should not be permitted where the life styles of the permanent residents will be disrupted in an unreasonable manner. Any zoning code is only as good as its enforcement by a county.

In its review of time sharing and transient vacation rentals, your conferees concluded that several of the counties have not used their zoning authority on these less formal and traditional types of transient visitor accommodations. The problems caused by this shortcoming in the county zoning ordinances are clearly demonstrated in the case of County of Maui vs. Puamana Management Corporation (Civil No. 3474-78), presently on appeal to the Supreme Court of the State of Hawaii.

Your conferees elected not to pre-judge where in an appropriate area time sharing and transient vacation rentals should be allowed or prohibited, but to leave that decision to each county as a logical part of its zoning or designation functions. Your Committee expects that the counties will act expeditiously to clarify the propriety of these uses under the zoning ordinances.

Sec. -6 Time sharing in projects. Provides that time sharing must be explicitly and prominently authorized in project instruments before such a use can commence in a project. Such authorization shall be by a unanimous vote of the unit owners. In projects which presently contain time sharing use, the project instruments will determine the restrictions, if any, to be imposed.

Sec. -7 Maintenance charges. In recognition that time sharing may result in more intensive use of buildings or projects and their common elements, your Committee has provided that higher maintenance fees, up to a maximum of an additional fifty percent, may be assessed against time share units and transient vacation rental units located in the same building as private residential units. This proviso will more equitably distribute

maintenance costs, and should have the collateral effect of discouraging the mixed use of buildings.

Sec. -8 Mutual right to cancel. Provides a cooling-off-period of five calendar days after the execution of the contract or the receipt of the mandatory disclosure statement, whichever is the latter. It is hoped that this will remove some of the incentive to use high pressure sales techniques.

Sec. -9 Disclosure statement. Provides for the disclosure of pertinent information to prospective purchasers.

Sec. -10 Filing required; developer, sales agent, acquisition agent and plan manager. Provides for filing of the disclosure statement with the director. It also requires the filing of certain information by the acquisition agent, sales agent and plan manager and requires those persons to be bonded.

Sec. -11 Prohibited practices. Your Committee has defined and prohibited undesirable marketing practices such as beach and street solicitation on a Statewide basis.

Your Committee believes that these provisions will help to reduce the actual and perceived problems of time sharing without unduly retarding the industry.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1516, 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. 1516, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Blair, Aki, Larsen, Masutani, Shito and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 9-80 on S.B. No. 2869-80

The purpose of this bill is to amend Section 621-9, Hawaii Revised Statutes, relating to witness expenses and budgetary procedure, to include expenses for the return of criminal defendants, defendants in Chapter 704 proceedings, or post-conviction petitioners.

Under present practice, some expenses relating to defendants are processed through the courts. A more appropriate method is to remove the courts from having to cover such expenses and have the State bear all costs of the extradition procedure. This also relieves the court from the financial burden of such expenses.

Your Committee has amended S.B. No. 2869, S.D. 3, H.D. 1 as follows:

(1) SECTION 2 has been added repealing Section 704-419, Hawaii Revised Statutes, relating to expense for the return of defendants under Chapter 704, "Penal Responsibility and Fitness to Proceed."

(2) Chapter 704 expenses will now be charged to the State under Section 621-9(6) by addition of the words "or in a proceeding under Chapter 704" to line 9, page 2, and "court or" to line 16, and deletion of the exception for Section 704-419 in line 8. The "court or public prosecutor or the attorney general" shall certify expenses to the State.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2869-80, 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. 2869-80, S.D. 3, H.D. 1, C.D. 1.

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

Representatives D. Yamada, Baker, Honda, Medeiros and Uechi
Managers on the part of the House

Conf. Com. Rep. No. 10-80 on S.B. No. 1944-80

The purpose of this bill is to provide for judiciary security personnel similar to the capitol security force.

Your Committee has amended this bill to conform its language to that of section 28-11.5, Hawaii Revised Statutes, which provides for the law enforcement officers employed by

the attorney general's office. These officers, among other duties, provide security for the capitol. Your Committee has further amended this bill to specifically reference section 28-11.5 stating that the judiciary law enforcement officers shall have power similar to officers employed under section 28-11.5.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1944-80, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1944-80, S.D. 1, H.D. 2, C.D. 1.

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

Representatives D. Yamada, Baker, Honda, Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 11-80 on S.B. No. 2071-80

The purpose of this bill is to increase the jurisdictional amount in the small claims division of the district court from \$600 to \$1,000. This increase is necessitated by recent inflation and is in keeping with the purpose of the small claims court to handle relatively small disputes.

Your Committee amended the bill by removing the deletion contained in the equitable relief section, lines 20-22, at page 2. This deletion was relevant to the bill in its original form, but is no longer relevant to the bill as amended.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2071-80, 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. 2071-80, S.D. 2, H.D. 1, C.D. 1.

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

Representatives D. Yamada, Baker, Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 12-80 on S.B. No. 2120-80

The purpose of this bill is to amend section 577-22, Hawaii Revised Statutes, so that both sexes - rather than females only - are included in this section, which prohibits unmarried minors from frequenting any premises where compensation is paid to or for dancing partners. Pursuant to this purpose, all references to either gender in this section, including its title, have been replaced with sex-neutral language.

Your Committee on Conference has made a technical amendment to this bill to delete an unnecessary word from this section.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2120-80, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2120-80, H.D. 1, C.D. 1.

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

Representatives D. Yamada, Baker, Honda, Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 13-80 on S.B. No. 2156-80

The purpose of this bill is to bring Hawaii's Uniform Controlled Substances Act, Chapter 329, Hawaii Revised Statutes, into conformity with a recent amendment to the federal Comprehensive Drug Abuse Prevention and Control Act (21 U.S.C. 9881). Chapter 329 is based upon the federal act.

In 1978, Congress added a section to the federal act to provide for the forfeiture of all monies, negotiable instruments, securities, and other things of value traceable to any intended or completed exchange for controlled substances in violation of the controlled substances act. This allows law enforcement agencies to follow the money or the proceeds traceable to an illegal exchange even if it changes form.

The House amendment to the Senate bill would move the burden of proof to the State to

prove by a preponderance of the evidence that the person subject to forfeiture knew of the illegal nature of the property he acquired. The Senate bill as drafted conforms to the federal act which puts the burden on the person subject to forfeiture to show that he did not know of the property's illegal nature. Your Committee has decided to retain the original Senate version of the bill.

The bill has also been amended to tie the forfeiture procedure into the Penal Code's section 701-119. Nonsubstantive, technical changes have also been made to this bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2156-80, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2156-80, H.D. 1, C.D. 1.

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

Representatives D. Yamada, Baker, Honda, Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 14-80 on S.B. No. 2202-80

The purpose of this bill is to provide standards for the establishment of new licensing procedures for radiation therapy technologists. Under present law, radiation therapy technologists are included under the licensing of radiation technologists. Your Committee finds that delineation of these two groups is in accord with present differences in medical education, training, and practice. This bill further provides for standards to assure that proper education and training has been obtained by all radiation therapy technologists prior to obtaining a license.

Under this bill, the Board of Radiation Technology is permitted to administer separate licensing exams for radiation therapy technologists and diagnostic technologists.

The terminology "cobalt 60 or electrons" has been included in the definitions section of this bill in preference to "ionizing radiation". The bill also includes this terminology throughout the bill with reference to this type of radiation. Your Committee recognizes that "ionizing radiation" would encompass a wide range of technologists working in nuclear medicine.

There is presently no state regulation or licensing provision for nuclear medicine technologists, and the existing law is inadequate to cover this broadened definition. Although "cobalt 60 or electrons" is included within the definition of ionizing radiation and does relate to nuclear medicine, it is a narrower definition that relates directly to the method of treatment used by radiation therapy technologists.

Your Committee upon further consideration has made the following amendment to S.B. No. 2202-80, S.D. 2, H.D. 1.

(1) "X-rays" has been added to line 5, page 2 to correct an inadvertent omission.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2202-80, 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. 2202-80, S.D. 2, H.D. 1, C.D. 1.

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

Representatives Blair, Aki, Larsen, Masutani, Shito and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 15-80 on H.B. No. 452

The purpose of this bill is to regulate and monitor the installation and use of burglar and holdup alarm systems.

This bill places this regulatory responsibility with the Director of Regulatory Agencies who is directed to establish requirements and procedures relating to licensure. This bill also would require a \$10,000 surety bond to be obtained by each licensee, require an automatic shut-off device for all audible alarm systems sold, require record keeping, establish penalties, and introduce the industry into the sunset review cycle.

Upon further review, your Committee feels that extensive regulation, bonding and other requirements will drive up the cost of doing business for alarm business and effectively prevent smaller companies from competing. Your Committee feels that there is value in allowing as many competitors as possible participate in this growing field. Accordingly, your Committee has amended the bill to provide for registration of alarm businesses with the chiefs of police of the various counties and a requirement of a \$1,000 bond. Additionally, an assessment of \$200 for each false alarm in excess of four per year is established, and other procedural matters have been provided for. Your Committee finds that false alarms caused by faulty or inadequate alarm systems result in major costs of police manpower, time and wages and are therefore an inefficient use of police services. Your Committee is in agreement with the intent of this bill to reduce the magnitude of this problem.

This bill would also retain the requirement that automatic shut-off devices be attached to audible alarm systems. Your Committee has also placed this regulation plan under Chapter 445 as a new Part.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 452, 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. 452, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 16-80 on H.B. No. 1993-80

The purpose of this bill is to repeal Act 76, Session Laws of Hawaii 1979, and postpone the repeal of Chapter 443, Hawaii Revised Statutes until December 31, 1986.

This bill would reenact Chapter 443, relating to Collection agencies, previously allowed to expire by Act 76 which also enacted a new Chapter 443A to take effect January 1, 1981.

Your Committee has amended the bill to allow Chapter 443 to expire and allow the enactment of Chapter 443A. Accordingly, your Committee has also amended Section 443A-1(5) to delete any reference to a board of collection agencies.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1993-80, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1993-80, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 17-80 on H.B. No. 1991-80

The purpose of this bill is to make various amendments to Chapter 452, Hawaii Revised Statutes, which regulates the massage industry.

The bill (1) amends chapter 452, Hawaii Revised Statutes, to make changes in terminology; (2) requires that massage therapists and massage establishments be "licensed" instead of "certificated" and that "out-call massage services" be licensed under this chapter; (3) requires that the department of regulatory agencies employ an executive secretary and clerical help to assist the board; (4) provides that a person convicted of a felony or a misdemeanor involving moral turpitude may be denied a license; (5) deletes provisions for officers and specifies that a chairperson shall be elected; (6) increases and separates the various fees; and (7) provides penalties for knowingly employing unlicensed persons to perform massage services.

While in agreement with the intent of the bill, Your Committee has made several changes:

(1) The authorization for the Department of Regulatory Agencies to acquire additional staffing has been deleted.

(2) Conviction of a crime involving moral turpitude as grounds for refusing to issue or renew a license has been deleted.

(3) The fees for both licensing and renewal of licenses for out-call services and massage establishments has been raised from \$50 to \$100.

(4) The grace period for license renewal has been reduced from three years to 12 months.

(5) Section 452-22 has been repealed.

(6) The misdemeanor penalty section of 452-19 has been amended to be consistent with Section 701-107(3) of the Penal Code.

(7) Deletes references to "chairperson."

Your Committee on Conference is in accord with the intent and purpose of H.B. 1991-80, 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. 1991-80, H.D. 1, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 18-80 on H.B. No. 2321-80

The purpose of this bill is to amend Chapter 468J, Hawaii Revised Statutes, relating to Travel Agencies.

This bill would extend the expiration of Chapter 468J under the sunset review system until December 31, 1981, delete the present bonding requirements, and establish a travel agency recovery fund for the benefit of aggrieved consumers and which is funded by all travel agents and sales representatives by \$50 per year assessments. Consumers will be allowed to recover for damages up to \$10,000 per person against the fund.

While in accord with the intent of the bill, your Committee has made several amendments:

(1) Chapter 468J will be allowed to sunset and a new chapter will be enacted effective January 1, 1981.

(2) A fee differential for travel agents and sales representatives has been made to reflect the traditional difference in assessments between the two.

(3) The minimum amount allowable in the recovery fund before further assessments are made has been reduced to \$30,000.

(4) Licensing requirements has been deleted and registration required instead.

(5) The maximum amount recoverable on the account of any one travel agency or sales representative has been reduced to \$10,000.

It is the intent of your Committee that this new chapter not be subject to the sunset review cycle. Your Committee feels that this plan will best aid consumers who have been damaged by travel agents or sales representatives.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2321-80, 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. 2321-80, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 19-80 on H.B. No. 2368-80

The purpose of this bill is to add a new part to Chapter 281, Hawaii Revised Statutes, to provide for price affirmation for alcoholic beverages, excluding beer and wine, thereby resulting in lower prices initially to wholesalers and ultimately to the consumer.

This new section provides that suppliers must sell alcoholic beverages, excluding beer and wine, to wholesalers at the lowest price they sell to any other buyer in other states.

It requires that suppliers file annual price lists for the beverages they sell, with the liquor commission.

Your Committee has amended the bill to provide that the bill be effective upon its approval for a period to expire June 30, 1982.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2368-80, 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. 2368-80, H.D. 1, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 20-80 on H.B. No. 2443-80

The purpose of this bill is to raise the maximum interest rates a credit union can assess on its loans from one per cent per month to eighteen per cent a year.

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

Your Committee feels that credit unions provide a valuable service to their members and require the relief provided by this bill to continue to provide such service. While in agreement with the intent of the bill, your Committee has amended the bill by reorganizing the authority of the bank examiner to increase the interest rates above the eighteen per cent rate if certain conditions occur into a separate section under Chapter 410.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2443-80, 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. 2443-80, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 21-80 on H.B. No. 2161-80

The purpose of this bill is to amend the Hawaii Revised Statutes' election laws which pertain to the filling of vacancies in political offices and candidacies. Amendments are required to conform the procedures and deadlines for filling such vacancies with the presently existing election schedules and demands.

The major changes to the election laws are as follows:

(1) Section 11-118. The language addressing the submission of a substitute candidate's name by the political party committee after the submission deadline has been deleted. The deletion was necessary, as other sections in the Hawaii Revised Statutes cover such contingencies.

In addition, language is deleted which establishes a twenty-day deadline before the general election for filling a vacancy, which results in a consistent thirty-day deadline for filling vacancies in primary, special primary, special, general, and special general election.

(2) Section 17-3. The Governor may now appoint a person to fill a vacancy in a State Senate seat who shall be of the same nonpartisanship as the person being succeeded.

Clearer delineations of procedures to be followed to fill vacancies in Senate seats are also set forth by time periods as follows:

(a) time period of ten days before the close of filing for election nominations;

- (b) time between the ten day mark and the thirtieth day before the primary;
- (c) time between the thirty day mark and the thirtieth day before the general;
and
- (d) the thirty-day time period between the above-noted mark and the election itself.

The effect of this amendment is to extend the original ten-day period before the general election to thirty days, when vacancies occurring will result in gubernatorial appointments, rather than having resolution through the election process. The forty-day period hereby established (ten days before and thirty days after the close of the filing date) allows for the extension of time for filing nomination papers in the event of vacancies occurring within that period, and up to thirty days before the primary. Another ramification of this amendment is that sufficient time for the preparation of ballots that reflect the addition of candidates filling the vacancy is now afforded.

(3) Section 17-6. Wherever "general election" appears, it is preceded by the phrase "special election held in conjunction with the". This distinction is necessary because the Board of Education members are elected in a separate, special general election held without a primary election.

As in the Senate vacancies situation, a vacancy occurring in the Board's membership whose term does not expire until the second subsequent special election can be filled at the election if it occurs before the thirty-day time period preceding the special election. Following the thirty-day measurement, any vacancy is to be filled by appointment of the Governor. This thirty-day time period affords election clerks adequate time in which to prepare ballots with the names of the vacancy candidates.

(4) Section 17-7. Changes which parallel those made in section 17-3, relating to Board of Education members, are made. These include the special election-general election distinction, and the requirements of residency restrictions. The same thirty-day deadline preceding the special election before which time nominations may be filed in order to fill vacancies is also made applicable to the Office of Hawaiian Affairs board membership. This thirty-day cut-off period replaces the former ten-day period, which rendered preparation of ballots which contained the vacancy candidates' names virtually impossible.

Your Committee, upon further consideration, has amended H.B. No. 2161-80, H.D. 1, S.D. 1, by making technical, non-substantive changes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2161-80, 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. 2161-80, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 22-80 on H.B. No. 2162-80

The purpose of this bill is to revise sections of Chapter 15, Hawaii Revised Statutes, which deal with absentee voting.

The intent of these revisions is to improve the absentee voting procedures which presently exist, with an eye toward increasing voter participation in our elections, while ensuring voter security and confidentiality. Your Committee feels that these goals can be accomplished by dealing with the absentee voting chapter in full rather than in separate pieces of legislation.

Your Committee, upon further consideration, has amended H.B. No. 2162-80, H.D. 1, S.D. 1, by removing the provision allowing for any voter over the age of 65 to be eligible for absentee ballots. Such a provision assumes that all voters over the age of 65 can be categorized as a special class in need of different treatment merely by virtue of their age. Many voters over the age of 65 are capable of voting at a polling place, and the requirement that such persons shall be entitled to vote by absentee ballot is patronizing. Your Committee has, instead, included the term "infirmary" to the reasons for allowing absentee ballots to those confined to the home by reason of such infirmity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2162-80, 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. 2162-80, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 23-80 on H.B. No. 2324-80

The purpose of this bill is to provide more adequate protection for the victims of spouse abuse and other types of domestic violence, by amending the law regarding temporary restraining orders so as to make it more effective.

In order to accomplish the goal set forth above, this bill allows the family court to extend the effective period of the temporary restraining order for multiple thirty-day periods if such extension is necessary to prevent violence or a recurrence of violence.

In addition, the Senate version explicitly authorizes a police officer to arrest a person violating a restraining order on probable cause, whether or not such violation occurred in or out of the arresting officer's presence. Upon further consideration, however, your Committee has amended H.B. No. 2324-80, H.D. 1, S.D. 1, to remove the provision for arrests by police officers for violations of restraining orders, as S.B. No. 2870-80, S.D. 1, H.D. 1, which has passed both Houses, and which amends section 803-5, Hawaii Revised Statutes, will permit police officers to arrest upon probable cause persons committing a misdemeanor, whether or not such misdemeanor has been committed in the officer's presence.

Technical, non-substantive amendments have also been made to H.B. No. 2324-80, H.D. 1, S.D. 1.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2324-80, 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. 2324-80, H.D. 1, S.D. 1, C.D. 1.

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

Representatives D. Yamada, Baker, Honda, Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 24-80 on H.B. No. 2826-80

The purpose of this bill is to clarify existing law relating to the liability of animal owners, and to provide for absolute liability as well as exceptions to liability.

The bill seeks to alleviate the problem by adding two new sections to Chapter 663, Hawaii Revised Statutes, the first of which circumscribes absolute liability of animal owners, by specifying instances in which liability shall attach to the owner or harbinger of an animal causing either personal or property damage to another person, and by setting forth exceptions to such liability. The second new section provides for exemption from civil liability when the injury or damages are incurred upon the premises of the animal owner.

The bill further seeks to provide for remedies for victims of animal attacks by deleting the existing language in section 142-74, Hawaii Revised Statutes, and by providing instead that owners whose animals proximately cause personal injury or injury or damage to property shall either confine or destroy the animal. This requirement does not preclude the imposition of civil liability for damages under the new sections of Chapter 633. In addition, a new cause of action for the seizure and destruction of the animal is set forth in cases where an animal is not properly confined or destroyed pursuant to court order, and where such animal causes further damage.

Your Committee, upon further consideration, has amended H.B. No. 2826-80, H.D. 1, S.D. 1, by separating the two concepts encompassed within the scope of the bill. The issue of liability of owners of all animals, including dogs, should be considered separately. S.B. No. 2501-80, S.D. 1, H.D. 1, addresses the problem of tort liability of animal owners, and the recovery of damages by the victims suffering personal injury or property damage caused by animals. Therefore, the provisions setting forth such tort liability in new sections under Chapter 633 have been removed.

The second concept is an equitable remedy that serves to protect the community through a new cause of action for the removal or destruction of dogs who have injured people. In order to safeguard the people from dogs who have shown that they are dangerous, it

is important that judicial relief be provided to ensure protection from such animals. This remedy does not foreclose existing common law remedies, such as abatement of a nuisance, but sets forth guidelines which assist the courts in determining when factors warrant affirmative action against a dog owner whose animal has proven to be dangerous to other persons.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2826-80, 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. 2826-80, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 25-80 on H.B. No. 2929-80

The purpose of this bill is to establish mandatory minimum sentences for repeat offenders who commit certain class B and C felonies.

Under present law, a mandatory minimum sentence of imprisonment is imposed only when a person is convicted twice or more for murder, kidnapping, assault in the first degree, sodomy in the first degree, rape in the first degree, burglary in the first degree, robbery in the first degree, promoting a dangerous drug in the first and second degree, and promoting a harmful drug in the first degree. This bill would impose a minimum mandatory sentence of imprisonment in cases involving subsequent convictions for burglary in the second degree, theft in the first degree, firearm violations, and other class B and C felonies involving violence, force, or the threat thereof. This bill allows a court, upon written opinion, to set a lesser minimum if "strong mitigating circumstances warrant such action."

In addition, this bill provides that any person convicted of one of the offenses in subsection (a) shall receive a mandatory minimum sentence of five years if that person has one prior conviction enumerated in either subsection (a) or (b), and ten years if the person has a total of more than one offense in these two subsections. Similarly, any person convicted of one of the crimes enumerated in subsection (b) shall receive a mandatory minimum sentence of three years for one prior conviction in either subsection (a) or (b), and five years for a total of more than one prior conviction in these subsections.

Upon further consideration, your Committee on Conference has amended H.B. No. 2929-80, H.D. 1, S.D. 1 by including, in subsection (b), the offense of robbery in the second degree, which is section 708-841, Hawaii Revised Statutes. The offense of robbery in the second degree is a class B felony involving violence or the threat thereof; therefore, its inclusion is consistent with the purpose of this bill.

Minor, non-substantive changes have also been made by your Committee.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2929-80, H.D. 1, S.D. 1, as amended herein, and recommends it pass Final Reading in the form attached hereto as H.B. No. 2929-80, H.D. 1, S.D. 1, C.D. 1.

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

Representatives D. Yamada, Honda, Lee, Masutani, Nakamura, Ikeda and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 26-80 on S.B. No. 1003

The purpose of this bill is to amend Section 46-4, Hawaii Revised Statutes, to allow the counties to phase out certain nonconforming uses.

Your Committee has amended this bill by providing for the amortization of nonconforming uses in commercial, industrial, resort, and apartment zoned areas only. Such amortization, however, shall not apply to any existing building or premises used for residential (single family or duplex) or agricultural uses.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1003, 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. 1003, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Kiyabu, Dods, Hashimoto, Kawakami, Sakamoto, Silva, Stanley,
Uwaine, Anderson and Marumoto
Managers on the part of the House

Conf. Com. Rep. No. 27-80 on S.B. No. 2977-80

The purpose of this bill is to authorize the chief executives of the State and counties and the chief justice of the supreme court to develop an appropriate pay structure for excluded managerial positions covered under chapter 77 (Compensation Law) in accordance with chapter 89C (relating to employees excluded from collective bargaining).

Presently, all public employees covered under chapter 77 are subject to the pay structures therein. For employees covered by collective bargaining ("included" employees), the pay rates in those structures are established through negotiations. For employees not covered by collective bargaining ("excluded" employees), the pay rates in those structures are established by the chief executives of the State and counties and the chief justice of the supreme court under chapter 89C.

Your Committee finds that for salary-setting purposes, excluded employees are divided into two groups: (1) non-managerial employees whose work is closely related to, and in some cases, identical to, that of included employees; and (2) managerial employees whose work is different in its essential nature from that of excluded nonmanagerial employees and included employees. Your Committee believes that managerial employees are unique by virtue of their responsibility to recommend and implement policies, and to conduct programs; therefore, these employees warrant salary schedules with different pay structure characteristics. Your Committee further finds that the establishment of such a pay structure will enhance career management service. This bill permits the chief executives of the State and counties and the chief justice of the supreme court to establish pay structures, including the number of salary ranges and the number of steps in each range, for excluded managerial employees, in accordance with chapter 89C.

Additionally, this bill deletes the obsolete pay rates set forth in current salary schedules for white-collar public employees. These pay rates are obsolete because they were established before enactment of the Collective Bargaining Law, and these rates have been changed through the negotiation and renegotiation of public employee contracts which supersede statutes. Furthermore, the deletion of these obsolete white-collar pay rates is necessary to accomplish the intent and purpose of this Act.

After due consideration, your Committee has amended this bill to further clarify its intent relative to the use of the terms "salary structures" and "schedules" throughout this Act:

(1) On page 2, line 20, the term "Compensation plan" is replaced with the term "Salary structures and schedules".

(2) On page 2, Line 22, the word "schedules" is replaced with the word "structures".

(3) On page 10, line 5, the word "schedule" is replaced with the word "structure".

Your committee has also made a technical, nonsubstantive amendment to this bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2977-80, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2977-80, S.D. 2, H.D. 2, C.D. 1.

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

Senator Soares did not sign the report.

Representatives Stanley, Morioka, Dods, Hashimoto, Inaba, Kunimura, Nakamura
and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 28-80 on H.B. No. 2634-80

The purpose of this bill is to amend the State's Compensation Law and Collective Bargaining Law to authorize a reduction in the number of steps within the existing salary ranges for white-collar and blue-collar public employees.

Under the current state Compensation Law, blue-collar public employees are subject to a five-step salary structure (each succeeding step in the salary structure signifies a higher compensation rate than the previous step), and white-collar public employees are subject to a ten-step salary structure. The number of steps in both instances is fixed by statute and this number can not be changed by negotiation between the public employer and the bargaining unit; these steps were established before the enactment of the State's public employee Collective Bargaining Law.

Upon passage of the Collective Bargaining Law in 1970, salary rates for public employees became negotiable, and salary increases for public employees were effected with each negotiated contract. The costs of these negotiated pay increases in addition to statutory incremental step advancements granted to public employees eventually became an enormous financial burden to the State. Therefore, effective July 1, 1976, the legislature prohibited the granting of step advancements to public employees in any fiscal year that a negotiated increase in the salary schedule of any bargaining unit is effected.

Your Committee finds that the combination of the foregoing influences -- the prohibition of step advancements in any fiscal year that a pay increase is effected, yet pay increases being regularly negotiated and effected under collective bargaining -- has rendered the original concept of incremental step advancement functionally obsolete. Your Committee agrees with the provisions of this Act:

(1) This bill deletes the obsolete pay rates set forth in current salary schedules for blue collar and white collar public employees. These pay rates are obsolete because they were established before enactment of the Collective Bargaining Law, and these rates have been changed through the negotiation and renegotiation of public employee contracts which supersede statutes.

(2) This measure amends the Compensation Law to reflect the current practice of establishing pay rates for public employees. Under this bill, public employees subject to the Collective Bargaining Law ("included" employees), shall negotiate pay rates; in the case of public employees who are not subject to the Collective Bargaining Law ("excluded" employees), pay rates shall be adjusted under chapter 89C, which permits the chief executives of each civil service jurisdiction to adjust, among other things, the compensation rates of excluded employees.

(3) Notwithstanding item (1) and (2) above, this bill retains the grid characteristics of the salary structure for blue-collar and white-collar employees by setting parameters for a five-step, fifteen-grade, blue-collar salary structure; and a ten-step, thirty-one-range, white-collar salary structure, thereby preserving legislative purview of public employee compensation.

(4) With the deletion of obsolete pay rates; the establishment of statutory parameters for setting compensation rates of blue-collar and white-collar public employees; and the retention of the grid characteristics of the compensation schedules, this bill further provides that a "model conversion plan" to reduce the number of steps in the public employee Compensation Law shall be subject to negotiations between the public employer and the exclusive representatives of the appropriate bargaining units at the latter's option (in the case of excluded employees, the conversion shall be subject to chapter 89C). If the exclusive representative exercises the option to negotiate a model conversion plan, the plan must be agreed to on or before December 31, 1980. This affords the parties to negotiations sufficient time to conduct the next round of negotiations on wages during 1981. If a model conversion plan is not agreed to by the foregoing date, negotiations shall be based on the existing five-step and ten-step ranges, as the case may be.

Your Committee further finds that any model conversion plan agreed to between the employers and the exclusive representative shall provide, among other things:

(1) that the objective of the plan is to reduce the number of steps within each salary range to a specific number;

(2) that the agreement shall not be terminated until the reduction to the specified number of steps is achieved; nor shall the agreement be modified except by written mutual agreement of the parties;

(3) that effective July 1, 1981, at least one step shall be deleted each fiscal year;

(4) that all negotiations on wages, to be effective July 1, 1981 and subsequently, shall be based exclusively on the model conversion plan;

(5) that all employees shall be paid in accordance with the rates negotiated for the steps

on the revised salary schedule within their applicable salary ranges;

(6) that the agreement shall not preclude the payment of a bonus or conversion differential if it is not to be considered as an adjustment to an employee's basic pay rate.

Section 5, subsection (e) of this bill further provides that, except for white-collar managerial positions, if a model conversion plan is not developed for included employees in a collective bargaining unit, no conversion plan shall be developed for excluded employees who are under the same compensation plan as the employees included in that collective bargaining unit.

Your Committee notes that this bill also amends other pertinent provisions of the Collective Bargaining Law and Compensation Law to conform to the intent and purpose of this Act.

After due consideration, your Committee has amended this bill to achieve consistency in the use of the terms "pay range," "salary range," "salary structure," and "pay schedule" throughout this measure. Your Committee has also made other technical, nonsubstantive amendments to this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2634-80, 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. 2634-80, H.D. 2, S.D. 2, C.D. 1.

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

Representatives Stanley, Morioka, Dods, Hashimoto, Inaba, Kunimura, Nakamura
and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 29-80 on H.B. No. 1911-80

The purpose of this bill is to correct errors, clarify language, and correct references 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 bill are of a technical or clerical nature.

Upon consideration, however, your Committee has amended this bill to make further technical changes as follows:

(1) Section 12. Your Committee has amended Section 286-56.5 by deleting the words "foreign or", as the word "foreign" was deleted in 1979, and the word "or" is therefore unnecessary.

(2) Section 13. Your Committee has further amended Section 286-201 by deleting the word "or contract carrier by motor vehicle", as they had been deleted in 1979.

(3) Section 39. Your Committee has deleted the underscoring of the word "section", as it is unnecessary.

Your Committee wishes to commend the Revisor of Statutes for his painstaking and meticulous work with regard to the corrections necessary to the H.R.S.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1911-80, 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. 1911-80, H.D. 1, S.D. 1, C.D. 1.

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

Representatives D. Yamada, Baker, Honda, Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 30-80 on H.B. No. 1915-80

The purpose of this bill is to clarify the sentencing provisions of the various firearms provisions contained in Chapter 134, Hawaii Revised Statutes, by conforming the penalty provisions with the language contained in the Penal Code.

At present, reference to the penalty provision of the Penal Code when sentencing those convicted of firearms violations has cast doubt upon the sentencing provision contained within Chapter 134. As originally enacted, Chapter 134 contains sections which were intended to require a minimum two-year and a maximum five-year sentence of imprisonment without probation. In light of the conflicting provisions in the Penal Code, however, the courts have been construing violations of the firearms sections as class C felonies, and have been sentencing convicted defendants to imprisonment for up to five years with no minimum term of imprisonment, thereby nullifying the intent of Chapter 134.

In the interests of clarity and conformity, then, your Committee has amended this bill by removing the mandatory minimum sentences provided for in sections 134-7, 134-9, and 134-10. Because the indeterminate sentences mandated by sections 706-606 and 706660 of the Hawaii Revised Statutes (Penal Code provisions) have been deemed by judicial fiat to control, the conflicting mandatory minimum sentences have been deleted and replaced with language setting forth penalties which are consistent with the Penal Code.

As to section 134-8, your Committee has concluded that retention of a mandatory maximum, without probation, is desirable. The nature of the prohibited weapons and related devices being of the type produced basically for the destruction of life and limb, are such that mandating a sentence of imprisonment is not unwarranted.

Your Committee, upon further consideration, has amended H.B. No. 1915-80, H.D. 1, S.D. 1, to remove from the scope of section 134-7 those who have been convicted of the use or possession of drugs, unless such conviction is a felony. Your Committee believes that sales of illegal drugs are of sufficient seriousness to warrant being covered under the section prohibiting ownership or possession of firearms by persons convicted of such sales. But the mere use or possession of prohibited drugs, unless the amount used or possessed constitutes a felony, do not warrant prosecution.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1915-80, 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. 1915-80, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 31-80 on H.B. No. 2058-80

The purpose of this bill is to make uniform the procedures relating to the sale of real property in probate and guardianship proceedings, to ensure that all such sales are in the best interests of the decedent's or protected person's estate, and to facilitate and clarify the handling of, and the fees charged in, probate matters.

This bill amends section 531-29 to conform with the present practice regarding those selling real property of the estate. A new section is added to Chapter 531, which permits a personal representative or guardian to petition the court for authorization to sell real property of the estate when the will of the decedent does not so authorize. The court may so order if it feels that such action is in the best interests of the estate. Section 560:3-719 is amended to provide a new scale for compensation of personal representatives to provide a degree of certainty to the court and the representatives as to their fees. In addition, fees for auditors, investment advisors and other specialty representatives are set by a new section.

A simplified method of conveying land is added to section 560:3-901, thus clarifying that the probate court's order of distribution can itself act as the document conveying realty to the heirs or devisees.

At present, 25 percent of the estates under \$30,000 are handled in informal proceedings by family members; therefore, to continue this cost-efficient practice, which eliminates the requirement of attorneys, the maximum limit of the value of the estate for informal probate is raised from \$30,000 to \$40,000 in section 560:3-303.

Your Committee, upon further consideration, has amended H.B. No. 2058-80, H.D. 1, S.D. 1, by making technical, non-substantive amendments to correct typographical errors.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2058-80, 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. 2058-80, H.D. 1, S.D. 1, C.D. 1.

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

Representatives D. Yamada, Baker, Honda, Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 32-80 on H.B. No. 2723-80

The purpose of this bill is to expand the housing loan program established under Act 50, Session Laws of Hawaii 1979, to provide that authorized funds may be used to finance construction and permanent mortgages secured by rental housing projects and to authorize the issuance of revenue bonds for that purpose.

Your Committee has amended H.B. 2723-80, H.D. 2, S.D. 2 by requiring that an eligible project loan be federally insured or guaranteed. This ensures that strict standards in existing federal programs are applied to the rental projects to be funded under the Hula Mae program. Similarly, this bill has been amended to provide that the Hawaii Housing Authority shall, consistent with the requirements of federal insuring or guaranteeing agencies, establish restrictions on prepayment of project loans and transfer of ownership. Rather than formulating its own set of rules as proposed by the Senate draft, the authority shall follow stringent federal guidelines already established in this area. Federally insured or guaranteed projects are restricted from prepayment of project loans for twenty years. Moreover, whenever ownership is transferred within the twenty year period, subsequent owners are still governed by the federal regulations.

Section 12 of the bill has been deleted because the subject court case has already been settled. Your Committee has also made minor language changes to clarify the bill's provisions without affecting the substance of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2723-80, 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. 2723-80, H.D. 2, S.D. 2, C.D. 1.

Senators Cayetano, Abercrombie, Young and Soares
Managers on the part of the Senate

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

Conf. Com. Rep. No. 33-80 on H.B. No. 2241-80

As amended, the purpose of this bill is to expand the protection afforded and remedies available to a spouse who is the victim of spouse abuse or another non-felonious offense against the person committed by the other spouse.

As amended, this bill does the following:

- (1) Creates a new section in Chapter 709, Hawaii Revised Statutes, which allows a spouse against whose person a non-felonious offense has been committed by the other spouse to petition the family court for a summons to issue forthwith. This section also establishes a penalty for a petitioning spouse who knowingly makes a false statement which he or she does not believe to be true in a proceeding pursuant to this section.
- (2) Amends section 709-906, Hawaii Revised Statutes, to authorize a police officer to arrest a perpetrator of spouse abuse, with or without a warrant, whether or not the offense was committed in the officer's presence, if the officer has reasonable grounds to believe that the alleged offender has physically abused the victim spouse and that the person arrested is guilty.
- (3) Further amends section 709-906, Hawaii Revised Statutes, to authorize the police officer to take certain follow-up measures whether or not physical harm has occurred in the officer's presence. These measures include making inquiry to ascertain the probability of a recurrence of violence; ordering the alleged abuser to leave the premises for a three hour cooling-off period; and, upon failure of the alleged abuser to obey the order, to make an arrest. Current law provides that the above steps may be taken only when physical harm did not occur in the officer's presence. The amendment to this section authorizes these measures regardless of whether the officer witnessed the physical harm, and therefore provides the officer with additional flexibility of response.

Your Committee on Conference, decided to keep spouse abuse and related offenses within

the family court's exclusive jurisdiction, subject to waiver. H.B. No. 2241-80, H.D. 1, gave the district courts concurrent jurisdiction over both the offense of spouse abuse and the application for a temporary restraining order under Chapter 585, Hawaii Revised Statutes. Important factors in this decision were recognition of the fully public nature of district court proceedings and the expertise of the family court in dealing with this subject matter. However, your Committee is concerned that family court administrative policies may be diverting an inordinate number of petitions for summonses to counseling, and respectfully recommends that the court review its policy to ensure that the remedy the law creates not be vitiated by undue reluctance to employ it.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2241-80, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in form attached hereto as H.B. No. 2241-80, H.D. 1, S.D. 1, C.D. 1.

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

Representatives D. Yamada, Honda, Lee, Masutani, Nakamura, Ikeda and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 34-80 on H.B. No. 2944-80

The purpose of this bill is to clarify various functions of the Department of Health in providing and contracting for emergency medical services; to limit the use of emergency medical vehicles for emergency purposes only; to permit other organizations with appropriate expertise to provide training and technical assistance; and to provide for equitable reimbursement of contractual services.

There has been considerable discussion over the use of the words "shall" or "may" in section 2 of this bill. Your Committee feels that the mandatory provision does not provide flexibility to the Department of Health in negotiating for a contract but the permissive provision puts the counties in a vulnerable position and may jeopardize the counties in continuing to provide emergency medical services. However, the intent of your Committee is to retain the present level of services being provided by the counties under their existing programs and for the department of health to continue to contract with the counties.

Your Committee upon further consideration has made the following amendments to H.B. No. 2944-80, H.D. 2, S.D. 2:

(1) In Section 1 of the bill the word prehospital is changed to prehospitalization.

(2) Section 2, page 2, lines 9-11 are deleted. This provision would have limited the use of emergency medical vehicles to only emergency situations. In view of those situations where an emergency ambulance has been used for transporting patients for non-emergency purposes, thereby preventing such vehicles from responding to emergencies, your Committee recommends that this provision limiting the use of emergency medical vehicles be made a part of the Rules and Regulations governing emergency medical services.

(3) Sections 3 and 4 of the bill are amended by:

(a) including the words "negotiate and enter into" when entering into contractual services for training and technical assistance. This is to permit the contracting parties flexibility for negotiating the terms of the contract;

(b) rewording those provisions relating to consultation with the Advisory Committee;

(c) deleting those words which permit contracting with organizations with expertise other than medical organizations, thereby reverting to the existing law.

(4) Section 5 is deleted. This section provided for reimbursement of contractual services on a quarterly basis. The concerns expressed by this section provide for contractors to be treated equitably and to be reimbursed in a timely manner. Presently there are provisions within the State Statutes for reimbursement to contractors, therefore this section has been deleted. However, your Committee feels that the Statute requiring the State to reimburse contractors within sixty days should be applicable to all contracts, including contracts with the counties.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2944-80, 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. 2944-80, H.D. 2, S.D. 2, C.D. 1.

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

Representatives Segawa, Ige, Kobayashi, Silva, Takitani and Lacy
Managers on the part of the House

Conf. Com. Rep. No. 35-80 on S.B. No. 1831-80

The purpose of this bill is to clarify statutory grounds regarding sentences of imprisonment.

After much discussion, your Committee has decided to retain all but two of the existing grounds for withholding of a sentence of imprisonment. Ground 2 which weighs favorably that a defendant did not contemplate that his conduct would cause serious harm is deleted. Ground 6 relating to the fact that the defendant compensated the victim is deleted.

Your Committee has amended Ground 10 by adding the words "a program of restitution or probationary program or both" which allows the court to weigh favorably a defendant's likelihood of responding affirmatively to such programs.

Your Committee decided to leave a great deal of discretion with the trial court to allow for the greatest possible leeway in dealing effectively with convicted persons.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1831-80, 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. 1831-80, S.D. 1, H.D. 1, C.D. 1.

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

Representatives D. Yamada, Lee, Masutani, Nakamura, Ikeda, Medeiros and Honda
Managers on the part of the House

Conf. Com. Rep. No. 36-80 on S.B. No. 2501-80

As proposed by the House, the purpose of this bill is to amend Chapter 142, Hawaii Revised Statutes, to provide for the liability of dog owners only for property damage in one section, and personal injury in a second section. The House version of the bill also provides a procedure for destruction of a particularly dangerous dog which has had his "second bite."

Your Committee has decided to completely redraft this bill to cover liability of animal owners in general by amending Chapter 663. As amended, this bill conforms closely to the Senate draft of H.B. No. 2826-80, H.D. 1, S.D. 1.

SECTION 1 of this bill, as amended by your Committee, sets forth the problems the bill seeks to remedy. First, Hawaii case law requires an injured plaintiff to prove that the animal owner knew of the dangerous propensities of his animal before the plaintiff can recover. This generally allows an animal its "first bite." Second, Hawaii case law allows even a plaintiff who was trespassing on the owner's property to recover. Farrior v. Payton, 57 Haw. 620 (1977).

This bill reverses the "first bite" doctrine and disallows recovery to an injured trespasser. The bill also provides for absolute liability in the case of damage done by a particularly wild or dangerous animal, but sets out exceptions to any civil liability in certain cases.

SECTION 2 of this bill, as amended by your Committee, sets out the general rule of liability of an animal owner for damage done to a person "regardless of the animal owner's or harbinger's lack of scienter of the vicious or dangerous propensities of the animal." The section reverses Farrior v. Payton, supra, and abrogates the common law. It does not create strict liability. It merely eliminates scienter as a matter of proof for a plaintiff or lack of scienter as a defense for a defendant. The common law otherwise applies.

SECTION 2 also defines the absolute or strict liability situation of animal owner liability. Absolute liability occurs when damage is done by "an animal which is known by its species or nature to be dangerous, wild, or vicious". Examples of such feral animals would be lions, bulls, boa constrictors, etc. Dogs are not included in this category since dogs are not generally of a known vicious nature. An example of absolute liability would be a situation where an owner had a feral animal on a defective leash. If the leash were to break and the animal injured someone, the owner would be liable even though he did his best to restrain the animal, unless one of the statutory exceptions applied.

SECTION 3 of this bill, as amended by your Committee, sets out exceptions to any civil

liability, which includes absolute liability. The first exception involves injury to a person who has intentionally or knowingly entered or remained unlawfully on an animal owner's premises. This reverses the holding in Farrior which states that a property owner owes the same duty of care to a trespasser that he owes to a person legally on his property. A child wandering onto a property without intent to trespass who is injured may still recover. Also, an attack by an animal on a trespasser which goes beyond the bounds permitted in Chapter 703 may subject a property owner to criminal liability.

The second exception applies to situations where an animal causes damage as a proximate result of being teased, tormented, or otherwise abused without the negligence, direction, or involvement of its owner. The abuse must be proximately related to the action of the animal and not a result of the owner's negligently permitting the animal to be in an abusive situation, or the owner's abuse, or abuse directed by the owner.

The third exception applies to use of an animal for protection of person or property, etc., as set out in Chapter 703 of the Penal Code.

These exceptions are not intended to be exclusive as far as common law liability is concerned. In fact, they are probably included in the common law already. These exceptions are the ones your Committee feels are most important. The exceptions are exclusive as far as absolute liability is concerned since the liability is absolute unless an exception is provided. Note that an exception to liability is provided where there is adequate posting (see definition of "enter or remain unlawfully").

The House section of the bill referring to destruction of dogs that have had "two bites" has been deleted and will be addressed in H.B. No. 2826-80.

Your Committee feels that this bill provides for needed statutory law in the area of animal owner liability while maintaining flexibility in all parts.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2501-80, 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. 2501-80, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 37-80 on S.B. No. 2581-80

The purpose of this bill is to provide an effective means for businesses, which have rented personal property to others, to obtain speedy and rightful return of their property while respecting the rights of persons who have leased the property.

The bill sets out three levels of court jurisdiction. Small claims court shall have non-exclusive jurisdiction in cases where the rented property is worth \$500 or less and the amount claimed due does not exceed \$600. District court shall have jurisdiction in cases where the value of the rented property does not exceed \$5,000. Circuit court has jurisdiction where the value of the rented property is \$5,000 or more.

At each court level, under the House version of the bill, the court may issue an order to show cause, upon filing of a proper complaint by the lessor, requiring the defendant to return the leased property to the plaintiff or produce the property at court. Under existing law, the owner must file a claim in circuit court, prove rightful ownership of the property, and execute upon an order issuing from the court. This bill simplifies the existing process.

Your Committee has amended the bill to provide for a three-tier procedure at court. If the defendant does not produce the property at trial, the court may find the defendant in contempt and order the sheriff to produce the property at a subsequent hearing. This procedure clearly sets out the lessor's remedies to the point of recovering the property.

Your Committee has further amended this bill to retain the Senate provision for penal sanctions to make failure to return leased property a petty misdemeanor.

Your Committee has also added a second state of mind for culpability that being of "intentionally" as well as knowingly keeping the property 14 days past the return date.

This bill also increases the jurisdictional limit of small claims court to \$1,000 in conformity

with S.B. No. 2071-80.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2581-80, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2581-80, H.D. 1, C.D. 1.

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

Representatives D. Yamada, Baker, Honda, Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 38-80 on S.B. No. 2744-80

The purposes of this bill are to amend Chapter 704 to require that an insanity defense be submitted to a jury and disallow post-commitment or post-conditional release motions based upon factual grounds.

Specifically, this bill amends Section 704-407 to limit motions for terminating a penal proceeding, during a defendant's inability to proceed to legal claims, e.g., defective indictment, etc. Factual grounds that relate to proof of the charge against the defendant or possible defenses must await trial. Any factual defense that is truly compelling should be brought to the attention of the prosecution whose job it is to do justice, not merely to obtain a conviction.

This bill amends Section 704-408 to require that the insanity defense be submitted to the jury or trier of fact at the trial. One trial is required by the provision. It is the intent of your Committee to eliminate the possibility of bifurcated trials on the insanity defense. All factual issues, including insanity, shall be heard at one trial. Your Committee feels that the validity of an insanity claim should be subject to community scrutiny that a jury, or even a judge as a fact-finder at trial, provides.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2744-80, 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. 2744-80, S.D. 1, H.D. 1, C.D. 1.

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

Representatives D. Yamada, Honda, Lee, Masutani, Ikeda and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 39-80 on S.B. No. 2877-80

The purpose of this bill is to further update the sexual offenses section of the Penal Code.

As originally drafted, this bill completely revised the entire sexual offenses section of the Penal Code. Although your Committee is not in accord with all the suggested changes of the original bill, this bill incorporates several of the changes.

The bill redefines "sexual intercourse" to broaden its meaning. Now, penetration of any part of a person's body or an object into the genital opening constitutes sexual intercourse.

The definition of "female" is deleted since it only applied to rape before the definition of rape was "de-sexed." Now the definition of "female" is superfluous.

The definition of "forcible compulsion" is amended to delete the requirement of earnest resistance, fear of immediate death or serious physical bodily injury or fear of immediately being kidnapped. Absolute urgency and the need to "fight to the death" are deleted.

Section 707-740 relating to prompt complaint is amended to extend the period to make a sexual offense complaint from one to three months. This is done as a matter of fairness and to avoid injustice where a delay of longer than one month occurs.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2877-80, 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. 2877-80, S.D. 1, H.D. 1, C.D. 1.

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

Representatives D. Yamada, Honda, Lee, Masutani, Nakamura, Ikeda and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 40-80 on S.B. No. 3146-80

The purpose of this bill is to amend Chapter 11, Part XII, Subpart B to further clarify and refine the State's campaign spending law.

Two major changes to the present law were proposed in the Senate version of this bill. Both of these changes were, however, deleted by the House.

Your Committee on Conference discussed at great length the two proposals and has agreed on the following changes to the present law:

In Section 11-204 of the Senate version, a person who contributed more than \$2,000 to a candidate would be guilty of a misdemeanor, while the candidate who received over \$2,000 from the person would be required to turn over the excess to the Hawaii election campaign fund.

Your Committee discussed the purpose of the campaign spending law which is primarily to disclose pertinent information to the public relating to a candidate's funding and expenditures during an election campaign. The law is basically a reporting provision.

To better achieve this purpose, Section 11-204 has been redrafted to provide that a candidate shall return all sums over \$2,000 from a contributor back to the contributor. If the contributor cannot be found, the money shall be turned over to the Hawaii election campaign fund. No candidate will be penalized for the unknowing receipt of funds over \$2,000 from a person. A candidate who knowingly thwarts the intent of the law will, however, be subject to the penalty provisions in Section 11-208.

The second major change to the law proposed by the Senate pertained to Section 11-218 which would have increased public funding for candidates for the offices of state senator, state representative, county council member, prosecuting attorney, board of education and all other elective offices. The increase would have raised the level of funding from \$100 per election period for these offices to twenty per cent of the expenditure limit for each respective office.

This proposed increase would require an appropriation of well over \$1,000,000 from general fund revenues to fund all races in the 1980 election.

Your Committee, on review of this proposal, considered this sum excessive for this year and has decided to forego the proposed increase at this time with the intention of increasing public funding for all offices in the near future.

A further amendment to the bill appears on page 14, line 15 by the addition of the word "special" to section 11-209. This word clarifies this section which pertains to campaign expenditures to include special elections as being prescribed election periods during which expenditure limits may be applied.

Non-substantive, technical changes have also been made to this bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3146-80, 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. 3146-80, S.D. 1, H.D. 1, C.D. 1.

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

Representatives D. Yamada, Aki, Holt, Honda and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 41-80 on H.B. No. 1873-80

The purpose of this bill is to clarify the appellate procedure relating to waiver decisions by the family court in criminal proceedings.

At present, a waiver decision made by a family court is appealable immediately as a final order. This right to file a notice of appeal upon the order can result, and has resulted, in extreme delays between the time of the charge and the time of trial.

This bill denies appeals of waiver until the trial on the charge or charges in the Circuit

Court has been completed. That is, a waiver decision will be appealable only after the trial on the charge or charges for which the person was waived. The waiver decision issuing from the family court will no longer be deemed a "final order" for the purposes of appeal.

Upon consideration, however, your Committee has amended this bill by making a technical change. The appeal of waiver provision, your Committee feels, should be placed in a section of Chapter 571, Hawaii Revised Statutes, pertaining to family courts other than in section 571-22, which deals with discretionary waiver of jurisdiction. This amendment was felt to be necessary for the sake of clarity.

Your Committee is cognizant of the interrelationship between H.B. No. 2930-80, S.D. No. 1851-80, and this bill. All of these bills touch generally upon juveniles in the family court, and more specifically address themselves to the issue of waiver of family court jurisdiction to the circuit court. Because three related bills are under consideration by the Legislature at this time, care must be taken to ensure against confusion or error.

Therefore, the Revisor of Statutes is instructed to appropriately coordinate the respective legislative disparities which may exist, and to deal carefully with H.B. No. 2930-80, S.B. No. 1851-80, and this bill, H.B. No. 1873-80. To that end, he is instructed to achieve the logical organization and appropriate designation of the subject matters covered by the three bills in conjunction with each other.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1873-80, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1873-80, S.D. 1, C.D. 1.

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

Representatives D. Yamada, Honda, Lee, Masutani, Nakamura, Ikeda and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 42-80 on H.B. No. 1919-80

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

At present, the young adult defendant provision of the law recognizes no difference between an individual who commits rape or sodomy and an individual who steals an automobile. A standard term of imprisonment for four years has been set in cases where persons, meeting the criteria set forth for qualification as a young adult defendant, regardless of the class of felony involved.

Your Committee feels that an individual who commits a crime of armed robbery, kidnapping, or rape presents a much greater threat to the community than an individual who commits the theft of an automobile. Accordingly, your Committee feels that the establishment of a more equitable and just structure, through the creation of sentencing categories which conform the severity of the felony with the severity of the penalty, is necessary.

Because over one-fourth of the prison population falls within the age limits encompassed in the definition of a "young adult defendant", and more than 80% of these prison inmates have been convicted of class A and B offenses, it was deemed wise to restrict the special consideration to those young adult defendants who would profit. Therefore, consideration as a young adult defendant has been limited so as to exclude multiple offenders.

Your Committee, upon further consideration, has amended H.B. No. 1919-80, S.D. 1, by providing for four years as opposed to three years as a maximum term of imprisonment for those sentenced under the young adult defendant provisions. Although entitled to special consideration because of their age, and because of the adequacy of the shorter term of imprisonment, your Committee feels that the commission of a felony, albeit a class C felony, should be treated so as to impress upon the violator that deviant behavior will not be glossed over. And because such special term is always subject to the setting of a minimum term by the Hawaii paroling authority, a four year maximum for a class C felony is not unreasonable.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1919-80, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1919-80, S.D. 1, C.D. 1.

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

Representatives D. Yamada, Honda, Lee, Masutani, Nakamura, Ikeda and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 43-80 on H.B. No. 1985-80

The purpose of this bill is to amend the corporation statutes to eliminate unnecessary regulation, duties, and paperwork for both corporations and the Department of Regulatory Agencies.

Major changes made by this bill include:

- (1) Non-profit corporations are required to have at least three directors regardless of the number of members. Other provisions of the bill conform non-profit corporation requirements to those of corporations for profit.
- (2) The required filing of an officers' affidavit and supplemental affidavit has been deleted. The significant information formerly contained in the affidavit has been incorporated into revised requirements for articles of incorporation.
- (3) Information requirements for the annual corporation exhibit have been amended to eliminate unnecessarily detailed financial information.

Your Committee agrees with the underlying premise that unnecessary regulation and redundant or insignificant informational filings which have proven to be burdens on both the Department of Regulatory Agencies and corporations themselves, should be eliminated. In accord with this decision, your Committee has amended the bill to provide that extensions of authorized capital stock, if desired, be specifically noted in the articles. Without such declaration, each increase in authorized capital stock would require an amendment to the articles.

Your Committee has also made several minor, non-substantive changes in order to make the terms of the bill consistent.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1985-80, 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. 1985-80, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 44-80 on H.B. No. 2091-80

The purpose of this bill is to permit minor victims testifying in a Family Court criminal proceeding to be accompanied by their parents, guardians or at least one other adult.

Under this bill, a victim of or witness to an alleged violation called to testify in any proceeding initiated pursuant to section 571-11(1) or 571-11(2), has the right to have a parent, guardian, or one other person present. Your Committee feels that where an alleged crime has been committed by a juvenile, and the testimony of a minor victim is required in a hearing, the minor victim is especially vulnerable, not only because of his or her age, but also because the perpetrator of the crime may live in the same neighborhood or attend the same school and the victim must face him without the support of an adult, while the offender can have legal counsel, parents, and other persons present.

However, your Committee feels that the credibility of a minor witness who is not a victim may be affected adversely when a parent is present, because he or she may be hesitant to testify truthfully with respect to the involvement in the crime. Furthermore, present policy already permits a witness to have his or her parents present during the proceedings, at the discretion of the Family Court.

Therefore, your Committee upon further consideration has amended H.B. No. 2091-80, H.D. 1, S.D. 1, by deleting the language which would specifically require a minor witness to have his or her parents, guardians, or another adult present at the Family Court hearing for which the testimony of the minor witness is required.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2091-80, 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. 2091-80, H.D. 1, S.D. 1, C.D. 1.

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

Representatives D. Yamada, Baker, Honda, Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 45-80 on H.B. No. 2175-80

The purpose of this bill is to conform Hawaii's name registration law to the mandate of Burch v. Jech, 466 F. Supp. 714 (1979).

Under present Hawaii law, a legitimate child must take its father's name or a hyphenated version of its father's and mother's names in either order, but cannot take its mother's name alone. A legitimated child must take its father's or its mother's name, but cannot take a hyphenated combination thereof. An illegitimate child must take its mother's name and no other name.

In Burch, the court held that parents have a constitutional right to give their children any name they choose and that, to the extent that this right is infringed by Hawaii law, the law is unconstitutional. The court also held that the State can require the name of a child to be registered in any way it desires. 466 F. Supp., at 720.

Thus, this bill amends Hawaii law to require registration of children's names in the same manner as required by present law, but leaves parents free to confer any name they desire on their children. If the conferred name is different from the name under which the child must be registered, the child's conferred name is also required to be registered.

In Burch, Alena Jech and Adolf Befurt wanted to name their child Adrian Jebef. Under the law as amended by this bill, the father or mother of the child would report his birth to the registrar of births within three months of birth as required under section 574-4. The child would be registered under the name "Adrian Befurt" as required by section 574-2 and his conferred name of "Adrian Jebef" as required by section 574-4.

This bill also permits adoptive parents, upon their request, to have the name of a consenting natural parent delete shown on a supplemental birth certificate.

Your Committee has amended H.B. No. 2175-80, S.D. 2, as follows:

1. The word "recorded" on page 2, line 13, has been changed to "registered" to clarify that the conferred name of a child should also be recorded. This provides for cross-referencing under the child's name as registered pursuant to section 574-2 and the conferred name.
2. The phrase "with the consent of the non-custodial parent" has been added to page 3, line 1, to make it clear that a non-custodial parent must agree to a name change in the case where the child has not been adopted.
3. The words "reported to the registrar of births" have been substituted for "the department of health." This makes it clear that the registrar of births should be notified of a name change and provide for recording such information; not to issue a new birth certificate but simply to provide one repository for tracing names.
4. Section 338-20(b), page 5, lines 18 - 20, and section 578-14, page 7, lines 5-6, have been amended to clarify the wording but not change the intent.
5. Minor typographical errors have also been corrected.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2175-80, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2175-80, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 46-80 on H.B. No. 2359-80

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

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

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

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

Third, a new provision has been added allowing the reservation of a partnership name. Under present law, this cannot be done which sometimes forces applicants to refile their documents of partnership when it is found that their chosen name is unavailable. Fees for such reservations shall be the same as those paid for the reservation of a corporate name.

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

Your Committee has made a technical, non-substantive change.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2359-80, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2359-80, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 47-80 on H.B. No. 2669-80

The purpose of this bill is to provide statutory authority for subpoena power in impartial hearings which relate to special education for handicapped children.

This bill requires the Department of Education to adopt rules and regulations, conforming to the requirements of Federal statutes or regulations, which pertain to impartial hearings regarding the education of handicapped children. The bill sets forth several specific requirements which must be included in the rules and regulations to be promulgated by the Department of Education. In addition, the bill affords either party to such an impartial hearing the right to subpoena and compel the attendance of witnesses at the hearing, with enforcement of the subpoena provided by the circuit courts.

Your Committee had amended H.B. No. 2669-80, H.D. 1, S.D. 1, by removing the provision for appeal by the aggrieved party, pursuant to both the applicable Federal law, and Chapter 91 of the Hawaii Revised Statutes, which is the State's Administrative Procedures Act. Your Committee feels that the existing law, both Federal and state, is clear and governs appeals adequately. To specifically state that such avenues of appeal are available for aggrieved parties would neither add nor clarify the appeal provisions of 20 U.S.C. 1401, *et seq.*, The Education of Handicapped Act, or of section 91-14, Hawaii Revised Statutes.

At present, under section 91-1(2), a person is defined so as to specifically exclude agencies. And under section 91-14, only a person aggrieved by an agency ruling can appeal to the State courts. In essence, under the Hawaii Administrative Procedures Act, aggrieved parties other than agencies can appeal agency decisions to the State courts; thus, the Department of Education is clearly precluded from appealing pursuant to Chapter 91 because it is not a "person" as defined under Chapter 91.

Under the Federal law, 20 U.S.C. 1415(c) and (d), it appears that both persons and agencies can appeal a decision of a hearings officer, either to the State court or in the District Court of the United States. The Education of Handicapped Act, and 45 C.F.R. 121 a., et seq., which is the implementing Federal regulation for the Education of the Handicapped Act, provided that an impartial due process hearing be conducted by the Department of Education to decide issues concerning the provision of free appropriate public education for handicapped children, and also allow for any party aggrieved by the findings and decision of the hearings officer to bring a civil action in the State or Federal courts.

However, the First Circuit Court has ruled that notwithstanding the language of the Federal law, an agency or, more specifically, the Department of Education, cannot appeal to the Circuit Court, as the Department of Education is not a "person" within the meaning of Chapter 91. The First Circuit Court's ruling indicates that an agency, or the Department of Education, can only appeal as provided for in the Federal law, and that the appeal as provided for in the Federal law is further circumscribed by the State law governing administrative proceedings.

To attempt to legislate in an area already addressed by Federal and State statutes and judicial fiat may only result in further confusion.

Nonsubstantive technical changes have been made to this bill to correct typographical errors.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2669-80, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 266980, H.D. 1, S.D. 1, C.D. 2.

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

Representatives D. Yamada, Baker, Honda, Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 48-80 on H.B. No. 2930-80

The purpose of this bill is to provide for automatic waiver of family court jurisdiction over juveniles in specific cases.

Under existing law, the family court is vested with the discretion of waiving, to the Circuit Court, juveniles sixteen years of age or older who are alleged to have committed an offense which would be a felony if the juvenile were an adult. This bill sets forth criteria for an automatic waiver to the Circuit Court if the charge involved is of felonious nature, and if the juvenile has a history of prior adjudications warranting treatment as an adult.

This bill provides for an automatic waiver of jurisdiction in cases where (1) the juvenile has had a class A felony adjudication which involves force or violence or the threat of force or violence, or (2) the juvenile had two more felony adjudications within the last five years. The waiver, in such circumstances, would be mandatory on the part of the family court.

Upon further consideration, your Committee has amended H.B. No. 2930-80, H.D. 1, S.D. 1, by requiring automatic waiver in three different cases. Therefore, in addition to the two above-noted situations, your Committee has included cases where the juvenile has had one or more felony and two or more misdemeanor adjudications in the last three years. Your Committee feels that automatic waiver provisions should apply to those juveniles who can be classified as prior offenders, and should apply in cases where the prior adjudications were of such a nature or if the amount of the prior adjudications warrant a waiver.

In addition, your Committee believes that in cases of automatic waiver, proper reference must be made to the attendant prohibitions and requirements which exist in section 571-22. Where a juvenile is automatically waived pursuant to the provisions of this bill, the juvenile should be subject to the jurisdiction of a court of competent criminal jurisdiction, and any family court jurisdiction over the said juvenile should terminate. The prohibition

against filing a petition in the family court in the event of acquittal or other discharge should also be applicable in automatic waiver cases.

Your Committee is cognizant of the fact that the Juvenile Justice System bill, S.B. No. 1851-80 contemplates amendments to the section dealing with waiver of jurisdiction of the family court in cases involving juveniles. However, the proposed amendments therein do not delineate a provision for automatic waiver in circumscribed cases, which is the specific intent of this bill. Therefore, your Committee makes special note of the interrelationship of this bill and the provisions for waiver of jurisdiction in S.B. No. 1851-80.

The two bills are neither mutually exclusive nor contingent upon the other for their operation. Rather, both provisions address different types of procedures for waiver; in one instance, waiver rests upon the discretion of the family court. In the other instance, the family court, when enumerated factors are met, must waive its jurisdiction over the minor.

Furthermore, H.B. No. 2930-80, which pertains to appeals of waivers of jurisdiction, is intended to be applicable to both S.B. No. 1851-80, and this bill. Therefore, the Revisor of Statutes is instructed to appropriately coordinate the respective disparities which may exist because three separate bills which contain provisions related to each other are under consideration by the Legislature at the same time. To this end, he is instructed to obtain the logical organization and appropriate designation of the subject matters covered by H.B. No. 2930-80 and S.B. No. 1851-80 in conjunction with the treatment of this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2930-80, 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. 2930-80, H.D. 1, S.D. 1, C.D. 1.

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

Representatives D. Yamada, Honda, Lee, Masutani, Nakamura, Ikeda and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 49-80 on H.B. No. 2532-80

The purpose of this bill is to permit the statue, to be entitled "The Spirit of Liliuokalani", to be permanently emplaced and displayed at the State Capitol complex. Under existing statutes and in the opinion of the Attorney General, new works of art acquired under Section 103-8 cannot be installed in a completed structure. This bill, as enabling legislation, would permit such an installation at the State Capitol. The effect of this bill is to specify the emplacement and location of the Liliuokalani statue at the present location of the Liberty Bell at the intersection of the centerlines of the Capitol and of the mall between the Capitol and Iolani Palace.

Your Committee upon further consideration has made an amendment to H.B. No. 2532-80, S.D. 1, such that no specific location of the Liliuokalani statue be mandated. Your Committee agreed that the final decision for emplacement and location should be within the responsibility of the original Queen Liliuokalani Sculpture Jury. In selecting, directing, and advising the sculptress, Ms. Marianna Pineda, this Jury recommended several possible sites, all deemed appropriate in terms of how the statue would be shaped and emplaced and where it would be most compatible in its immediate environs. Furthermore, if the Jury were to choose the present location of the Liberty Bell, then the Departments of Land and Natural Resources and Accounting and General Services must be able to find a most appropriate and suitable permanent emplacement and location of the Liberty Bell.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2532-80, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2532-80, S.D. 1, C.D. 1.

Senators Campbell, Abercrombie, Kuroda and Ajifu
Managers on the part of the Senate

Representatives Say, Takamine, Toguchi and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 50-80 on S.B. No. 118

The purpose of this bill is to make various amendments to Chapter 26H, Hawaii Revised Statutes, relating to the statutory regulation of certain professional and occupational boards and commissions.

The bill has been amended to change the policies section of the present law, Section 26H-2, concerning professional and vocational regulation, to recast the emphasis of three policies contained in that section.

The first policy amended currently states that "Even where regulation of professions and vocations is reasonably necessary to protect consumers, government interference should be minimized; if less restrictive alternatives to full licensure are available, they should be adopted." The policy has been amended to state "Where regulation of professions and vocations is reasonably necessary to protect consumers, government regulation in the form of full licensure or other restrictions on professions or vocations should be retained or adopted."

The second policy amended currently states that "Professional and vocational regulation shall not be imposed except where necessary to protect relatively large numbers of consumers who because of a variety of circumstances may be at a disadvantage in choosing or relying on the provider of the service;". The policy has been amended to state "Professional and vocational regulation shall be imposed where necessary to protect consumers who, because of a variety of circumstances, may be at a disadvantage in choosing or relying on the provider of the service;".

The third policy amended currently states that "evidence of abuses by providers of the service shall be accorded great weight in determining whether government supervision is desirable." The policy has been amended to state that "evidence of abuses by providers of the service shall be accorded great weight in determining whether government regulation is desirable."

The amended bill also amends Section 26H-5. Section 26H-5 requires the Legislative Auditor to evaluate each board, commission, and regulatory program up for repeal under the Sunset Law, and requires that if the Auditor finds that the Chapter should be reenacted or modified, that the Auditor evaluate the effectiveness and efficiency of the regulatory program and make appropriate recommendations to improve policies, procedures, and practices. This provision has been expanded to require the Auditor to evaluate the program and make recommendations even if the Auditor finds that the program should not be reenacted. Additionally, the section has been amended to require that if the Auditor receives written comments from the board, commission, or Department of Regulatory Agencies, that those comments be appended to the evaluation report to be submitted to the Legislature.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 118, 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. 118, S.D. 2, H.D. 1, C.D. 1.

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

Representatives Blair, Crozier, Fukunaga, Garcia, Ige, Shito, Uechi, Ikeda and Sutton
Managers on the part of the House

Conf. Com. Rep. No. 51-80 on S.B. No. 1960-80

The purpose of this bill is to provide for reduced premium rates for operators of motorcycles, motor scooters or similar vehicles, who have completed a safe driving course that is approved by the Motor Vehicle Insurance Commissioner.

The intent of this legislation is to give relief from the rising cost of insurance, to operators of motorcycles, motor scooters, or similar vehicles, who demonstrate a concern for traffic safety. Your Committee upon further consideration finds that an additional incentive should be given to operators of motorcycles, motor scooters, or similar vehicles, who provide for an additional safety measure.

Accordingly, your Committee has made the following amendments to S.B. No. 1960-80, S.D. 1, H.D. 1.

- (1) A new section was added which provides that an insurer may reduce a premium by ten per cent if an insured wears an approved safety helmet during the operation of his vehicle. If the insurer provides for this discount, the insurer will also be allowed to provide for a surcharge to an insured in an amount equal to the discount if an insured does not wear a safety helmet during the operation of the insured's vehicle.

If an insured elects to obtain a discount by the use of a safety helmet, then the insured is required to wear the helmet during the operation of the insured vehicle.

A violation of this provision would subject a person to the general penalty provision that is provided for in Section 294-39, Hawaii Revised Statutes.

- (2) Section (m) of the bill has been amended by substituting the Director of Transportation for the Motor Vehicle Insurance Commissioner. The Director of Transportation is also given the responsibility of approving the safety helmets provided for in the preceding amendment. Your Committee was informed that the Director of Transportation rather than the Motor Vehicle Insurance Commissioner has the expertise and experience to implement the amendments provided for in this bill.
- (3) Section 294-35.5 of the Hawaii Revised Statutes has been amended to provide that all fees derived, from motorcycles, motor scooters, or similar vehicles, from the "drivers' education fund underwriter's fee" shall be expended by the Department of Transportation for a driver education program for operators of motorcycles, motor scooters, or similar vehicles.
- (4) Changed references to the Director of the Department of Transportation to the Director of Transportation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1960-80, 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. 1960-80, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Blair, Garcia, Masutani, Shito and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 52-80 on S.B. No. 1832-80

The purpose of this bill is to amend Section 845-3, Hawaii Revised Statutes, to clarify when an individual shall be subject to career criminal prosecution.

Your Committee finds that this is a vital amendment because originally, according to existing law, if a career criminal unit cannot prosecute a career criminal case due to insufficient resources or case overload, a regular deputy cannot be assigned to the task.

Upon consideration of the House and Senate versions of the bill, your Committee has adopted the following compromise amendments to the House draft:

- (1) Categories 2 and 4 have been deleted;
- (2) Categories 3 and 5 have been renumbered 2 and 3, respectively, and Categories 6 through 13 have been renumbered 4 through 11; and
- (3) Career criminal prosecution is mandated for categories 1, 2, or 3 and is optional for categories 4 through 11.

The bill also amends Category 11 which will be renumbered Category 9 to clarify that "recurring or ongoing" criminal activity is intended.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1832-80, 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. 1832-80, S.D. 1, H.D. 1, C.D. 1.

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

Representatives D. Yamada, Honda, Lee, Masutani, Nakamura, Ikeda and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 53-80 on S.B. No. 2693-80 (Majority)

The purpose of this bill is to:

- 1) Dissolve the Hawaii Foundation for History and the Humanities, transferring its functional responsibilities:
 - a) For ethnohistorical, humanities, and cultural program activities to the State Foundation on Culture and the Arts;

- b) For the Hawaii Historic Places Review Board activities to the Department of Land and Natural Resources;
- 2) Add to the qualifications required for the position of director of the State Foundation on Culture and the Arts; and
- 3) Specify the minimum information required in the State Foundation on Culture and the Arts' annual reports.

Your Committee upon further consideration has made the following amendments to S.B. No. 2693-80, S.D. 2, H.D. 1:

- 1) Added language in paragraph 9-3(6) (in Section 3 of the bill), under the duties of the State Foundation, which will allow the chairman to administer funds allocated by grant, gift, or bequest, and to hold, as well as accept, disburse, and allocate these funds. Paragraph 9-3(12) has been deleted because the preceeding amendment makes it unnecessary.
- 2) Redrafted paragraph 9-3(10) to remove the subparagraphs and delete redundant language. The activities of promoting and encouraging programs in ethnohistory, the humanities, and cultural activities are already specified as part of the duties of the State Foundation under other portions of section 9-3.
- 3) Amended what was subparagraph (C) of paragraph 9-3(10) which creates a depository for ethnohistorical and cultural studies and materials. The language substituted is the same language used in S.B. No. 2693-80, S.D. 2, which provides for placing these materials in public archives, libraries, and other suitable institutions and maintaining a register of the materials.
- 4) Deleted section 6 of the bill. Your Committee does not believe that exempt position employees should automatically become civil service employees.
- 5) Changed the number of persons to be appointed to each category of the Historic Places Review Board from two to one. Your Committee was concerned that requiring the appointment of two persons in each of the specified categories would restrict the Governor's flexibility in nominating members of the Board. Your Committee believes the Governor should have an opportunity to appoint persons from the general community to serve on this Board.
- 6) Deleted subsection 6E- (2)(G) of section 10 of the bill which provided for an executive secretary for the Hawaii Historic Places Review Board. The Review Board already has funds provided in the budget for a secretary to carry out its work, and any further assistance can be provided by the Department of Land and Natural Resources. Additionally, the labeling of the subdivisions in the proposed new section has been changed to conform to recommended drafting style.
- 7) Amended Section 10 of the bill to provide that present members appointed prior to January 1, 1974 shall serve until January 1, 1982, and present members appointed after January 1, 1974 shall serve until January 1, 1984. The language of the amendment also allows members whose terms may be in conflict with Section 26-34, Hawaii Revised Statutes, to continue service.

Your Committee on Conference has also made style changes which do not change the meaning of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2693-80, 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. 2693-80, S.D. 2, H.D. 1, C.D. 1.

Senators Campbell, Cayetano, Abercrombie, Hara, Kawasaki, Yamasaki, Ajifu and Yee
Managers on the part of the Senate

Senator Hara did not concur.

Representatives Kawakami, Say, Hagino, Takamine and Marumoto
Managers on the part of the House

Conf. Com. Rep. No. 54-80 on H.B. No. 1758

The purpose of this Act is to transfer certain programs and organizational segments among the existing 17 departments of the Executive Branch of the state government without

altering the basic organizational structures of these departments. This reassignment of programs and organizational segments would:

- (1) comply with requirements of the Hawaii State Constitution;
- (2) improve the efficiency and effectiveness of the operations of the Executive Branch;
- (3) improve the delivery of services to the people;
- (4) fix responsibility and accountability for successfully carrying out programs, policies, and priorities of the administration;
- (5) improve responsiveness to the needs of the people of Hawaii;
- (6) group programs more homogeneously to more closely relate them with the stated mission of associated departments; and
- (7) enable administratively assigned boards and commissions to have more voice in formulating policies and priorities.

Since the last major reorganization of the state government in 1959, the State has experienced changes in societal attitudes, values, and emphasis, as well as rapid developments in technology. These changes have produced new issues requiring new programs and new approaches for their resolution.

The state government has sought to meet these new issues and to implement new programs and approaches within the framework of its present structure. However, programs which essentially are intended to meet common needs have been dispersed among several agencies, and they have not received the coordination they require. Further, Article V, Section 6, of the Hawaii State Constitution mandates that all executive and administrative offices, departments and instrumentalities of the state government and their respective powers and duties, shall be grouped within the principal departments according to common purposes and related functions.

This Act therefore provides for the orderly transfer of programs, organizational segments, personnel, funds, records, and equipment from the Governor's Office and among the existing 17 departments of the Executive Branch of the state government. It is not intended to increase, decrease, or otherwise change the statutory powers of departments and agencies unless specifically expressed. Where commissions, boards, agencies, or offices are transferred for administrative purposes it is intended that the statutory mission and purpose of the commission, board, agency, or office not be modified or changed in any way by the department or director acting in an administrative role as provided for in Hawaii Revised Statutes 26-35.

Your Committee has agreed to the following amendments:

- (a) Transfer the Office of Public Defender, for administrative purposes to Budget and Finance.
- (b) The Commission on the Handicapped, Environmental Quality Commission and Office of Environmental Quality, for administrative purposes to the Department of Health.
- (c) Transfer Factory-Built Housing Program to the Department of Regulatory Agencies.
- (d) The Bureau of Conveyances remains with the Department of Land and Natural Resources.
- (e) In the transfer of Western Interstate Commission for Higher Education, for administrative purposes, reference program number UOH 905.
- (f) Transfer the Marine Affairs Coordinator to the Department of Planning and Economic Development for administrative purposes.

All of the above transfers were done as in each of these cases, the succeeding department has more expertise and more closely related functions, duties and responsibilities to the programs than the preceding department or office.

Your Committee further agrees for the purpose of clarification, to the following technical amendments:

- (a) Deletion of Section 1 in its entirety, and deletion of the words "short title" in the heading under Part I.

(b) Renumbering the remaining sections of this Act to conform to the deletion of Section 1.

(c) Amendments of Section 4 (to be renumbered Section 3) to provide that the succeeding department will have the same rights and obligations as the former department with respect to the program being transferred.

(d) Amendment of Section 5 (to be renumbered Section 4) to read:

"The transfer of programs and organizational segments listed in Part II of this Act shall include all personnel, the major portion of whose functions and duties is in the transferred programs and organization segments."

(e) Amendment of Section 6 (to be renumbered Section 5) to provide for the transfer of all the program's records, equipment, appropriations, authorizations and other property from the former to the succeeding department.

(f) Amendment of Section 8 (to be renumbered Section 7) by deletion of the word "functions" and insertion of the word "programs" in line 13; deletion of the word "a" and insertion of the word "another" in line 14; and deletion of the phrase "established by this Act" in line 15.

(g) Amendment of Section 10 (to be renumbered Section 9) by deletion of the word "department" in line 17, page 12, and line 1, page 13; and deletion of the word "thereof" on line 10 and insertion of the words "of a department."

(h) Amendment of Section 12 (to be renumbered Section 11) by deletion of the phrase "and for that purpose may renumber the sections contained in this Act, in Chapter 26 or in other chapters of the Hawaii Revised Statutes on the effective date of this Act" in lines 6 through 9.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1758, 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. 1758, H.D. 2, S.D. 3, C.D. 1.

Senators Cayetano, Kawasaki, Yamasaki and Yee
Managers on the part of the Senate

Representatives Stanley, Crozier, de Heer, Kiyabu, Kunimura, Say, Silva, Takitani,
Lacy and Marumoto
Managers on the part of the House

Conf. Com. Rep. No. 55-80 on S.B. No. 3012-80

The purpose of this bill is to amend Chapter 97, Hawaii Revised Statutes, relating to lobbyists to reduce the unnecessarily large number of lobbyists presently registered and to make changes which will simplify the administration and enforcement of the law regulating lobbyists.

As amended by your Committee, this bill resolves differences in the Senate and House drafts by:

(1) adopting the House version of Subsection 97-1(4), the current law, excluding "salary" from the definition of expenditure;

(2) compromising on the spending minimum for purposes of defining a lobbyist by settling on \$275, \$25 less than the House version and \$25 more than the Senate's;

(3) adopting the House version of Section 97(a)(2) so as not to require a filer that is an association to describe whom it represents;

(4) adopting the Senate version of Subsections 97-3(c)(1), 97-3(c)(3) and 97-3(c)(4) with respect to use of the word "lobbyist" rather than "filer";

(5) adopting the Senate version of Subsections 97-2(b)(3) and 97-3(c)(5) which require the lobbyist to report the subject areas lobbied on;

(6) adopting the House version by deleting Subsection 97-3(c)(6) of the Senate draft which would have required the reporting of the lobbyist's pay, by whom it is paid, and the amount paid for expenses; and

(7) deleting Subsection 97-3(a)(3) of the House version and amending the definition of lobbyist in Subsection 97-1(6)(B) to accomplish substantially the same purpose.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3012-80, 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. 3012-80, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 56-80 on H.B. No. 501

The purposes of this bill are to allow an individual to gain access to personal records which pertain to that person, and which are maintained by state or county agencies, to allow persons who are the subjects of personal records to amend or correct such records when they are neither accurate, timely, nor complete, and to secure the confidentiality of personal records. To effectuate these purposes, the bill adds a new chapter to the Hawaii Revised Statutes.

Article I, Section 6 of the Constitution of the State of Hawaii reads as follows:

RIGHT OF PRIVACY

"Section 6. The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest. The Legislature shall take affirmative steps to implement this right."

This broad statement constitutes a commendable premise. And yet, as succinctly stated by the Legislative Reference Bureau in its initial analysis of Article I, Section 6:

"It is unclear what legislation will be necessary under this mandate since it is unclear what the right of privacy encompasses." (From "Constitutional Amendment Information Sheets" published by the Legislative Reference Bureau.)

This is precisely why privacy is one of the most difficult concepts for the Legislature or the courts to address. The concept of privacy is, as it must be, a nebulous one. To constrict the parameters of privacy with burdensome legislation would have a stifling effect upon the free exchange of information and ideas; and yet, some protections must be afforded.

Your Committee was confronted with a two-pronged problem when addressing the right to privacy as perceived by the Constitutional Convention of 1978. As did the National Conference of Commissioners on Uniform State Laws, your Committee recognized that both freedom of information, which involves public access to public records, and information practices, which involves the confidentiality of personal records, must be carefully balanced as two conflicting interests. Nevertheless, because the two interests are of import, neither can be summarily dismissed; they must both be accorded their proper place in any legislation on the right of privacy.

In an effort to attain this delicate balancing, your Committee has drafted this bill to fulfill the intent of the amendment of the Constitution. A genuine attempt herein has been made to enact a law dealing with the right of privacy, and affecting the relationship between the government and individuals which will effectively coordinate public access to public records, while maintaining the confidentiality of personal records.

The following is a summary of the contents of the bill, with a brief synopsis of the functions of the separate sections:

(1) Section -1. Definitions. Definitions which specifically apply to this chapter are set forth.

(2) Section -2. Individual's access to own personal records. This section delineates a person's right to access to records which pertain to himself or herself, and the duties of the agency which keeps the records.

(3) Section -3. Exemptions and limitations on individual access. This section sets forth the type of information to which access is not required, and deals primarily with records on criminal activity.

(4) Section -4. Limitations on public access to personal record. This section outlines the primary prohibition against disclosure of personal records to persons other than to whom the records pertain, but exempts such limitation when authorized by the subject of the information or the record, when the information is collected and maintained specifically to create a public record, when the disclosure is expressly authorized by statute, and when there is a showing of compelling circumstances affecting health or safety of any person. This limitation is not intended to affect access to personal records when the individual to whom the records pertain specifically authorizes the disclosure of such information to others. In such instance, the disclosure is not in violation of this chapter nor is it prohibited. Thus, when a person desirous of obtaining insurance authorizes an agent to examine his or her records, which are maintained by an agency, such authorization will not prohibit the insurance agent from gaining access to records, medical, traffic, and otherwise, which specifically pertain to that individual.

(5) Section -5. Limitations on disclosure of personal record to other agencies. This section delineates guidelines for agencies maintaining records on individuals when making disclosures to other agencies. Thus, if the disclosure is in line with the purpose for which the information was collected, if the disclosure is consistent with the conditions of use and disclosure under which the information was given, if the disclosure appears to be consistent with the requesting agency's performance of duties, if the disclosure is to the archives, if the disclosure is to a federal agency, or to a foreign government and authorized by treaty or statute, for law enforcement investigative purposes, if the disclosure is to the legislature or committees within the Legislature, if the disclosure is ordered by court, or if the disclosure is to officials of a department or agency of the federal government for specific purposes, then such disclosure is permitted.

Therefore, an office, such as the legislative auditor, would clearly have access to records maintained by other agencies, if their investigation and request for disclosure are in keeping with the performance of its duties and functions as circumscribed by statute.

(6) Section -6. Access to personal record; initial procedure. This section outlines the agency's duty upon a request from an individual to gain access to his or her personal record, within a specific time period, subject to extensions.

(7) Section -7. Copies. This section permits the agency maintaining the records to charge, within reasonable limits, the costs for duplication or transcription of records.

(8) Section -8. Right to correct personal record; initial procedure. This section sets forth an individual's right to make corrections of factual errors in his or her personal record, and the procedure by which such correction is to be made.

(9) Section -9. Access and correction; review procedure. This section delineates the procedure which an agency must follow when a request for review of its refusal to allow access to or correction of a record is submitted.

(10) Section -10. Rules and regulations. This section provides that each agency adopt, pursuant to chapter 91, Hawaii Revised Statutes, rules which establish the procedures to implement or administer the fair information practices act.

(11) Section -11. Civil actions and remedies. This section provides that certain causes of action may be brought for agency failure to comply with any of the provisions under the fair information practices act.

(12) Section -12. Violations; disciplinary action against employees. This section provides for disciplinary action, including suspension or dismissal, for any intentional or knowing violation of this chapter by an employee or the agency.

(13) Section -13. Access to personal records by order in judicial or administrative proceedings; access as authorized or required by other law. This section reiterates that when disclosure is ordered by judicial or administrative order, or when statute, administrative rule, rules of court, judicial decision, or other law authorizes access, then disclosure need not be withheld.

(14) Severability clause.

Upon further consideration, your Committee has amended this bill by deleting two provisions; one dealing with agency disclosure of information claimed incorrect, and the other dealing with corrected personal records. Your Committee feels that the administrative burdens imposed on agencies by these two provisions would be unduly restrictive and prohibitive. The requirements that persons to whom information has been disclosed also be furnished information as

to the reasons for not correcting or amending as requested by the subject of the record, and that sources of and prior recipients of information about an individual be furnished information pertaining to amendments or corrections, would detract from the agency's original role. The agency's functions would be sorely disrupted, and the time-consuming process of notifying sources or recipients may well prevent the agency from fulfilling its major tasks.

Your Committee is well aware that the right to correct and amend personal records, and the right to ensure that such records are disclosed with the proper information to the proper requesting agencies or persons, are interests which must be given full protection. To achieve a proper balance which will not unduly burden an agency, however, is difficult. The modifications made by your Committee were made, though, with the knowledge that the National Conference of Commissioners are to meet during the summer of 1980; and in their exhaustive study of the problems presented by the right to personal access and the right to confidentiality of personal records, solutions may be forthcoming.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 501, 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. 501, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 57-80 on H.B. No. 2059-80

The purpose of this bill is to implement Article I, Section 11, of the Constitution of the State of Hawaii as proposed by the Hawaii Constitutional Convention of 1978 and ratified by the voters on November 7, 1978, which pertains to the grand jury counsel and grand jury proceedings.

Article I, Section 11, reads as follows:

"Section 11. 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."

Attention is called to Standing Committee Report Nos. 837-80 and 554-80, which reflect the views of the Judiciary Committees of the Senate and the House of Representatives respectively.

Your Committee on Conference has affected only two changes to H.B. No. 2059-80, S.D. 2. These are:

(1) SECTION 2 respecting appointment and removal of the grand jury counsel. H.B. No. 2059-80, S.D. 2, provided that,

"the state supreme court shall appoint grand jury counsel for the four judicial circuits ..."

We changed to provide that,

"the state supreme court shall appoint one or more grand jury counsel for the four judicial circuits ..."

The reason for this change is to allow the appointment of back-up grand jury counsel so that in the event of disqualifications a substitute grand jury counsel will be readily available to take its place thereby avoiding unnecessary delay.

(2) SECTION 7 respecting disqualification of grand jury counsel. While H.B. No. 2059-80, S.D. 2, allowed the prosecutor to petition the chief justice to disqualify the grand jury counsel, change was affected to require such petition to be addressed to the court.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2059-80, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2059-80, S.D. 2, C.D. 1.

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

Representatives D. Yamada, Baker, Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 58-80 on H.B. No. 2357-80

The purpose of this bill is to permanently place the Hawaii Criminal Justice Information Data Center within the Department of the Attorney General for administrative purposes, effective July 1, 1981, and to provide guidance as to the purpose of this data center.

At present, the Data Center is attached to the Judiciary for administrative purposes, pursuant to Chapter 846, Hawaii Revised Statutes.

This bill represents an attempt to implement the findings of a study conducted by the State Law Enforcement Planning Agency and the Statistical Analysis Center, which recommended that the Data Center be permanently placed within the Department of the Attorney General. It was determined that the environment provided in the Department of the Attorney General, which is the primary law enforcement agency in the State, would be conducive for the maintenance of the high level of operations and cooperation with the criminal justice agencies throughout the State, while at the same time providing sound administrative support.

Upon further consideration, your Committee has amended H.B. No. 2357-80, S.D. 2, by removing the specific requirements that (1) the Data Center assist the battle against crime through the providing of information to agencies, and that (2) the Data Center disseminate to the Governor, the Legislature, and the heads of authorized criminal justice agencies, statistical analyses of both of the criminal and the juvenile justice system. The Data Center was established for the collection storage, dissemination, and analysis of criminal history record information, and is authorized to release such information to criminal justice agencies. This authority and summary of duties is contained in the purpose clause under section 846-. To further circumscribe existing duties would be redundant.

In addition, your Committee finds that juvenile data is not maintained by the Data Center, and the requirement that statistical analyses on the juvenile justice system be disseminated to certain specified persons would impose an undue burden upon the Data Center; one that it cannot possibly fulfill.

Finally, your Committee, after consideration, has further amended this bill by removing the requirement that the Data Center prepare an accurate account of the resources required for the operation of the criminal justice system and examine the overall performance of those system. The Data Center is equipped to disseminate and analyze the statistics which it maintains, but is not equipped to analyze the performance of the agencies from which the information is received. Furthermore, an account of required resources necessary for the operation of the various criminal justice system's agencies is provided for when each agency's budget is submitted. The Data Center is not capable of determining what resources are necessary for the operational success of each agency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2357-80, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2357-80, S.D. 2, C.D. 1.

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

Representatives D. Yamada, Baker, Honda, Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 59-80 on H.B. No. 1782-80

The purpose of this bill is to update Chapter 478, Hawaii Revised Statutes, to reflect the realities of the present lending market. Section 1 of the bill specifically and explicitly overrides the provisions of the Depository Institutions Deregulation and Monetary Control Act of 1980 (H.R. 4986), which was recently enacted by Congress.

Section 2 of the bill amends Chapter 478, Hawaii Revised Statutes by adding three new sections, which are exemptions. The first new exemption provides that there will be no ceiling on interest rates for liens on residential real property loans, except for those made prior to the federal suspension on December 28, 1979, of the State's usury ceiling.

The second new exemption deals with certain contracts which may have been covered

in Part B of the federal act and which are addressed because of the override provision of Section 1. The third new exemption covers loans by ERISA approved retirement plans.

A fourth provision repeals the three new exemptions on March 30, 1983. However, the override of the federal preemption is not repealed.

Your Committee, upon further consideration, has made substantial amendments to H.B. 1782-80, H.D. 2, S.D. 1. The provision overriding the Depository Institutions Deregulation and Monetary Control Act of 1980 (H.R. 4986) has been retained. This will allow Hawaii to formulate its own response to the future needs of our State. It is neither wise nor appropriate to allow the State usury laws to be determined by policy makers in Washington, D.C.

Your Committee has consolidated all of the exemptions to the usury law. Sections 478-9 and 478-10 have been deleted and their provisions added to 478-8.

The proposed section 478-8 (e)(1) provides, that there shall be no statutory limit to interest rates on indebtedness secured by a first mortgage lien on real property or a first lien on stock in a residential cooperative housing corporation, if agreed to or incurred after the effective date of this proposal. The phrase "first mortgage lien" is used to make clear that we are not referring to liens that may become senior to the first mortgage. For example, a mechanic's or materialman's lien or certain tax liens may become a first lien. "First mortgage lien" is not used in the context of cooperative housing because those liens are not mortgage liens.

Your Committee has included agreements of sale, in 478-8(e)(2) because this method of sale is popular in Hawaii and may be the only method of sale in troubled economic times. So long as the rate of interest is clearly stated, a vendor under an agreement of sale will not have a restricted interest rate.

Proposed subsection (f) exempts employee welfare benefit trust funds or retirement plans approved by the United States Labor Department and Internal Revenue Service. The same exemption is granted to loans made by the State retirement system. Proposed subsection (g) exempts loans made by certain lenders to the agricultural and livestock industry. The provisions of (f) and (g) will expire at the end of June 1985 and commitments made prior to that date are covered if the loan is made by June 30, 1987.

Section 3 of the bill adds a new provision to Chapter 478 specifically limiting the rate of interest chargeable under a credit card agreement to 18% per year. Your Committee feels that there is no present need to amend interest rates in this area.

In Section 5 of the bill, your Committee has amended Chapter 506, Hawaii Revised Statutes, by adding a new section dealing with the right of a mortgagor to repair or replace collateral which is damaged or destroyed by fire or natural disaster.

Section 8 is a very important part of the bill. Your Committee feels that parties to existing commitments and contracts should be reassured that the rate of interest on their debt will not be increased, or allowed to rise to higher rates than would otherwise be permitted, because of this legislative action.

Your Committee is concerned that some will interpret the new law to permit higher limits on existing loans with a floating interest rate. Such agreements usually provide that the interest rate shall not rise above the maximum permitted by law. For interest rates agreed to prior to the effective date of this bill, except as governed by the federal preemption, the maximum permissible rate at the time of the agreement shall continue to be the maximum permitted.

Your Committee understands that there were loan commitments entered into when the usury ceiling was twelve percent which provided that the interest rate be determined at a later time. Generally, the interest rate was to be fixed shortly before the funding of the permanent individual loan, based on the prevailing rate or some floating rate. Your Committee does not intend to retroactively affect these commitments which were entered into prior to the effective date of this bill. The legal limits existing at the time of the commitment will control, as if expressly incorporated. The usury ceiling of twelve percent shall control and be read into a commitment entered into prior to the effective date of this bill, unless the federal preemption permitted a higher rate at the time the commitment was made.

Your Committee agrees that interest rate ceilings are a matter of importance to all segments of the State's economy and population and should be a matter of continuing concern to the legislature. Your Committee therefore declares that it is the legislature's intention that the application and effect of this bill be reviewed and monitored continuously.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1782-80, 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. 1782-80, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Blair, Shito, Aki, Masutani, Kobayashi and Medeiros
Managers on the part of the House

Representative Masutani did not sign the report.

Conf. Com. Rep. No. 60-80 on H.B. No. 1871-80

The purpose of this bill is to amend Section 408-15(a), Hawaii Revised Statutes, to include industrial loan companies within the usury exemptions of Chapter 478.

Under the present Section 408-15(a), it is unclear as to whether or not industrial loan companies can avail themselves of the exemptions to usury of Chapter 478.

Based on testimony presented to the respective House and Senate committees of your conferees, your Committee agrees that the reasons for exemptions to usury may apply to an industrial loan company, and where such a company can come within the terms of an exemption to Chapter 478, that company should be exempt.

While in accord with the intent of the bill, your Committee has amended the language of the bill to better effectuate its purpose.

Your Committee has also added a new section to the bill to correct a drafting error in S.B. No. 1441, S.D. 1, H.D. 1. In subsection 408-15(1)(F) of that bill, the word "not" was inadvertently inserted. This amendment corrects that error.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1871-80, 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. 1871-80, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Blair, Shito, Lee, Nakamura and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 61-80 on H.B. No. 1925-80

The purpose of this bill is to raise the maximum rate of interest chargeable on loans made under Chapter 408, Hawaii Revised Statutes, relating to Industrial Loan Companies.

This bill would increase the rates on advance interest (block) loans as follows:

12% has been increased to 14%
9% has been increased to 10.5%
6% has been increased to 7%
3% has been increased to 4%

The ceiling on simple interest loans has also been raised to 24%. All of the aforementioned increases in interest rates are authorized by the bill for a period to expire July 1, 1983.

Your Committee feels that present economic conditions justify an increase in interest rates allowable by industrial loan companies. Your Committee agrees that in order to allow industrial loan companies to maintain the flow of funds which borrowers need and demand, relief from existing interest ceilings is justified by present economic conditions for both simple interest and advance interest loans.

Your Committee has amended the bill to extend the period during which the increases will be effective until July 1, 1985, in order to provide ample time to determine whether future developments warrant a decrease in the maximum rates set by this bill. Your Committee recognizes that the increases in rates agreed upon may be reviewed sooner than 1985 if economic conditions and experience with the new maximum rates warrant such review.

Your Committee has also made technical amendments which do not alter the intent of

the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1925-80, 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. 1925-80, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Blair, Shito, Lee, Nakamura and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 62-80 on S.B. No. 2006-80

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

Section 264-6, Hawaii Revised Statutes, presently prohibits the disturbing or breaking up of the right-of-way of any State highway. Section 1 of this bill amends Section 264-6 by adding language prohibiting the placing, erecting, leaving, or storing of any structure, vehicle, equipment or other object within the right-of-way of any State highway except as allowed by permits issued by the Director of Transportation.

Section 2 of the bill amends Section 264-7, Hawaii Revised Statutes, which provides for the issuance of the permits required under Section 264-6. The amendment provides that when a contract is awarded for the construction, maintenance, or repair of the right-of-way of any State highway which involves any activity enumerated in Section 264-6, the Director of Transportation shall issue the required permit and waive any permit fees.

Your Committee upon further consideration has amended the bill in the following manner:

- (1) By deleting the reference to Section 291C-77(c) in the proposed new paragraph (2) of Section 264-6. Section 291C-77(c) has been judicially determined to be unconstitutional.
- (2) By adding a reconstruction contract as a type of contract which would qualify for the exemption from permit fees under Section 264-7.
- (3) By deleting the phrase "the right-of-way" in line 16, page 2 of the bill and by adding the phrase "or federal aid highway project" after the word "highway" on line 17, page 2 of the bill (line 16, page 2 of the bill as amended). The purpose of the change is to broaden the scope of contracts which qualify for the exemption of the permit fee.
- (4) By making other style and non-substantive amendments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2006-80, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2006-80, H.D. 1, C.D. 1.

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

Representatives Dods, D. Yamada, Honda, Stanley and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 63-80 on H.B. No. 2286-80

The purpose of this bill is to provide for the regulation of residences serving persons with developmental disabilities.

Your Committee recognizes that deinstitutionalization of the developmentally disabled is an important goal. Thus, it is essential that suitable housing be made available in the community.

Your Committee upon further consideration has made the following amendments to H.B. No. 2286-80, H.D. 1, S.D. 1:

- (1) Added a new SECTION 1 which clarifies state policy regarding the development of suitable housing in the community for the developmentally disabled.
- (2) Added a new SECTION 2 requiring the state planning and advisory council to encourage

the adoption of ordinances in each political subdivision permitting the development of housing for this group.

(3) Made other nonsubstantive, technical amendments.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2286-80, 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. 2286-80, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Lee, Ushijima and Lacy
Managers on the part of the House

Conf. Com. Rep. No. 64-80 on H.B. No. 1775-80

The purpose of this bill, H.B. No. 1775-80, H.D. 2, S.D. 1, is to conform the actions and land use decision-making by the State Land Use Commission with the Hawaii State Planning Act (Chapter 226, Hawaii Revised Statutes; also referred to as the Hawaii State Plan) by establishing permanent statewide land use management policies to guide the Commission.

Section 2 of the bill (S.D. 1) repeals the following sections of the Hawaii Revised Statutes: (1) Section 205-16, which requires that upon enactment of the (Hawaii) State Plan, amendments to any land use district boundary and other actions of the Land Use Commission shall conform to the State Plan; (2) Section 205-16.1, which sets forth and adopts interim statewide land use policies to be observed and complied with by the Land Use Commission from June 2, 1975, until two years after the effective date of the enactment of the Hawaii State Plan; and (3) Section 205-16.2, which provides that the interim statewide land use guidance policies in section 205-16.1 shall be in effect from June 2, 1975, until two years after the effective date of the enactment of the State Plan.

These repealed sections of the Hawaii Revised Statutes are replaced in S.D. 1 of the bill by provisions which, among other things, require any district boundary amendment and any other action by the Land Use Commission to conform to "applicable provisions" in the Hawaii State Planning Act and provides "new" or amended statewide land use management policies, of a permanent nature, to guide the Land Use Commission in lieu of the statewide land use policies in section 205-16.1, Hawaii Revised Statutes, which are scheduled to expire in May, 1980 (two years after the effective date of the enactment of the Hawaii State Plan).

H.B. No. 1775-80, H.D. 2, S.D. 1 further provides that where the Land Use Commission finds that "substantial injustice and inequity will result, or where a public purpose is to be served by not complying," the Commission need not comply with the statewide land use management policies set forth in Section 1 of the bill.

Your Committee has amended Section 1 of H.B. No. 1775-80, H.D. 2, S.D. 1, in the following major respects:

(1) Section 205- (purpose and findings) has been amended to include a statement that the interim statewide land use management policies contained in the bill are to implement Article IX, Sections 6 and 8, and Article XI, Sections 1 and 3 of the Hawaii State Constitution.

(2) Section 205- , relating to statewide land use management policies, has been amended to adopt said policies until the adoption of state functional plans as provided in Chapter 226 rather than to adopt these policies as permanent policies to guide the Land Use Commission.

The purpose of this amendment is to have the statewide land use management policies serve as interim policies until the adoption of the state functional plans pursuant to the Hawaii State Planning Act (Chapter 226, Hawaii Revised Statutes). Your Committee believes it is premature to enact permanent land use management policies at this time because such policies may possibly conflict with the functional plans which have not yet been adopted and may need to be amended as these plans are adopted.

(3) Section 205- , relating to statewide land use management policies, has also been amended to provide that the Land Use Commission shall comply with said policies, "except where it finds that substantial injustice and inequity will result or where a public facility or project has been approved by the legislature." This language replaces the following language in S.D. 1: "except when it finds that substantial injustice and inequity will result, or where a public purpose is to be served by not complying."

Your Committee, finds that this amendment is advisable because the term "public purpose" is not defined and is susceptible to an over-broad construction or application. Accordingly, the phrase "where a public purpose is to be served by not complying" has been replaced by the clearer and more restrictive phrase "where a public facility or project has been approved by the legislature."

(4) Section 205- , relating to statewide land use management policies for reclassifying lands, has been amended by making major organizational and substantive revisions. S.D. 1 provided specific policies only for the urban district and overall policies for any district boundary amendment.

S.D. 1, as amended, now sets forth specific policies for the urban, agriculture, conservation, and rural districts as well as overall policies applicable to any district boundary amendments made by the Land Use Commission (including to urban districts). These specific policies have, in part, been derived from the policies and priorities set forth in H.D. 2 of the bill and the policies set forth in S.D. 1. Your Committee believes that said specific policies will provide needed and clearer guidance to the Land Use Commission in its actions, including any amendments it makes to land use district boundaries.

The following are the significant amendments made to S.D. 1 with respect to the statewide land use management policies:

(a) For the urban district:

1) Section 205- (b)(1)(A) of S.D. 1, relating to the urban district, has been redesignated section (b)(1), and amended by adding language which requires that lands be reclassified to the urban district only as necessary to accommodate urban growth and development, where "it is demonstrated that" such growth and development is consistent with the current population and economic projections of the department of planning and economic development. Additionally, the phrase "or are not being developed" has been deleted from p. 5, lines 1-2 of S.D. 1.

2) Section 205- (b)(1)(B) of S.D. 1, relating to public services and facilities, has been redesignated section (b)(2), and amended to read as follows: "Lands shall be reclassified to the urban district only when there is adequate existing public services and facilities, or when such additional services and facilities as are necessary can be provided by the appropriate public agencies or by the petitioner with the concurrence of the appropriate public agencies."

3) Section 205- (b)(1)(C) of S.D. 1 has been redesignated section (b)(3), and the word "contiguous" has been substituted for the word "adjacent" on p. 5, line 12 of S.D. 1. The following wording has also been deleted from this section: "provided that lands may be reclassified to the urban district if they constitute all or part of a self-contained urban center."

Your Committee made said deletion in order to avoid scattered urban development which could possibly result if lands are allowed to be reclassified to the urban district "if they constitute all or part of a self-contained urban center," particularly since the term "self-contained urban center" is ambiguous and is therefore subject to varying interpretations. It is not your Committee's intention, however, to preclude the development of new towns.

4) Section 205- (b)(1)(D) of S.D. 1, relating to significant adverse impacts caused by any district boundary amendment, has been redesignated section (f)(4), and now applies to any land use boundary amendment. The following phrase: "unless such impacts are outweighed by public needs or public benefits resulting from such reclassification" has been deleted from this section.

Your Committee finds that this amendment is advisable because the terms "public needs" and "public benefit" are susceptible to over-broad construction or application and because said terms provide insufficient guidance to the Land Use Commission in making district boundary amendments.

5) A new section, designated as section (b)(4), has been added to the list of policies relating to the urban district, and reads as follows: "Lands shall be reclassified to the urban district for resort development purposes, only when the buildings and structures of the resort development are required to be set back from the upper reaches of the wash of the waves and provide public access for the recreational use of the shoreline."

Your Committee finds that this new section (b)(4) was derived from page

19, lines 11 through 15, of the priority section of H.D. 2 of the bill. Although the 100-yard shoreline setback provision contained in H.D. 2 has been deleted from S.D. 1, as amended, your Committee intends that the Land Use Commission require, and directs the Commission to require, any development or structure to be set back a reasonable distance from the shoreline in order to preserve and protect coastal resources, including but not limited to scenic and recreational resources, and to help implement the coastal zone management objectives and policies of Chapter 205A, Hawaii Revised Statutes.

6) Section 205- (3)(B) of S.D. 1, relating to housing for gap-group and low-income households has been redesignated as section (b)(5), and has been added to the list of policies for the urban district, and reads in a slightly modified version as follows: "Preference shall be given to land use amendment petitions that will provide for housing development plans that include a commitment to build for and market to gap-group and low-income households a reasonable percentage of the total housing units planned for the development."

(b) For the agriculture district:

1) Section 205- (2)(G), relating in part to agricultural lands, has been redesignated section (c)(2) and amended to read as follows: "Lands classified by the Land Study Bureau's Detailed Land Classification as Overall (Master) Productivity Rating Class A or B shall be maintained in the agricultural district."

The purpose of this amendment, among other things, is to implement in part, Article XI, Section 3 of the Hawaii State Constitution which reads as follows: "The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands." Your Committee intends that the Agriculture Lands of Importance to the State of Hawaii system, "adopted" to serve as guidelines by the Board of Agriculture, continue to be used by the Land Use Commission--in addition to the Land Study Bureau's Detailed Land Classification system--in its land use decision-making in order to further implement Article XI, Section 3 of the Hawaii State Constitution through the Commission's conservation and protection of agricultural lands classified as prime, unique, and other important agricultural lands under said system. Your Committee also intends that the counties and/or the appropriate state agency review and modify, as appropriate, the Agricultural Lands of Importance to the State of Hawaii system, and adopt said system, pursuant to Chapter 91, Hawaii Revised Statutes, prior to the convening of the Regular Session of 1981. Your Committee believes that the Agricultural Lands of Importance to the State of Hawaii system should be adopted pursuant to Chapter 91, Hawaii Revised Statutes, because said system is currently being considered as a replacement for the Land Study Bureau's Detailed Land Classification system.

2) Two new sections, designated as sections 205- (c)(3) and (c)(4), have been added to ensure the long-term viability of any existing agricultural operation and to protect any such operation from a reduction in water supply which will jeopardize said operation, and to enable the Land Use Commission to give preference to the reclassification into the agricultural district of any lands that are presently in agricultural use or have economic potential for agricultural or aquacultural use.

(c) For the conservation district:

1) A new section, designated as section 205- (d)(1), has been added to guide the Land Use Commission with respect to district boundary amendments relating to the conservation district:

(d) For the rural district:

1) Section 205- (2)(I) of S.D. 1, relating to the classification of lands into the rural district, has been redesignated section (e)(1), and to read in a slightly modified version as follows: "Lands shall be classified into the rural district only when the proposed uses of such lands are consistent with section 205-2."

2) Two new sections, designated as sections 205- (e)(2) and (e)(3), have been added to further guide the Land Use Commission in its decision-making with respect to district boundary amendments relating to the rural district. These new sections read as follows:

(A) "Lands shall be reclassified to the rural district only as necessary to accommodate rural uses as defined in this chapter, where it is demonstrated that the reserve areas of vacant or underdeveloped lands in the rural and urban districts are insufficient to accommodate the proposed increase in such uses;" and

(B) "Lands shall be reclassified to the rural district only when there is adequate existing public services and facilities, or when such additional services and facilities as are necessary can be provided by the appropriate public agencies or by the petitioners with the concurrence of the appropriate public agencies."

(e) For any district boundary amendment:

1) Section 205- (2)(B), has been redesignated as section (f)(1) and has been amended, by deleting the reference to the Hawaii State Plan and functional plans so as to read as follows: "Consider the general plan and the applicable development plan of the county."

2) Section 205- (2)(A), relating to cumulative impacts of any district boundary amendment, has been redesignated as section (f)(2), and amended to require that specific findings with respect to any economic, physical, and social impact be set forth by the Land Use Commission, so as to ensure that the Commission assesses such impacts.

3) Section 205- (2)(C), relating to a determination that the proposed uses of lands to be reclassified are compatible with the uses of the lands of the contiguous and surrounding areas, has been redesignated as section (f)(3), and amended to require that the basis of such a finding or determination be set forth by the Land Use Commission.

4) Four new sections, designated as sections 205- (f)(4), (5), (6), and (7), have been added to further guide the Land Use Commission in making any district boundary amendment. These sections respectively set forth policies which:

(A) Prohibit the reclassification of any land, where such classification will have significant adverse impacts upon the resources of the area and the State.

(B) Restrict to recreational use all existing recreational areas and all recreational areas which have been or are in the process of being partially or fully funded by any public agency.

(C) Prohibit any new development which would cause the drafting of water resources of an area to exceed levels of sustainable yield or significantly diminish the recharge capacity of any ground water area designated pursuant to Chapter 177, Hawaii Revised Statutes.

(D) Require the Land Use Commission to comply with the coastal zone management objectives and policies of Chapter 205A, Hawaii Revised Statutes.

5) Section 205- (b)(4)--on page 9 of S.D. 1--has been redesignated as section 205- (f)(8), and has been amended to read as follows: "On petition by any person or any state or county agency delineated in section 205-4(a), and on appropriate notice and hearing thereon, and good cause being shown therefor, the commission shall restore to its former classification any land which has been reclassified to a higher use but which higher use has been abandoned or has not been implemented within a reasonable period."

(5) The following sections in S.D. 1 have been deleted: Sections 205- (2)(D), (E), (F), and (H) and sections 205- (3)(A), (B), and (D) are deleted because your Committee finds that said sections are either ambiguous, do not provide specific or useful guidance to the Land Use Commission, or have been substantially incorporated into the new policies which have been added to Section 1 of the bill.

(6) Numerous technical amendments of a non-substantive nature have also been made by your Committee.

In summary, the overall orientation of S.D. 1, as amended, is to set forth more specific policies to guide the actions and land use decision-making by the Land Use Commission until the adoption of the functional plans as provided in Chapter 226, Hawaii Revised Statutes, in order to help implement the intent of the Hawaii State Planning Act and Article IX, Sections 6 and 8, and Article XI, Sections 1 and 3 of the Hawaii State Constitution.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1775-80, 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. 1775-80, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Kiyabu, Andrews, Fukunaga, Kawakami, Kunimura, Larsen, Silva, Takitani, Toguchi, Medeiros and Narvaes

Managers on the part of the House

Representative Larsen did not sign the report.

Conf. Com. Rep. No. 65-80 on S.B. No. 870

The purpose of this bill is to improve the Hawaii Water Carrier Act, Chapter 271G, Hawaii Revised Statutes.

This bill makes minor changes to the procedure in filing for rate changes and increases the penalties for violations of the water carrier law.

Your Committee upon further consideration has made the following amendments to S.B. No. 870, S.D. 2, H.D. 1.

A new provision has been added to the file and suspend system that will require the commission to act within six months from the date of ordering a hearing. If the commission fails to act, the proposed changes may go into effect. At any hearing involving a change in a tariff or rule, regulation, or practice, the burden of proof shall be on the carrier to show that the proposed change is just and reasonable.

Your Committee has added a new subsection, 271G-17(e) which allows the commission to authorize temporary increases in rates, fares, and charges after public notice. The commission is required to order the carrier to keep an accurate account for each shipper of all amounts received by reason of such increase. Upon conclusion of the hearing and decision, the commission may order the carrier to refund with interest that portion of increased rates deemed not justified. This distribution to the affected shippers is without further judicial or administrative proceedings and without claim by the shipper.

Your Committee has increased the penalty provisions for violations of the water carrier law to a maximum of \$5,000.

Your Committee deleted section 271G-14(e). This deletion will enable the commission to examine the expenses paid to affiliates. In addition the commission will have the authority to require the carrier to obtain approval from the commission before leasing vessel equipment or towing equipment from another corporation.

A new provision under 271G-23(a) requires that the carrier justify the reasonableness of its dealing with corporate affiliates and the burden of proof shall be satisfied only if the reliable, probative and substantial evidence is clear and convincing.

Your Committee has amended the bill to permit the carrier to file for a tariff change for fuel surcharges based on a 30 day notice. The 45 day notice is retained for all other changes in tariffs.

Finally, your Committee has amended the bill by deleting language in Section 271G-23(b) which was incorrectly included in the section.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 870, 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. 870, S.D. 2, H.D. 1, C.D. 1.

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

Representatives Blair, Garcia, Larsen, Masutani, Nakamura and Ikeda
Managers on the part of the House

Representative Nakamura did not sign the report.

Conf. Com. Rep. No. 66-80 on H.B. No. 2172-80

The purpose of this bill is to increase the penalty for the illegal importation and harboring of prohibited animals in Hawaii and to provide immunity from penalty for persons who voluntarily surrender such animals.

Your Committee strongly believes the penalty or punishment should be commensurate with the crime committed. Chapter 706-640, Hawaii Revised Statutes, Authorized Fine, provides a fine of \$1,000 when a person has been convicted of a misdemeanor. Your Committee believes that the penalty imposed for this instance is sufficient and adequate for deterrent purposes.

Therefore, your Committee has amended this bill to provide a more reasonable penalty for the importation and harboring of live snakes from a fine of not more than \$5,000 and a mandatory one-year prison term, to a \$1,000 fine or imprisonment not to exceed one year.

Your Committee also finds that the present procedure, provided for under the provisions of Chapter 150A, Hawaii Revised Statutes, Authority For Declaration, is adequate and proper. Therefore, the bill has also been amended by deleting the requirement that the Department of Transportation shall distribute a copy of the list of prohibited plants and animals to each passenger on every aircraft and water vessel arriving in this State, and to inform each passenger of the penalty for importing prohibited plants or animals.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2172-80, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2172-80, S.D. 1, C.D. 1.

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

Representatives Uechi, Inaba, Toguchi and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 67-80 on H.B. No. 2029-80

The purpose of this bill is to increase the principal amount of revenue bonds which may be issued by the Hawaii Housing Authority for housing loan programs as established by Act 50, Session Laws of Hawaii 1979. This bill also expands the group eligible for Hula Mae loans by raising income limits, excluding business deductions from consideration as income, and excluding outstanding liabilities from consideration as assets.

Upon further consideration, your Committee has made the following amendments to H.B. No. 2029-80, H.D. 2, S.D. 2:

1. Income limits for families applying for eligible loans have been set at a level not to exceed one hundred twenty-five percent of the adjusted median income in the State as most recently published by the United States Department of Health, Education and Welfare. However, the adjusted household income for a family of one shall not exceed one hundred percent of such median income. This exception for the single individual was made because current income limits provide for a difference of only \$1,250 between a one-person family and a two-person family. Your Committee feels that the single person family has enjoyed an unfair advantage until now; however, your Committee does not intend to penalize those individuals who have already applied for loans by lowering the income limits to the extent that S.D. 2 of this bill proposed.

2. Twenty-five percent of a down payment for property to be financed by an eligible loan shall not be considered in the determination of the eligible borrower's assets.

It has been brought to the attention of your Committee that lending institutions have been setting aside Hula Mae funds for specific developers constructing homes in the Hula Mae price range. Because loan applications were not being submitted fast enough, lending institutions sought arrangements with developers to better assure that the loans would be made. While your Committee feels that the intent of the Hula Mae program was to serve eligible Hawaii residents on a first-come first-served basis, your Committee recognizes that lending institutions may need to make "developer commitments" in these times of economic uncertainty. Your Committee does not wish to set percentages for Hula Mae funds that may be used for "walk-in" loans or for "developer commitments," believing that the Hawaii Housing Authority should use its discretion in monitoring this new program and preventing abuses. The Authority should consider a specific time limit within which allocations for developers and for "walk-in" loans should be used. After that time the lending institutions should be able to transfer unused allocations to areas where the demand for funds is greatest.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2029-80, 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. 2029-80, H.D. 2, S.D. 2, C.D. 1.

Senators Cayetano, Yamasaki and Yee
Managers on the part of the Senate

Representatives Shito, Aki, Ige, Kobayashi, Segawa, Ushijima and Lacy
Managers on the part of the House

Conf. Com. Rep. No. 68-80 on S.B. No. 2665-80

The purpose of this bill is to establish a community residential treatment system to provide alternatives to institutional settings for mental health patients. The alternatives under the system are varied to meet the different degrees of the mental health conditions of patients.

Your Committee has amended S.B. No. 2665-80, S.D. 2, H.D. 2, by deleting provisions requiring the director of health to establish an advisory committee to screen all systems proposals and to make recommendations as to approval. Your Committee believes that it is necessary to give the director of health flexibility in accomplishing the stated goals of this proposed Act. Deletion of this section does not preclude the director from establishing an advisory panel upon the director's own initiative, however, the bill as amended would not mandate the establishment of such a panel.

Amendments have also been made deleting Section 3 and Section 4 of S.B. No. 2665-80, S.D. 2, H.D. 2, which would appropriate funds for implementation of the Act and which would designate the department of health as the expending agency. Instead, an appropriation for the program established under this Act will be included in the supplemental appropriations bill (H.B. No. 1912-80). Because of the deletion of Sections 3 and 4, Section 5 has been renumbered as Section 3.

Your Committee on Conference is in accord with the intent purpose of S.B. No. 2665-80, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2665-80, S.D. 2, H.D. 2, C.D. 1.

Senators Cayetano, Soares and Carpenter
Managers on the part of the Senate

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

Conf. Com. Rep. No. 69-80 on S.B. No. 2302-80

The purpose of this bill is to establish a temporary commission to study and review Hawaii's workers' compensation law and to prepare a report of findings and recommendations in consonance with the basic objectives of workers' compensation law, with a special emphasis on ways of reducing or stabilizing costs while maintaining benefits at existing levels, or ideally, providing increased benefits or reduced employer costs. The commission will submit a preliminary report to the governor and the legislature prior to the 1981 legislative session, and a final report, within ten days after the convening of the 1982 legislative session. This bill provides that the commission shall cease to exist ninety days after the submission of its final report.

This bill provides for a commission of nine members. Six commission members are to be appointed by the governor. With regard to the labor sector, one member shall represent Hawaii's public employee unions, one member shall represent Hawaii's non-public construction employee unions, and one member shall represent Hawaii's non-public general trades employee unions.

Your Committee upon further consideration has made the following amendment to S.B. No. 2302-80, S.D. 2, H.D. 2. Section 8 in H.D. 2 which appropriates moneys for this commission has been deleted on the understanding that a sufficient appropriation for this commission will be included in the supplemental appropriations bill (H.B. No. 1912-80). Because of the deletion of Section 8, Section 9 has been renumbered to Section 8.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2302-80, S.D. 2, H.D. 2, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2302-80, S.D. 2, H.D. 2, C.D. 1.

Senators Cayetano, Toyofuku, Yamasaki and Ajifu
Managers on the part of the Senate

Representatives Takamine, de Heer, Nakamura, Silva and Marumoto
Managers on the part of the House

Representative Nakamura did not sign the report.

Conf. Com. Rep. No. 70-80 on H.B. No. 2672-80

The purpose of this bill is to amend the law relating to school bus contracts by (1) deleting the provision limiting the increase in compensation by a maximum of five per cent of the previous year; (2) providing, instead, that the compensation under an extended contract

may be increased by a reasonable amount for unanticipated inflationary increases in the cost of fuel; (3) requiring the contractor to prepare data to justify the increase of compensation under an extended contract during renegotiation; and (4) permitting the State and a contractor to enter into renegotiation for payments of fixed costs when a school is temporarily closed due to an unexpected disruption.

Your Committee has amended H.B. No. 2672-80, H.D. 1, S.D. 2, to retain the present statutory provision which allows a contractor's compensation to be increased by an amount not to exceed five per cent of the previous year's compensation for each year the contract with the State is extended. Your Committee agrees that the inflationary increases in cost to operate school buses exceed the current statutory limit of five per cent. However, while the five per cent is considered insufficient under current economic conditions, your Committee believes the cost of fuel is the cause for this insufficiency at this time.

Accordingly, your Committee has further amended this bill to provide that in addition to any such increase in compensation, the contractor's rate of compensation may be increased by a reasonable amount for unanticipated inflationary increases in the cost of fuel. This adjustment is intended to provide a degree of relief to the contractor for fuel costs, which due to current world market conditions, often cannot be calculated with much certainty. Thus, where increases in the cost of fuel are unanticipated and otherwise not accounted for in the compensation to the contractor, the parties may negotiate an adjustment for a reasonable amount to account for such increases.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2672-80, 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. 2672-80, H.D. 1, S.D. 2, C.D. 1.

Senators Cayetano, Campbell, Abercrombie, Kawasaki, Anderson and Yee
Managers on the part of the Senate

Senator Campbell did not sign the report.

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

Representative Marumoto did not sign the report.

Conf. Com. Rep. No. 71-80 on H.B. No. 687

The purpose of this bill is to revise sections 281-1, 281-41 and 281-57, Hawaii Revised Statutes, which provide for the transfer of liquor licenses and the procedures relative to such transfer.

Your Committee upon further consideration has made the following amendments to H.B. No. 687, H.D. 1, S.D. 1:

(1) A new section 1 has been inserted adding to section 281-1 H.R.S. a definition of "standard bar" which excludes establishments licensed to sell liquor for consumption on the premises in which (a) a person performs or entertains unclothed or in attire restricted to use by entertainers pursuant to commission regulations; or (b) live or recorded music is played and in which facilities for dancing by the patrons are provided; or (c) employees or entertainers consume non-alcoholic beverages while in the company of patrons or sit with patrons.

(2) Section 1 of H.B. No. 687, H.D. 1, S.D. 1, amending H.R.S. section 281-41 has been renumbered section 2 and has been amended by:

(a) adding language providing that no class 5 (dispensers') or class 12 (hotel) license issued to a standard bar as defined in section 281-1 shall be transferable to any premise other than a standard bar, and that such license shall be subject to revocation if the licensed premise is not retained as a standard bar, except upon written application to the commission by the licensee and/or the proposed transferee, subject to sections 281-51 to 281-60.

Under present law, the procedural requirements for an application to transfer a liquor license are not as stringent as the requirements for obtaining a new license. Specifically, applicants for transfers need only publish one notice of the liquor commission hearing and need not notify the property owners or lessees in the vicinity. Your Committee finds that certain transfers may be objectionable to those who reside or transact business in the vicinity of the proposed licensed premises, and finds that this amendment will provide an opportunity for those persons to make their objections heard. Further, it is not the intent of your Committee to place an undue burden on those transferees or licensees whose purpose is to retain a standard bar

or whose purpose is to convert an existing premise which is other than a standard bar to a standard bar. Therefore, the mailing requirements of this bill would not apply to such transferees or licensees.

(b) amending H.R.S. 281-41 so as to require that where a license is held by a limited partnership, the commission shall be notified in writing prior to the admission or withdrawal of a limited partner for the purpose of allowing the commission to make a determination as to the fitness and propriety of the new limited partner. The statute presently requires that such notice be provided within thirty days of the change. This amendment will allow the liquor commission to prevent the admission of an unfit or improper partner before it takes place rather than taking action after the fact as is the case under the present law. This amendment makes this part consistent with the Senate draft provision, retained in this conference draft, that prior notice be given to the commission in the event of the transfer of more than 25 per cent of the capital stock of a corporate license.

(3) A new section 3 has been added to require that in meeting the existing notice requirement under H.R.S. 281-57 that notice be sent to not less than two-thirds of the owners or lessees of real estate situated within five hundred feet from the premises for which a license is being sought, the applicant shall mail a notice to not less than three-fourths of the owners or lessees of real estate situated within a distance of one hundred feet therefrom. The purpose of this amendment is to assure that priority is given to notifying those property owners and lessees in closest proximity to the proposed premises, who will be most affected by any change in the use to which the premises are put.

(4) A new section 4 has been added providing that if any portion of this Act or its application to any person or circumstance is held invalid for any reason, the remainder of the Act shall not be affected thereby.

(5) Sections 2 and 3 of the Senate draft have been renumbered 5 and 6 respectively.

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

Your Committee on Conference is in accord with the intent and purposes of H.B. No. 687, 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. 687, H.D. 1, S.D. 1, C.D. 1.

Senators Cobb, Kuroda, Yim and Yee
Managers on the part of the Senate

Representatives Blair, Dods, Masutani, Shito and Ikeda
Managers on the part of the House

Representatives Dods and Masutani did not sign the report.

Conf. Com. Rep. No. 72-80 on H.B. No. 1684

The purpose of this bill is to allow the department of social services and housing to recover various social service, medical, and burial payments from the estate of a deceased recipient.

Your Committee upon further consideration has made the following amendments to H.B. No. 1684, H.D. 1, S.D. 2:

(1) Retains the language that "the claim shall be allowed" in subsection (a) of section 34637, Hawaii Revised Statutes.

(2) Clarifies that undue burial payments may also be sought in Section 1.

(3) Made technical nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1684, 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. 1684, H.D. 1, S.D. 2, C.D. 1.

Senators Cayetano, Toyofuku and Yee
Managers on the part of the Senate

Representatives Lee, Honda, Kobayashi, Segawa, D. Yamada and Lacy
Managers on the part of the House

Conf. Com. Rep. No. 73-80 on H.B. No. 2071-80

The purpose of this bill is to require the department of social services and housing to

license independent group residences in accordance with federal regulations.

Your Committee has amended the bill to eliminate redundant language in Section 2.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2071-80, H.D. 1, S.D. 1, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2071-80, H.D. 1, S.D. 1, C.D. 1.

Senators Cayetano, Carpenter, Toyofuku, Yamasaki, Ajifu and Soares
Managers on the part of the Senate

Representatives Lee, Aki, Baker, Ige and Sutton
Managers on the part of the House

Representative Baker did not sign the report.

Conf. Com. Rep. No. 74-80 on H.B. No. 2647-80

The purpose of this bill is to clarify the statutes relating to limitations imposed upon vehicle load weight and size, to specify the fees to be charged for permits for non-conforming vehicles, to specify the minimum fines based on excess weight and dimension which may be imposed on violators of the restrictive statutes, and to permit motor carrier safety officers to have the same authority as police officers in enforcement of vehicle and vehicle load limitations.

Your Committee upon further consideration has amended the imposition of minimum fines charged to violators of the restrictions from mandatory to discretionary.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2647-80, 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. 2647-80, H.D. 2, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 75-80 on H.B. No. 1494

The purpose of H.B. No. 1494, H.D. 1, S.D. 2, C.D. 1, is to amend section 78-1, Hawaii Revised Statutes, to allow nationals and permanent resident aliens to be employed as officers in the executive branch of state and county governments.

Under section 78-1, noncitizens may be employed in state and county government positions, other than in elective or appointive offices. H.B. No. 1494, H.D. 1, S.D. 2, C.D. 1, liberalizes these restrictions by allowing noncitizens 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. However, this bill requires a noncitizen who is employed by the government in an appointive position to actively seek citizenship upon becoming eligible to do so.

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.

Accordingly, your Committee has endeavored to amend section 78-1 to withstand constitutional challenge, while restricting the appointment of noncitizens to government positions only in instances where the noncitizen is diligently seeking citizenship.

Your Committee has amended subsection (b) of the bill to require a one-year residency requirement for all department heads and their first and second deputies and assistants and to delete the three-year residency requirement for all other appointive offices.

This amendment has been made to conform this subsection with Article V, Section 6 of the Hawaii State Constitution as amended in 1978 which reads in pertinent part:

"Every officer appointed under the provisions of this section shall be a citizen of the United States and shall have been a resident of this State for at least one year immediately preceding that person's appointment, except that this residency requirement shall not apply to the president of the University of Hawaii."

As amended, your Committee believes that this bill strikes an excellent balance between the need for qualified persons in appointive government positions and the need for persons very familiar with local problems in the highest policy-making positions. Durational residency and citizenship are required for the highest elected and appointed positions, but neither are required for all other appointive positions.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1494, H.D. 1, S.D. 2, C.D. 1 as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1494, H.D. 1, S.D. 2, C.D. 2.

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

Representatives Stanley, Kunimura and Marumoto
Managers on the part of the House

Conf. Com. Rep. No. 76-80 on S.B. No. 3145-80

The purpose of this bill is to amend section 480-23, Hawaii Revised Statutes, relating to the granting of immunity from prosecution in antitrust cases so as to render the same consistent with the witness immunity provisions generally applicable under chapter 621C.

The present law pertaining to immunity from prosecution in antitrust proceedings is susceptible to the possible, and originally unintended interpretation that it is an automatic grant of immunity arising with the obtaining of issuance of subpoena of any witness by the attorney general or other government attorney in enforcement of the antitrust provisions of chapter 480. The administrative practice in the application of section 480-23 has been for the attorney general to question witnesses under subpoena with immunity arising only when the witnesses exercise their privilege against self-incrimination and upon the issuance of an order by an appropriate court compelling testimony and extending immunity from prosecution. Apparently, the absence of language specifically describing this aspect of the operation of the immunity law has generated argument that the immunity under section 480-23 is automatic. Accordingly, a function of this bill is to clarify this supposed ambiguity.

This clarification of the present provisions relating to immunity from prosecution is prospective and should not influence the construction of the existing provisions one way or the other with reference to proceedings involving a witness subpoenaed to testify or produce a record, document, or other object prior to the enactment of this bill. Furthermore, although the provisions of this bill as amended applies to proceedings pursuant to both section 480-18 and section 28-2.5, Hawaii Revised Statutes, your Committee recognizes that these statutory sections provide different investigative procedures, and therefore, it is not the intent of this legislation to alter these procedures or to limit the attorney general in antitrust investigations to any one investigative method. However, it is the intent of this legislation to provide one procedure for granting a witness immunity in antitrust investigations.

Senate Bill No. 3145-80 in the form of H.D. 1 had deleted the use immunity provision previously included in S.D. 1. Your Committee on Conference has reinstated the use immunity provision on the reasoning that the immunity provision relating to antitrust laws should be consistent with the general immunity provisions of chapter 621C.

We have, however, provided that the immunity order issued by the court should "specify the type of immunity being granted," that is, whether it is "use" or "transactional," and "contain appropriate explanation of the scope of protection from prosecution being afforded thereby." We note that by subsection 480-23.1(c) such order "may be issued prior to

the assertion of privilege against self-incrimination." As such, we concluded that the explanation of the immunity should be contained in the order.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3145-80, 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. 3145-80, S.D. 1, H.D. 1, C.D. 1.

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

Senator Ushijima did not sign the report.

Representatives Blair, Honda, Shito, D. Yamada and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 77-80 on H.B. No. 25

The purpose of this bill is to provide enabling legislation for the issuance of special purpose revenue bonds for not-for-profit corporations which provide health care facilities to the general public. The enabling legislation is necessary to implement the State's authority to issue special purpose revenue bonds under Article VII, section 12, of the Constitution of the State of Hawaii. This bill further provides for: 1) access to financial records of the corporations using proceeds from special purpose revenue bonds by the department of budget and finance, and requires public disclosure of those records; 2) corporations using these proceeds must estimate and disclose benefits derived from the use of such special purpose revenue bond proceeds; and 3) a sunset provision prohibiting the issuance of special purpose revenue bonds after June 30, 1983.

Under this bill, non profit corporations providing health care facilities will be able to obtain lower cost construction funds, as a result of the State's issuance of special purpose revenue bonds. It is hoped that the general public will benefit from passage of this Act by receiving the same level of health care at a reduced price.

Your Committee has made the following amendments to H.B. 25, H.D. 1, S.D. 3:

- (1) Page 6, line 10; requires the approval of the Governor to enter into and carry out a project agreement.
- (2) Page 9, line 5; adds the words "and administering" after implementing.
- (3) Page 12, lines 19, 20; delete from those costs which may be included in determining the cost of any project: legal, accounting, consulting, and other special service fees.
- (4) Page 30, line 4; change the expiration date from June 30, 1983 to June 30, 1986.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 25, 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. 25, H.D. 1, S.D. 3, C.D. 1.

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

Senator Yamasaki did not sign the report.

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

Conf. Com. Rep. No. 78-80 on S.B. No. 2329-80

The purpose of this bill is to clarify and update obsolete wording and to expand upon the exclusions from eligibility for deferred acceptance of guilty (DAG) pleas in Section 853-4, Hawaii Revised Statutes.

The bill as drafted by your Committee includes the following new exceptions to DAG pleas:

- (1) A firearm was used in the commission of the offense charged;
- (2) The charge is distribution of a dangerous, harmful, or detrimental drug to a minor;
- (3) The defendant is charged with a felony and has been previously granted a DAG plea;

(4) The defendant is charged with a misdemeanor and has been previously granted a DAG plea for which the period of deferral has not yet expired; and

(5) The offense charged involves escape, promoting prison contraband, bail jumping, bribing, intimidating a witness or juror, or jury tampering (the bill lists the specific offenses excluded).

The words "grossly" and "cruel" have been deleted from exceptions 1 and 2, respectively, and "intentional", "knowing", and "serious bodily injury" have been added to exception 2.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2329-80, 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. 2329-80, S.D. 2, H.D. 1, C.D. 1.

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

Senator Chong did not sign the report.

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

Representative Medeiros did not sign the report.

Conf. Com. Rep. No. 79-80 on S.B. No. 2927-80

The purpose of this bill is to protect the rights of in-patients in a psychiatric facility.

To accomplish this purpose, this bill provides for (1) a requirement of informed consent from a patient or the patient's guardian prior to the commencement of any non-emergency treatment for mental illness, and (2) a bill of rights for in-patients which may be adopted by the facility.

Your Committee has removed the mandatory language in Section -2 of the bill which would have required all licensed psychiatric facilities to guarantee certain rights to in-patients. It is the belief of your Committee that while the list of rights in section -2 are reasonable and desirable, to mandate the enforcement of such rights at this time might cause considerable hardship and unforeseen consequences for both patients and the facilities. It is, however, the hope of this Committee that psychiatric facilities will review the list of rights and adopt these rights for their patients.

Non-substantive, technical changes have also been made to this bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2927-80, 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. 2927-80, S.D. 2, H.D. 1, C.D. 1.

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

Representatives D. Yamada, Dods, Garcia, Honda, Lacy, Segawa and Medeiros
Managers on the part of the House

Representative Medeiros did not sign the report.

Conf. Com. Rep. No. 80-80 on S.B. No. 1827-80

The purpose of this bill is to codify the rules of evidence in Hawaii's courts.

For background development of the Hawaii Rules of Evidence to date, reference is made to the following:

- (1) House Special Committee Report No. 4 (February 8, 1980);
- (2) Senate Special Committee Report No. 2 (February 5, 1980);
- (3) Senate Judiciary Committee Standing Committee Report No. 713-80 (February 11, 1980); and
- (4) House Committee on Judiciary Standing Committee Report No. 712-80 (March 24, 1980).

Your Committee on Conference calls attention to observations made by Professor Stephen A. Salzburg in a lecture on the Federal Rules of Evidence delivered at the Cleveland-Marshall College of Law on October 25, 1978:

"Prior to the adoption of the Federal Rules of Evidence, every practicing lawyer knew that when he or she walked into a courtroom, having by lot drawn one particular judge, that the judge's own set of evidence rules was likely to be employed. The same lawyer knew that when chance assigned another judge to a case, a different set of evidence rules well might be employed. Lawyers learned to play whatever game each trial judge established. Trial judges often established rules of thumb for their courts because they had no other rules to guide them

"Some time ago Justice Robert Jackson commented that '[t]he rights of clients, like the liberties of our people are only those which some lawyer can make good in a courtroom.' What was wrong with evidence law prior to the Federal Rules was that no lawyer could be sure what set of rules would be employed in a courtroom and whether he could vindicate his client's rights or his client's liberties before a particular judge. Admittedly, this argument easily can be overstated; in some jurisdictions judges may have ruled more uniformly than in others. Virtually every lawyer to whom I have spoken, however, is able to point in his or her jurisdiction to peculiar doctrines and sui generis rules of thumb that were developed by individual judges, and that were different from those of their colleagues on the bench.

"There is something terribly wrong with a single system that allows cases to be tried differently in different courtrooms, so that different rules govern the way in which the evidence that is necessary to resolve the case will be presented Yet, that was precisely the situation in courtroom after courtroom prior to the adoption of the Federal Rules. Different sets of evidence rules were employed, and different sets of evidence rules can produce different outcomes. Although it is probably true that no one ever will be able to demonstrate the extent to which the different rules actually did produce disparate results, it also is true that no one ever will be able to deny the real possibility that the percentage was more than de minimus.

"What the Federal Rules of Evidence establish is that the words "Equal Justice Under Law," chiseled in stone on the front of the Supreme Court Building, are now to be chiseled into everyday reality in every federal trial court in the nation. No longer will there be two, three or ten sets of evidence rules depending on the number of judges that happen to sit on a given bench. To the extent that we can do it and make it work, there will be one set of evidence rules that will be applied uniformly throughout the United States. I have already pointed out the practical benefits of such a rule. The symbolic benefits are equally important. Litigants, rich or poor, wise or unwise, represented by retained counsel or by appointed lawyers, all will know that the same evidence rules apply to each of them. This is no small step in the march toward equal justice.

"Now it is true that rules do not do justice; men and women do justice. But the thrust of American law this century is to recognize that men and women do justice largely by rules, and the Federal Rules of Evidence are a landmark step toward further recognition of that fact. What is most encouraging is that the federal bench, which may at this point be as fine a bench as we have ever had, despite the political nature of judicial appointments, has for the most part welcomed the Rules. Their symbolic quality has not been lost on most federal judges. The notion of equal treatment is a powerful one, and one which they seem pleased to share." Salzburg, "The Federal Rules of Evidence and the Quality of Practice in Federal Courts," 27 Cleveland State Law Review, 173 at 189-190 (1978).

It is your Committee's hope that S.B. No. 1827-80 will edge Hawaii substantially closer to equal treatment and equal justice.

We note that while the main purpose of the Evidence Code is to better obtain equal justice, it will prove to be of extreme usefulness to the practitioner. As observed by Professor Salzburg:

". . . [N]o matter how well a lawyer prepares, in many situations points of evidence law will arise during trial and will not have been anticipated. When that happens, the lawyer needs to be able to research the point quickly, or at least to fall back on a body of law that is readily accessible. The Federal Rules of Evidence is such a body of law. The fact that a lawyer can have the Rules present in the courtroom means that often he or she need not rely on ten or more volumes of the Wigmore treatise as authority for an evidence point. Easy access to "the law" is an enormous advantage of the Rules. Judges obviously are similarly advantaged" 27 Cleveland State Law Review, at 184.

Your Committee on Conference reports on the resolution of the differences between the respective houses as follows:

(1) Section 503(d)(6) previously included in S.B. No. 1827-80, S.D. 1, H.D. 1, has been deleted. This subsection would have denied the lawyer-client privilege of Section 503 to communications "between a public officer or agency and its lawyers unless the communication covers a pending investigation, claim, or action."

The deletion of this subsection allows the lawyer-client privilege to extend between a public officer or agency and its lawyers in the same manner as all other lawyer-client relationships under Section 503.

We understand that Subsection 503(d)(6) originated from the draft forwarded by the Commission on Uniform Laws. Research indicates that Oklahoma is the only state that has adopted the provision in the codification of its rules of evidence. We have so far been unable to fathom the precise rationale for Subsection 503(d)(6), except that it is ostensibly to enhance the public's right to openness and full disclosure by public officials.

We have studied the objections raised by the Attorney General and other government attorneys to the enactment of Subsection 503(d)(6) and find the arguments there submitted to be similarly vague and somewhat short on analysis.

However, your Committee on Conference has concluded that Subsection 503(d)(6) will raise, if enacted, very substantial problems addressed to the essential function of government attorneys with respect to their professional duties. This is because the professional conduct of attorneys is regulated by the Code of Professional Responsibility appended to the Rules of the Supreme Court of the State of Hawaii. An essential precept in such Code is the requirement upon all attorneys that they must preserve the "confidences and secrets of one who has employed or sought to employ them."

More particularly, Canon EC 4-1 of the Code of Professional Responsibility reads as follows:

"EC 4-1 Both the fiduciary relationship existing between lawyer and client and the proper functioning of the legal system require the preservation by the lawyer of confidences and secrets of one who has employed or sought to employ him. A client must feel free to discuss whatever he wishes with his lawyer and a lawyer must be equally free to obtain information beyond that volunteered by his client. A lawyer should be fully informed of all the facts of the matter he is handling in order for his client to obtain the full advantage of our legal system. It is for the lawyer in the exercise of his independent professional judgment to separate the relevant and important from the irrelevant and unimportant. The observance of the ethical obligation of a lawyer to hold inviolate the confidences and secrets of his client not only facilitates the full development of facts essential to proper representation of the client but also encourages laymen to seek early legal assistance."

As stated, the confidentiality of matters discussed between attorneys and their clients is thought to be essential to "the proper functioning of the legal system" because the lawyer must be "fully informed of all the facts" if he is to be able to fulfill his professional obligation, and such degree of information will not be availed unless a client feels "free to discuss whatever he wishes with his lawyer" There is, of course, a limit even to that freedom in that a lawyer would be obligated to reveal a client's intention to commit a crime. See Disciplinary Rule 4-101.

Although it is clear that proposed Subsection 503(d)(6) would extend the lawyer-client privilege to that limited situation where pending investigation, claim or litigation is involved, it harbors complex problems where the privilege is not available. This is because Canon EC 4-1 is implemented by Disciplinary Rule 4-101 which would require attorneys who fail to preserve the confidences of their clients to be appropriately disciplined. However, such discipline would not apply where the disclosure of confidence is "permitted . . . by law." Subsection 503(d)(6) would seemingly provide the "law" by which disclosure of confidential matters by government attorneys would be "permitted." And, such permitted disclosure would extend very broadly, confined only by confidentiality preserved for pending investigation, claim or action.

We find this operational effect of proposed Subsection 503(d)(6) which would relax the professional responsibility of government attorneys to be extremely problematic. For example, the location of many contemplated public projects are kept secret by public agencies until such time when their disclosure would no longer tend to prompt premature or unwarranted speculation. A government attorney consulted during the preliminary stages would not be involved in a pending investigation, claim or litigation. Should he have the right to disclose such confidential matters? And, if he should disclose, is proposed Subsection

503(d)(6) intended to allow him to make such disclosure without the sanction of professional discipline?

Under the normal operation of the attorney-client privilege and Canon EC 4-1, a client or a client's employee can feel confident that matters revealed to the client's attorney will remain confidential to protect the client's interest within the broad range of the attorney's scope of employment. This is so whether the subject matter of the attorney's endeavor is in pending litigation, or whether the attorney's inquiry is in response to consultation upon matters as to which litigation may be only remote.

If, under proposed Subsection 503(d)(6), a matter was not as yet under investigation or in litigation, does a government attorney have the right to reveal matters that are certain to generate litigation and result in substantial loss to the public? May he reveal technical flaws in statutes, regulations or procedures which may be generally unknown to the public and private attorneys and which, if revealed before they are corrected, may cause widespread financial loss or personal hardship? If such unwarranted disclosure was made, is proposed Subsection 503(d)(6) intended to shield the government lawyer from being punished for such indiscretion?

Further, although a government attorney's employ is in the public interest, for some, such as legislative attorneys, such employment is clearly partisan. Here, partisanship is essential to the multi-party makeup of our form of democracy. If a legislative attorney is consulted by a legislator and which, if revealed before they are corrected, may cause widespread financial loss or personal hardship? If such unwarranted disclosure was made, is proposed Subsection 503(d)(6) intended to shield the government lawyer from being punished for such indiscretion?

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of our society's laws and governmental operations without erosion of the responsibility of government attorneys respecting their professional duty of confidentiality.

(2) Subsections 504(d)(1) and 504.1(d)(1). Rules 504 and 504.1 establish privileges to physician-patient and psychologist-client relationships, respectively. Subsection (d)(1) under each of these rules prevents the application of the privilege to communications relevant to proceedings to hospitalize for mental illness or substance abuse.

The changes made to each subsection by S.B. No. 1827-80, S.D. 1, H.D. 1, prevents application of the privilege also to proceedings for the discharge or release from hospitalization for mental illness or substance abuse. We agree that this is a beneficial change.

An additional change to subsection 504.1(d)(1) which was not made to subsection 504(d)(1) involves the deletion of the language at the end of the sentence: "if the psychotherapist in the course of diagnosis or treatment has determined that the patient is in need of hospitalization."

It is our conclusion that these words do not add to or delete from the intended operation of Subsection 504.1(d)(6) and are superfluous.

(3) Subsection 505(a). Rule 505 extends privilege to spouses. A major change was made to this rule as fully explained by the Judiciary Committee of the House of Representatives in Standing Committee Report No. 22-80. We adopt the changed language for the intent there stated.

(4) Rule 603.1. Rule 603.1 disqualifies anyone incapable of expressing himself or unable to tell the truth from being a witness. The language of S.B. No. 1827-80, S.D. 1, H.D. 1 made it discretionary upon the court to qualify or disqualify a witness for such reasons. We have concluded that the mandatory language previously found in S.B. No. 1827-80, S.D. 1 is more appropriate. By such reversion in language, it is the intent that when the question is properly appealed, the appellate court should review the record to determine whether the trial court has erred in its determination and that the question so raised on appeal should not be determined based on whether the trial court had abused its discretion. It was concluded that a witness is either qualified or disqualified, and it is not a matter of degrees.

(5) Rule 613(b). This rule governs the admissibility of extrinsic evidence of a prior inconsistent statement.

The first change effected by S.B. No. 1827-80, S.D. 1, H.D. 1 allows such evidence to be admitted both in direct and cross-examination of a witness.

The second change required the witness to be "afforded an opportunity to explain or to deny the statement" after the circumstances of the statement have been brought to the witness' attention.

We adopted the first change, having included that the use of prior inconsistent statements should not be confined to cross-examinations but should be opened up to direct examinations as well.

In S.B. No. 1827-80, S.D. 1, H.D. 1, C.D. 1, we modified the bill to require only that the witness be "asked whether he made the statement" after the circumstance of the statement has been brought to the witness' attention.

It was concluded that requiring that the witness be afforded an opportunity to explain the prior inconsistent statement may take the wind out of trial strategy where the trial lawyer may find it more effective to allow the occurrence of the prior inconsistent statement to sit unexplained in the jurors' minds. No doubt, the opposing counsel may very well ask the witness to explain. However, it was thought that the rules of evidence should not intrude upon trial strategy.

Your Committee on Conference has received the commentary to the Hawaii Rules of Evidence submitted by Professor Addison Bowman of the University of Hawaii School of Law. We attach such commentary to the bill and forward the same to the Revisor of Statutes with the instruction to review, correct, print, and report on the commentary as directed in section 16 of this bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1827-80, 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. 1827-80, S.D. 1, H.D. 1, C.D. 1.

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

Representatives D. Yamada, Blair, Honda, Nakamura and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 81-80 on S.B. No. 1161

The purpose of this bill is to provide statutory guidelines for the awarding of attorneys' fees to compensate parties in civil litigation who have been victimized by the frivolous claims of the opposing party in the course of litigation and thereby incurring unnecessary attorneys' fees.

Present law reflects the rule prevalent in the United States whereby each party in litigation is required to absorb their own attorney's fees. The rationale of the American Rule is that if faced with the risk of being required to pay the attorney's fees of the opposing parties if he should fail to prevail in the litigation, people of limited means may be prompted to forego the pursuit of their rights.

The law in England has followed a contrary course of development. The rule in Britain is that the prevailing party is awarded attorney's fees. Its rationale is that parties in litigation would be more precise in their claims and defenses if required to consider that if they failed to prevail, the losing parties will be required to pay the attorney's fees incurred by the prevailing parties.

Your Committee on Conference has taken a middle course between the American and the British rules. We acknowledge the basic unfairness of the American rule. However, as expressed in Standing Committee Report No. 824-80 by the Judiciary Committee of the House of Representatives, we do not feel that allowing attorney's fees to the prevailing party is necessarily the answer, as, more often than not, the result of litigation is a relative thing. As amended in the form of C.D. 1, S.B. No. 1161 reflects the position that parties in litigation should be allowed attorney's fees where they have been victimized by the frivolous claims of the opposing party which have required them to incur unnecessary attorney's fees.

As amended S.B. No. 1161 allows for the award of attorney's fees only where (1) the court finds in writing that (2) all of the claims of the party were completely frivolous because (3) such claims are totally unsupported by the facts and the law in such civil cases.

Your Committee believes that this criteria for the award of attorney's fees will allow for such award only where the opposing party has clearly raised unsupportable claims.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1161, 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. 1161, S.D. 1, H.D. 1, C.D. 1.

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

Senator Campbell did not sign the report.

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

Representative Medeiros did not sign the report.

Conf. Com. Rep. No. 82-80 on S.B. No. 2784-80

The purposes of this bill are to (1) require a towing company to inform the registered owner of a motor vehicle of the location of the vehicle after it has been towed and (2) allow a person who has been overcharged for towing costs to sue for damages against the towing company.

Your Committee has amended this bill by the expansion of section 290-11 to include vehicles left unattended on public property. This amendment has been made to regulate the towing of vehicles left on public property as well as private property.

This bill further provides for notification to the "legal owner" as well as the registered owner of the vehicle. This addition has been made to protect the property rights of the person or institution such as a bank or credit union which in fact holds title to the vehicle.

This bill has also been amended to provide that a towing company notify the registered and legal owners within 15 days of the tow. Where an owner has not been notified within 15 days of the tow, he may recover his car from the towing company without paying any fees for the tow or storage. The towing company may however show a mail receipt as proof of notification.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2784-80, 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. 2784-80, S.D. 2, H.D. 1, C.D. 1.

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

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

Representative Medeiros did not sign the report.

Conf. Com. Rep. No. 83-80 on S.B. No. 2741-80

The purpose of this bill is to provide for a reasonable period of detention of defendants not fit to proceed due to mental or physical disorder, disease or defect.

The Senate and House drafts of this bill were substantially different. The Senate bill provided for detention for a period up to the maximum possible sentence for the most serious crime charged. The House bill allowed the possibility of immediate release after a finding of lack of fitness to proceed.

Relevant to your Committee's compromise on this bill was *Jackson v. Indiana*, 406 U.S. 715, 32 L.Ed. 2d 435. *Jackson* held that indefinite commitment of a defendant unfit to proceed was unconstitutional on two grounds. First, equal protection was violated because indefinite commitment in a criminal case did not grant guarantees provided for in civil commitment statutes. Second, due process was violated because indefinite commitment was not reasonably related to the purpose of the commitment, i.e., fitness to proceed.

This bill as drafted by your Committee requires that a defendant be held for a six-month period after a determination of lack of fitness to proceed. During this period, attempts will be made to assist the defendant in acquiring to necessary capacity to proceed. Mandatory review of fitness every 90 days is required. At any time during the six-month period, if the defendant is fit to proceed, the director of health shall so notify the court, or the defendant or prosecutor to enable the court to move for a determination of fitness.

At the end of the six-month period, the court shall make a determination as to whether there is "a substantial possibility of the defendant's attaining competency to stand trial in the foreseeable future." If not, the court shall order that a determination be made in family court regarding civil commitment of the defendant. If the defendant is committed, the penal proceeding shall be stayed during the period of commitment. A defendant may not be released on condition if he is dangerous. Once the defendant is fit to proceed, the criminal court shall begin proceedings again or dismiss them, in its discretion, if justice requires.

If a defendant is not committed, a renewed six-month period of commitment shall begin to attempt to help the defendant become fit to proceed. If the defendant is not fit to proceed at the end of this six-month period, a new civil commitment hearing shall be ordered, etc.

In no case shall the defendant be committed or released on condition under section 704-406 for a period longer than the maximum period of imprisonment to which the defendant could be sentenced for the most serious charge against him. At this point, the court must dismiss the charge against the defendant and order a civil commitment proceeding instituted if appropriate. Short of this maximum period, the defendant is credited with time served in commitment on conditional release.

Your Committee believes that this procedure is constitutionally permissible while providing maximum protection for the public.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2741-80, 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. 2741-80, S.D. 1, H.D. 1, C.D. 1.

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

Representatives D. Yamada, Honda, Lee, Masutani, Nakamura, Ikeda and Medeiros
Managers on the part of the House

Representatives Masutani and Medeiros did not sign the report.

Conf. Com. Rep. No. 84-80 on S.B. No. 1851-80

The purpose of this bill is to create a juvenile justice master plan for Hawaii.

For a comprehensive dissertation on the policy bases of the juvenile justice master plan, see Standing Committee Report No. 440-80 of the Committee on Judiciary of the Senate.

The Committee on Judiciary of the House of Representatives made certain changes to S.B. No. 1851-80, S.D. 2. The changes so made are listed and explained in its Standing Committee Report No. 830-80. Your Committee on Conference adopts these changes insofar as they are not inconsistent with the final version of S.B. No. 1851-80 reported out as C.D. 1 and unless otherwise indicated by this committee report.

AMENDMENTS TO THE PURPOSE SECTION OF CHAPTER 571.

The Judiciary Committee of the House of Representatives by S.B. No. 1851-80, H.D. 1, had deleted the amendments previously reflected in S.D. 2 and pertaining to the purpose language of Section 571-1, Construction and purpose of chapter. In the main, the deleted language made reference to "punishment" as a function of the juvenile justice system. After careful consideration, your Committee agreed to restate the purpose language so as to indicate the paramount role of rehabilitation in juvenile cases, together with the need to recognize the legitimate role of punishment in deterring those juveniles who would resist rehabilitation from harming the innocent. We think that the goal of both rehabilitation and punishment is the same: the teaching of responsibility to those seeking to emerge from immaturity to adult life. In the adult world, it is essential that one should prove responsible to oneself and others in coping with conditions of reality. To do otherwise, is to fail.

While the concepts of treatment and rehabilitation which are appropriate in most juvenile cases have pervaded the philosophy attending juvenile justice for many years, there is growing recognition, confirmed by comprehensive studies, that the threat of punishment sufficiently buttressed by certainty of imposition is a formidable deterrent for the criminally inclined, particularly those who resist benevolent rehabilitative efforts.

Professor Barry C. Feld at the University of Minnesota Law School observed:

"Deterrence or general prevention is the restraining influence that punishment of an offender has on other potential offenders. In addition to the overt compliance resulting from the threat of punishment, the imposition of sanctions also has a moralizing, educating, and socializing influence on others by expressing societal condemnation of the prohibited acts and reinforcing habitual conformity. Within the juvenile court, the elevation of rehabilitation over the other justifications for punishment has tended to undermine the general preventive effects of coercive intervention by characterizing dispositions as treatment rather than sanctions, by preventing the communication of the threat of punishment to other potential offenders because of close proceedings and restricted publicity, and by individualizing disposition, thereby, reducing any certainty of application of sanctions and obscuring any relationship between an act and its consequences. As faith in the rehabilitative ideal has declined, there has been an enormous upsurge of interest and research in the preventive effects of punishment. . . . With regard to certainty of punishment the research up to now, seen in its totality, has given support to the common sense assumption that increased certainty of sanction will tend to reduce the amount of crime." Feld, "Reference of Juvenile Offenders for Adult Prosecution: The Legislative Alternative to Asking Unanswerable Questions," 62 Minnesota Law Review 515 at 607 and 608 (1978). See the comprehensive list of law review articles at footnote no. 300 of 62 Minnesota Law Review at 608.

Professor Feld explains at length:

"Although the conjunction of adult deterrence research and studies of cognitive development indicates that youths may respond to a threat of punishment having enough certainty to be credible, the juvenile court as an institution has virtually ignored its potential role in achieving that credibility. Sanctions imposed in juvenile court are defined as treatment rather than punishment, addressed to what the offender needs rather than what he did, and administered so as to prevent the communication of the threat to its relevant audience -- other potential juvenile offenders. The unwillingness to acknowledge explicitly that one purpose of juvenile court intervention is social control has seriously detracted from the potential deterrent effect that such intervention might have. By insisting that it is not punish

punishing a juvenile, the court virtually eliminates the word "threat" from its vocabulary, and closed and confidential proceedings with individualized dispositions limit the communication of whatever threat of punishment may remain.

"Perhaps more significantly, the juvenile court may actually give misleading messages to the youths who appear before it. Juveniles are brought before the court for committing crimes. Recognizing that they have 'done wrong,' their reasonable expectation is that unpleasant consequences will follow. Instead of punishment, however, the court's intervention is defined as treatment, thus introducing a degree of confusion in the child's mind. If, despite committing a crime, a child is "treated" rather than punished because he is "dependent and immature," the court may actually reinforce the irresponsible behavior it is attempting to prevent. If the treatment is only a nominal intervention that the child perceives as inconsequential, it may foster disrespect for the court and the laws it attempts to uphold. Conversely, if the sanction is severe enough to be perceived as unpleasant, then the child may regard the court as hypocritical, disguising punishment with claims of benevolence." 62 Minnesota Law Review at 609 to 612.

More recently, a report entitled "Beyond Probation, Juvenile Corrections and the Chronic Delinquent," Charles A. Murray and Louis A. Cox, Jr., states that punishment of chronic juvenile offenders by incarceration can help reduce the number of crimes a juvenile delinquent is likely to commit. This is a study sponsored by the U. S. Justice Department's Law Enforcement Assistance Administration and by the State of Illinois. The researchers found that the average number of arrests for an imprisoned juvenile offender declines by two-thirds in the year following his release when compared with the year preceding incarceration.

Thus, although the intent of S.B. No. 1851-80 is to clearly afford extensive opportunity and programs for rehabilitating juveniles in trouble, its thesis also includes the position that our laws are intended to have substantial preventive influence by their inherent punishment that is sufficiently buttressed by certainty of imposition.

DETENTION AS A POST-ADJUDICATION SANCTION.

Your Committee resolved the difference in the House and Senate drafts regarding what classes of children are subject to detention as a sanction upon a finding that the child has violated a family court order by restoring the Senate's version. The House draft had deleted "children subject to orders of protective supervision" which includes status offenders. Your Committee restored this class as one subject to post-adjudication detention by amending Sections 571-2(7)(D), 571-31(a), and 571-31(b)(3), Hawaii Revised Statutes.

AMENDMENTS TO SECTION 571-31.1, "STANDARD FOR DETENTION".

The following words which had previously appeared in the respective subsections of Section 571-31.1 in S.D. 2 were deleted in the House draft because they are "difficult to apply":

- (1) Section 571-31.1(a): "immediate";
- (2) Section 571-31.1(a): "urgent";
- (3) Section 571-31.1(a)(1): "Substantial";
- (4) Section 571-31.1(a)(2): "frequent or substantial"; and
- (5) Section 571-31.1(b)(1): "substantial".

Your Committee concurred with these deletions, but would note that they are not intended to render considerations of such concepts inappropriate in all cases. Rather, they are to be considered where good sense requires their application. That is to say, it is conceivable that a threat of damage may be so remote or insubstantial as to render detention inappropriate in a given case. We are also cognizant of the possibility that even where no overt or expressed threat or danger is readily discernible, their imminence may nonetheless lie latent in the nature of the individual or in the circumstances of a given case. The deletions are intended to establish reasonable discretion in persons vested with the duty to apply the standard and are not intended to preclude scrutiny of the exercise of that discretion.

WAIVER OF JURISDICTION.

Your Committee modified the opening language of the H.D. 1 version of Section 571-11 from "Except as otherwise provided herein" to "Except as otherwise provided in this chapter." The reason for this is that the topic of waiver of family court jurisdiction is affected by

two other bills under consideration by the legislature at this time. They are H.B. No. 2930-80 dealing with automatic waiver of jurisdiction and H.B. No. 1873-80 treating the subject of appeal from orders waiving jurisdiction.

The Revisor of Statutes is instructed to appropriately coordinate the respective legislative dispositions of H.B. Nos. 2930-80 and 1873-80 with S.B. No. 1851-80. To that end, the Revisor is instructed to obtain the logical organization and appropriate cross-references of the subject matters covered by H.B. Nos. 2930-80 and 1873-80 and coordinate them with the treatment of Section 571-22 affected by S.B. No. 1851-80.

A similar language change was made with respect to the H.D. 1 version of Section 571-22(e) where the word "section" was changed to "chapter."

AMENDMENTS TO SECTION 571-13, "RETENTION OF JURISDICTION".

Your Committee on Conference agreed to substantially alter Section 571-13 that had been entitled "Assertion of jurisdiction" in the House Judiciary Committee's draft of the bill. The word "retention" that originally appeared in the section's title was therein replaced by the improper word "assertion". The assertion of family court jurisdiction is already provided for in Section 571-11 entitled Jurisdiction; children. The intent of Section 571-13 is to provide for family court's retention of jurisdiction over a person beyond the age of majority rather than its mere assertion.

Relatedly, the substantial language change agreed upon in conference clarifies the jurisdictional handling of a situation where a minor commits an offense prior to age eighteen and is not brought before family court for adjudication until after age eighteen. Added language explicitly grants the court continued original jurisdiction to hold hearings and order dispositions relating to the person who committed the relevant offense prior to age eighteen.

This change prevents the possibility of a youthful offender escaping prosecution due to ambiguous provisions in the law regarding the above-described timing situation. The House version was still found to be ambiguous and so language deleted by the House was reinstated and new language was added for maximum clarity.

Additionally, the Committee compromised on an acceptable maximum age that would limit such retention of jurisdiction to twenty years of age. The House had suggested retaining the existing nineteen-year age limit in opposition to the Senate's initial suggestion of twenty-two years of age. The reason for the conference change reflects the other intent behind Section 571-13. Extending the time period during which family court can retain jurisdictional control over a person beyond the age of majority is the objective. Your Committee on Conference found that the usual termination of family court jurisdiction triggered when a person reaches age eighteen is too arbitrary. In light of this sense that court jurisdiction should be tied more to the specific needs in a person's situation rather than to the mere attainment of a standard age level, the age limit was extended to twenty years.

Practically, such an extension allows the possibility of more time for effective disposition of an offender should the court deem such necessary. Notably, such powers of jurisdictional retention are discretionary. In effect, they resolve the dilemma of judicial treatment of offenders during this transition period between the period of minority status and adult status.

INCARCERATION AS PART OF PROBATION IN FAMILY COURT DECREE.

The provision governing family court decree whereby the court asserts its jurisdiction over a person based on certain findings of facts are contained in Section 571-48. Your Committee decided to reinstate similar language to that initially suggested in the Senate version for Subparagraph (1)(A).

The House version did retain the Senate-added phrase "or facility", thus expressly enabling the family court to incarcerate minors in a youth correctional facility as a possible condition of probation. However, it deleted qualifying language that would have permitted such incarceration for up to a maximum period of one year. Language providing for this one-year maximum is hereby reinstated in this conference draft.

The intent of your Committee's reinstatement of this specific probation option is to afford the family court an increased range of alternatives for disposition. A wider range of disposition alternatives allows for a wider range of treatment possibilities for individual cases. The family court now would be able to maintain probationary control over a minor until age twenty that could include incarceration for up to twelve months in a youth correctional facility.

Some minor word changes render the reinstated language less than identical to what was part of the Senate version. These include changing "commitment to" a facility to "incarceration in" to avoid any confusion with the phrase "term of commitment" that is defined in Section 352-1 of the Hawaii Youth Correctional Facilities portion of the bill.

HAWAII YOUTH CORRECTIONAL FACILITIES.

Your Committee made several alterations within the Hawaii Youth Correctional Facilities portion of the bill, Chapter 352. These changes reflect needed corrections and issue compromises that were necessary to conform the chapter to proper form and content.

The first change concerned Section 352-9, "Period committed". Here, the section was divided into Subsections (a) and (b) which in effect reinstated Subsection (b) as it had appeared in the original Senate draft with one exception. In the original Senate draft, subsection (b) provided for a person whose court-imposed term of commitment extended beyond age nineteen to be placed on juvenile parole for a period not to extend past the person's twenty-second birthday. This conformed both with the original Section 571-13 discretionary retention of jurisdiction to age twenty-two and subsection (a)'s mandate that no person beyond age nineteen shall remain incarcerated in a youth facility. Language in reinstated subsection (b) is identical to the original version except that the maximum age of twenty-two years is now changed to twenty years to conform with the age twenty compromise embodied in Section 571-13.

The House had deleted this subsection (b) of Section 352-9 for the same reasons it deleted the Senate version of subsection (c) of Section 352-27 (since renumbered Section 352-26) relating to violations of terms and conditions of parole for persons over nineteen. Both deletions followed the House rejection of any possible extension of family court jurisdiction beyond age nineteen as already examined in Section 571-13. The interjection of the compromise age of twenty years in Section 571-13 dictates that these subsections be reinstated in amended form in Chapter 352.

Whereas Section 571-13 provided for the discretionary retention of jurisdiction itself, Section 571-48 and sections in Chapter 352 define just how such an extension of jurisdiction will be handled. Section 571-48 addresses the possible imposition of probation on a person to age twenty. Section 352-9 provides for the possibility of a nineteen-year-old who can no longer remain in a youth correctional facility to be placed on parole. Just as family court is able to maintain a degree of control over a person with probation, the director of the Department of Social Services and Housing can do so through the Office of Juvenile Parole.

By way of explanation, your Committee on Conference concurred with the concept that such continued control is desirable. Instead of a nineteen-year-old person walking out of a youth correctional facility irrespective of his readiness to re-enter society and based simply on his reaching a certain birthday, the Committee saw a juvenile parole possibility for another year as indeed desirable.

Thus, Section 352-27 (now Section 352-26) was similarly altered by reinstating subsection (c) that provides for the taking into custody and detention for parole violations of persons nineteen years of age who can no longer remain incarcerated in a youth correctional facility and are on juvenile parole. The advisability of maintaining some form of continued control over a nineteen-year-old was not very controversial. What presented a more difficult question to your Committee was how to handle the nineteen-year-old once the person was on such parole status. What sanctions could be reasonably available to help enforce the conditions and spirit of parole? Section 352-9 expressly prohibits incarcerating anyone in a youth correctional facility beyond the person's nineteenth birthday so a return to a youth facility was precluded for any parole violation.

The Committee proceeded to resolve the dilemma by distinguishing between types of parole violations, thereby relating the probability of a retaking and incarceration in an adult correctional facility with the severity of the alleged violation. The conference draft language in Section 352-26(c)(1) provides that in those cases where the alleged parole violation constitutes a crime, the parolee may be taken into custody and incarcerated in an adult facility should the director issue a written order to that effect after being advised of such.

The parallel with the adult parole system is intended. When an adult paroled from an adult correctional facility commits a serious parole violation such as another crime, the parolee is retaken into custody and returned to the facility pending a hearing to determine the possibility of parole revocation.

In the instance of a nineteen-year-old on juvenile parole, a similar fate faces the parolee with the variation that the person is now incarcerated in an adult facility because the youth

facilities are no longer available. The juvenile parolee's rights are safeguarded under such circumstances by statutory language requiring, among other things, an Office of Juvenile Parole hearing within thirty days after reincarceration.

Paragraph (2) of subsection (c) provides for similar incarceration in an adult facility with the attendant safeguards in the event of a parole violation other than a crime. Additional safeguards with this type of sanction include the necessity of the director seeking an ex parte family court order to affect such reincarceration. Then, both the director and family court must judge it necessary to incarcerate a juvenile parole violator for the alleged violation.

Another change made to the House draft by your Committee occurred in Section 352-14, Educational programs provided by the department of education. The section's basic intent has survived to this point. Educational programs for persons incarcerated in youth correctional facilities are and should remain an integral part of the person's treatment. Besides providing mental stimulation and self-discipline, the opportunity to continue learning is crucial to preparing the person for the eventual return to society.

However, the more specific intent of this section is to require that such educational programs be skillfully tailored to the needs of those persons incarcerated. Your Committee finds it highly unreasonable to impose standard curricula and requirements on these persons who have dramatically demonstrated by their very presence in the facility a distinctness from the rest of their peers and more often than not a complete alienation from the traditional educational system in which they probably have failed from an early age.

Pursuant to this objective of special adaptation of the educational programs, the Senate originally sought to require the director's involvement with such educational programming based on the director's familiarity with the committed person's needs. The section emerged from the House with the control of educational programs switched to the Department of Education. Your Committee has made the acceptable compromise of adding "in coordination with the director of the department of social services" to the previously total-prescribing powers of the Department of Education.

A further change was agreeably made to Section 352-24, Harboring or concealing a person away from custody assigned by competent authority. This section provides for the offense of harboring or concealing a committed person who has been placed in the custody of an authorized custodian. A major thrust of the section is to address the problem of pimps attempting to solicit prostitutes from the ranks of these persons committed to the custody of some competent authority.

The Senate version defined such an offense in subsection (b) as a class C felony. The House deleted subsection (b) and attempted to conform the classification of the offense with Section 710-1028 of the Hawaii Penal Code. Section 710-1028 was found by this Committee to constitute an improper reference due to its emphasis on the offense of harboring or concealing a person on a pre-adjudication basis. Furthermore, Section 710-1028 only defines what constitutes hindering prosecution including harboring or concealing and does not specify the degree of offense involved. For these reasons, the Committee deleted the House's suggested penal code reference and simply made the offense of harboring or concealing a misdemeanor. Therefore, "subject to section 710-1028" is replaced by "guilty of a misdemeanor offense."

The words "has left" in Section 352-24 have been replaced with the phrase "was in the custody of". This clarifies the status of those persons who if harbored or concealed by another will render the latter guilty of the misdemeanor offense specified in this section.

The technical change of relocating Section 352-24 to Section 352-27 was also made in this conference draft. This was done simply for more logical sequential ordering of sections. Three other sections were affected by the relocation in terms of changed section numbers.

The final change made to Chapter 352 was for clarifying cross-reference purposes. The following language was added to the end of the first paragraph of Section 352-26 (now Section 352-25), Furlough, parole, discharge.

"Court approval shall be obtained when such is specifically required in accordance with section 352-29."

This reference is necessary to qualify how the director may proceed to discharge a committed person.

Newly-numbered Section 352-25 requires that the director give family court thirty days' notice prior to discharging a person to afford the court the opportunity to order

otherwise. Section 352-29, Termination of director's right to supervise person, provides for discharge by the director of a person under age eighteen only with the express approval of family court if such is required prior to discharge. The director's order to discharge persons eighteen or older must be accompanied with such express approval. In other words, the thirty-day notice is required in all discharge attempts and express prior court approval is required in certain discharge cases. The added sentence clarifies the proper statutory provision of this power to discharge.

As a final comment, your Committee on Conference addresses the matter of funding for this juvenile justice plan. The Juvenile Justice Master Plan formulated by this bill is the culmination of the efforts of many individuals over the last several years. However, it is only a plan -- a conceptualization of concerned analysis and thoughtful deliberation. As with any plan, it will be meaningless without effective implementation. As with any effort to meet the need for public service, those who will be assigned the task of implementing this Juvenile Justice Master Plan will be able to accomplish as much as they are allowed adequate facilities, equipment, personnel, and funds. It will be a paramount challenge for Hawaii's legislature during this and the next several years, whether it will provide adequate funding to meet the crucial need sought to be addressed by this bill.

A noted authority in the area of juvenile justice, Chief Judge Louis Bazelon of the Appeals Court of the District of Columbia made the following statement in a recent Department of Justice publication that accurately reflects your Committee's conviction regarding funding:

"When the legislature justifies confinement by a promise of treatment, it thereby commits the community to provide the resources necessary to fulfill the promise . . . and the duty that society assumes, to fulfill the promise of treatment employed to justify involuntary (confinement) is clear." (Juvenile Disposition and Corrections, Volume IX, page 17 of Working Papers of the National Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention, prepared under a grant from the Law Enforcement Assistance Administration).

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1851-80, 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. 1851-80, S.D. 2, H.D. 1, C.D. 1.

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

Representatives D. Yamada, Honda, Ige, Lee, Masutani, Nakamura, Ikeda, Medeiros
and Kobayashi
Managers on the part of the House

Representative Masutani did not sign the report.

Conf. Com. Rep. No. 85-80 on H.B. No. 2558-80

The purpose of this bill is to limit the availability of bail for persons charged with criminal offenses under certain specific conditions.

Section 804-3, Hawaii Revised Statutes, already denies pre-trial bail in the case of an offense punishable by life imprisonment not subject to parole "when the proof is evident or the presumption great." Both the House and Senate Committees received testimony expressing the view that pre-trial denial of bail violates the presumption of innocence of an accused person and that bail should only relate to the probability that a defendant will appear when required. Issues regarding equal protection, due process, and the "constitutional right" to bail were also raised.

Based upon such testimony, even the existing law with the "capital offense" exception might be of questionable constitutionality. However, your Committee's research indicates that both pre-trial and post-conviction denial of bail is not unconstitutional. Lincoln v. Fukuoka, 61 Haw. ____ (No. 7728, February 7, 1980), Lincoln v. Chang, F. Supp. ____ (D. Haw., April 8, 1980), Robertson v. Connecticut, 501 F.2d 305 (2d Cir. 1974), United States v. Fields, 466 F.2d 229 (2d Cir. 1972), Hamilton v. New York, 421 F.2d 908 (6th Cir. 1970), Mastrian v. Hedman, 326 F.2d 708 (8th Cir. 1964), Parker v. Roth, 278 N.W. 2d 106 (Neb. 1979), Gallie v. Wainwright, 362 So. 2d 936 (Fla. 1978), Gold v. Shapiro, 403 N.Y.S. 2d 906 (N.Y. App. 1978), Randel v. Mumanert, 474 P. 2d 826 (Ariz. 1970), State v. Ganett, 493 P.2d 1232 (Ariz. App. 1972), Ex Parte Smith, 548 S.W. 2d 410 (Tex. Cir. App. 1977), Ex Parte Miles, 474 S.W. 2d 224 (Tex. Cir. App. 1971), Scott v. Ryan, 548 P.2d 235 (Utah, 1976), See also Durken, "The Right to Bail: A Historical Inquiry", 42 Alb. L. Rev. 33 (1977).

These cases stand for the proposition that there is no constitutional right to pre-trial bail in all cases, and there is definitely no constitutional right to bail after conviction and pending appeal. Parker v. Roth, *supra*, discusses the entire history of bail from its roots in England to the Bill of Rights and points out that the Eighth Amendment to the Constitution of the United States does not guarantee bail in all cases, but only guarantees "no excessive bail" in cases where the law allows bail.

The Hawaii State Constitution, Article I, section 9, follows the language of the Eighth Amendment. In Hawaii, the right to bail in all cases, except where the punishment can be life imprisonment without parole, is only guaranteed by statute, specifically section 804-3, Hawaii Revised Statutes, which the legislature is free to change. Such legislative changes have been made in several states, notably Arizona, Michigan, Nebraska, Texas, Utah, and the District of Columbia.

The constitutionality of section 804-3 as it exists today cannot be questioned in light of Lincoln v. Fukuoka, *supra*, and Lincoln v. Chang, *supra*. In the former case, the Hawaii Supreme Court rejected in a one-page order, citing no authority, a habeas corpus petition attacking pre-trial denial of bail as set out in section 804-3. In the latter case, the local federal district court rejected Mr. Lincoln's federal habeas corpus petition, which he filed after being rejected by the Hawaii Supreme Court, again attacking the constitutionality of section 804-3. The federal decision cites Stack v. Boyle, 342 U.S. 1 (1951) and Carlson v. Landon, 342 U.S. 524 (1952), as being ambiguous on the subject of a "right" to bail and goes on to uphold the constitutionality of section 804-3.

SECTION 1 of this bill sets out the purpose of the bill which is to restrict the use of bail due to its past abuse and in an effort to increase the deterrent effect of punishment.

SECTION 2 of this bill defines what offenses are bailable. The "capital offense" exception of existing law is retained and two additional exceptions are added (1) where the charge is for a "serious crime" (see definition below) and the defendant has been previously convicted of a serious crime within the ten-year period immediately preceding the charge against him, or (2) the defendant is already on bail on a felony charge. These exceptions are aimed at repeat offenders. (Note, denial of bail to a defendant on probation or suspended sentence is covered by section 706-626.)

For all exceptions, bail cannot be denied unless the "proof is evident or the presumption great" on the charge against the defendant. Your Committee feels that is appropriate as a matter of fairness and is encouraged by the fact that existing Hawaii case law construes this requirement, giving guidelines to the trial court. See Bates v. Hawkins, 52 Haw. 463 (1970), Bates v. Ogata, 52 Haw. 573 (1971), and Sakamoto v. Chang, 56 Haw. 447 (1975). Such a requirement exists in every other similar statute reviewed.

"Serious crime" is defined as a class A or B felony, except forgery in the first degree and failing to render aid. All class A or B felonies, with the two exceptions noted, involve harm to a person on the threat of harm, or the use of a weapon, or serious drug offenses. Burglary in the first degree in a dwelling involves a serious possibility of harm to people if a burglar is discovered. Failure to render aid does involve harm to a person, but the wide range of possible harm makes inclusion of the offense inappropriate. The bill allows the prosecutor to move to deny bail pre-trial at any time if he can show the applicability of any exception.

SECTION 3 of the bill defines the "right" to pre-trial bail as existing for all offenses with the exceptions discussed above. The bill has been amended by your Committee to allow bail as a matter of right after conviction of a misdemeanor, petty misdemeanor or violation and to allow bail in the discretion of the court after a felony conviction. Except, no bail after conviction and prior to sentencing shall be allowed where bail was not available or revoked prior to conviction, and no bail shall be allowed pending appeal of a felony conviction. Thus, although a court may have the discretion prior to sentencing to release a defendant convicted of a felony, who was on bail prior to conviction, once the defendant is sentenced to imprisonment, no further bail is possible.

SECTION 4 of this bill amends present law to allow a court to deny bail in the enumerated circumstances, rather than merely set conditions. There is little question of the court's power to impose such conditions and, your Committee believes, to deny bail if it can be shown by sufficient evidence that such conditions will not be met even if imposed. The amendment also makes it clear that the court can deny bail if a condition of bail is breached.

There is no constitutional right to bail; it is a statutory right and always has been. The abuse of the bail system, the danger posed by repeat offenders, and the need for swift, effective punishment upon conviction (which is also an excellent deterrent for others) have resulted in this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2558-80, 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. 2558-80, H.D. 1, S.D. 1, C.D. 1.

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

Representatives D. Yamada, Honda, Lee, Masutani, Nakamura, Ikeda and Medeiros
Managers on the part of the House

Representative Masutani did not sign the report.

Conf. Com. Rep. No. 86-80 on H.B. No. 1784-80

The purpose of this bill, as received, is to require the developer of any condominium conversion project to make first sale offerings of 25 per cent of the apartments in the project to persons who will reside in them as owner-occupants. Your Committee recognizes that the price of housing is rapidly rising and that with a shortage of single-family residences in this State, it would be beneficial to give persons looking for a home the opportunity to buy a residence at a time when the price is generally at its lowest.

Under this bill, a developer of a condominium conversion project must publish an announcement in a newspaper of general circulation in the county of the project giving material information on the project to prospective purchasers. The developer must also compile a reservation list of persons who have applied for one of the designated apartments as owner-occupants and sell to only persons on such list during the first 15 days of the sales campaign.

Your Committee upon further consideration has made the following amendments to H.B. No. 1784-80, H.D. 1, S.D. 1:

(1) The bill has been amended to apply to apartments in any condominium project which contains apartments intended for only residential use but excludes any such apartments if they are located on parcels designated by a county for hotel or resort use.

(2) The percentage of apartments designated for initial sale to only prospective owner-occupants is increased to 50 per cent.

(3) The time for publishing the public announcement of the project has been moved so as to begin 15 days prior to the filing of the notice of intent to sell a project with the real estate commission.

(4) The number of days during which sales must be limited to only prospective owner-occupants has been decreased to 10.

(5) The contents of the public announcement have been amended to require only a fair and reasonable estimate of the total number of apartments in the project and number of floors, bedrooms, and square feet of each apartment. This amendment is made with the realization that sometimes building plans must be altered prior to completion of construction and that full disclosure of this fact should be made to the consumer. The announcement must also state the intended use of all apartments in the project. Some consumers may not wish to live in a project where there will be transient residents or commercial establishments.

(6) A provision has been included to require the developer of a condominium conversion project to make the first offer of sale of the owner-occupant designated residential units to the persons occupying the units just prior to the conversion if such persons intend to occupy the units as owner-occupants, and the Residential Landlord-Tenant Code has been amended to conform.

(7) A provision has been included which would require any person contracting to purchase one of the designated residential units to obtain financing or a commitment for financing within 30 days from the end of the 10-day limited sales period. This amendment was made to accommodate the policy of lending institutions to process applications for financing only after a contract for purchase has been entered into. The 30-day period to obtain financing was selected as the most reasonably short period of time in which a financing institution is able to act on the application.

(8) An obligation on lenders has been included in this bill to assure that all applicants for credit are notified of action on their applications within 30 days of submission. Such a provision is important since this bill has been amended to provide that a developer is required to complete sales of the designated units to prospective owner-occupants only if they have received a commitment for adequate financing within 30 days following the

limited sales period. An affirmative duty has also been imposed upon such lenders making loans for the purposes of this bill to require them to be assured that an applicant is, in fact, a prospective owner-occupant. A lender which fails to comply would be subject to the general penalty section of the chapter on horizontal property regimes.

(9) The requirement that a prospective owner-occupant must submit satisfactory evidence that financing will be applied for has been deleted because of the amendment described in item (7).

(10) The reference to the newspaper in which the public announcement is to be published has been amended to provide that the paper must be one which is published daily. This change is to insure that the greatest number of persons read the announcement as possible.

(11) A provision has been included that developers need not pay any interest on earnest money deposits.

Your Committee has also made various other technical, nonsubstantive amendments for purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1784-80, 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. 1784-80, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Shito, Aki, Baker, Blair, Kobayashi and Lacy
Managers on the part of the House

Conf. Com. Rep. No. 87-80 on H.B. No. 2720-80

The purpose of this bill is to appropriate funds for the settlement agreement which was negotiated between the State of Hawaii and Mark Construction, Inc., for three cases filed in the Circuit Court of the First Circuit.

The three separate actions, civil numbers 38134, 44113, and 45060, sought damages totalling in excess of \$12,000,000, which were allegedly suffered as a consequence of performing construction contracts for three separate federal-aid highway projects for the State Department of Transportation.

However, due to the extended and complex nature of the claims, the trial was suspended and the parties, with the approval of the court, entered into negotiations to settle their differences. In February, 1978, an agreement was reached to settle said cases for \$3,500,000, contingent upon legislative appropriation. Such contingency, however, was not forthcoming.

Your Committee on Conference, however, finds that further analysis and reconsideration of the cases indicate that an appropriation in the amount of \$2,500,000 for the purpose of settlement of the claims of Mark Construction, Inc., against the State of Hawaii would be in the best interest of the State. As both parties to the suits are amenable to the amount of \$3,000,000, such sum appears to be a fair and just settlement, and therefore, your Committee has amended this bill to reflect the agreed-to settlement. In addition, reimbursement to the State through application to the Federal Highway Administration for the amount of the settlement will result in off-setting of the funds.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2720-80, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2720-80, S.D. 2, C.D. 1.

Senators Cayetano, Kawasaki, O'Connor, Yamasaki, Anderson and Carroll
Managers on the part of the Senate

Senator Kawasaki did not sign the report.

Representatives D. Yamada, Dods, Honda, Inaba and Lacy
Managers on the part of the House

Representative Lacy did not sign the report.

Conf. Com. Rep. No. 88-80 on S.B. No. 1838-80

The purpose of this bill is to extend the life of the crime commission as presently constituted

and organized to June 30, 1981, and to create a reorganized commission with newly-stated purposes to begin July 1, 1981, for a period ending January 30, 1984, unless extended by the legislature.

The conference draft of this bill is the result of a compromise between originally quite different House and Senate versions. This compromise was worked out by your Committee after extensive discussion and debate. The result is a bill which creates an effective and efficient commission which will serve well in the fight against crime in Hawaii.

I. PURPOSE

The principal purposes of the commission are to conduct research, and to investigate incident to that research, the status of crime in Hawaii. Pursuant to these purposes, your Committee envisions the commission operating in all areas that affect crime -- those involved in crime, the victims of crime, the courts, the prosecutors and public defenders, the police, and law enforcement agencies, the executive and legislative branches of government, and any other area the commission feels appropriate. Such research will serve a significant overview function not presently in operation.

The commission is not intended by your Committee to be a "super law enforcement agency." Rather, your Committee intends that the commission will not duplicate the law enforcement efforts of other agencies. The commission is not designed or empowered to prosecute cases or work up cases for prosecution. Any cases for which prosecution is evident should be turned over by the commission to appropriate law enforcement agencies. Discovery of crime does not require the termination of investigation if further investigation is required incident to the need for ongoing research by the commission.

II. TERM OF COMMISSION

The commission as presently constituted shall continue until June 30, 1981. The terms of the present commissioners are therefore extended to June 30, 1981. The new commission created by this bill shall begin service July 1, 1981, for a term ending January 30, 1984, unless renewed by the legislature. This is not the permanent investigative body originally envisioned by the Senate bill or the short-term citizens' panel envisioned by the House bill.

III. COMPOSITION OF COMMISSION

The commission shall consist of nine members. This is a greater number than the seven "investigators" proposed by the Senate bill and less than the twelve "citizens" proposed by the House bill. This compromise number parallels the purpose of a commission that investigates only incident to research.

The members need not be "representative of the population of the State." Their selection should be more closely geared to persons with the temperament and desire for such service rather than mere representation of a segment of the community. On the other hand, "expertise" is not a required factor either.

The members shall be screened by the Attorney General due to the sensitive nature of the matters they will be researching. "Criminal history record information," as this term is defined in section 846-1(3), on nominees is to be obtained and available to the governor and the Senate. Honesty and the ability to keep confidential information from "leaking" are the qualities your Committee expects of the commission members.

A. Members Generally

All members shall be appointed by the governor with the advice and consent of the Senate. Unfilled vacancies shall be filled by the governor with the advice and consent of the Senate and the members may be removed or suspended for cause by the governor pursuant to chapter 91. The members shall serve without compensation.

B. The Chairman

The chairman shall be specifically appointed by the governor with the advice and consent of the Senate. A vacancy in the chairman's position shall be filled in the same manner as a chairman's initial appointment. The chairman may be removed or suspended by the governor upon two-thirds vote of the commission initiating such action. The chairman may only vote in case of a tie.

The chairman shall be paid \$75 per day for each day of attendance at a meeting or each day in which he spends four or more hours on commission business. The chairman's

compensation recognizes the key role he plays as the "driving force" behind the commission's direction.

IV. FUNCTIONS

As stated above, the commission's basic function is research and collection of information regarding crime in Hawaii. Investigation may be conducted incident to such research. The commission retains its presently existing subpoena power to enhance its investigative efforts. The subpoena section has, however, been redrafted to correspond to section 92-16, Hawaii Revised Statutes.

The other existing functions of the commission have been reinstated in the order of their importance as viewed by your Committee. Notice that review and recommendations to the legislature and other branches of government in all areas involving crime is mandated.

V. LEGISLATIVE OVERSIGHT COMMITTEE

The legislative oversight committee of the Senate bill has been deleted as being inconsistent to the compromise worked out by your Committee. "Investigative reports" will not be submitted to the legislature by the commission.

VI. OVERVIEW

Most of the compromises agreed upon by your Committee resulted from agreement on the purpose of the commission. Neither a "super investigative body" envisioned by the Senate bill or a "simple citizens' commission" envisioned by the House bill has been created. Rather, your Committee has created an important and powerful research body relating to criminal law. Your Committee feels that the wisdom of the creation of such a commission will be evident from its effectiveness in improving the criminal justice system in future years.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1838-80, 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. 1838-80, S.D. 3, H.D. 1, C.D. 1.

Senators O'Connor, Cayetano, Abercrombie, Ajifu, Campbell, Kawasaki and Yee
Managers on the part of the Senate

Representatives D. Yamada, Dods, Garcia, Holt, Honda, Medeiros, Hashimoto and Ikeda
Managers on the part of the House

Representative Garcia did not sign the report.

Conf. Com. Rep. No. 89-80 on S.B. No. 2914-80

The purpose of this bill is to amend the provisions of the workers' compensation law related to the physical and vocational rehabilitation of injured employees who become permanently disabled in order to improve the delivery of rehabilitation services to such employees and to provide incentives for participation in rehabilitation programs.

The bill establishes a new rehabilitation unit within the department of labor and industrial relations that will be responsible for:

1. referring injured employees for rehabilitation after it fosters, reviews, and approves plans specifically developed for them;
2. coordinating and enforcing the implementation of such plans; and
3. regulating providers of rehabilitation services.

The bill will also provide incentives for participation by permitting an employee undergoing rehabilitation to receive temporary total disability compensation, at least to a point where the sum of wages earned during the rehabilitation period and his compensation reaches the level of his average weekly wages at the time of injury.

This measure should improve the administration of the Workers' Compensation Law and benefit disabled workers by providing a more effective means to attempt the rehabilitation of the many workers who become disabled through industrial accidents.

Your Committee upon further consideration has made the following amendment to S.B. No. 2914-80, S.D. 2, H.D. 2. Section 3 in H.D. 2 which appropriates moneys for this program

has been deleted on the understanding that a sufficient appropriation for this program will be included in the supplemental appropriations bill (H.B. No. 1912-80). Because of the deletion of Section 3, Sections 4 and 5 have been renumbered Sections 3 and 4, respectively.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2914-80, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2914-80, S.D. 2, H.D. 2, C.D. 1.

Senators Cayetano, Chong, Hara, Toyofuku, Yamasaki, Ajifu and Soares
Managers on the part of the Senate

Representatives Takamine, Andrews, de Heer, Ige, Kunimura, Sakamoto, Silva, Ikeda
and Lacy
Managers on the part of the House

Representative Sakamoto did not sign the report.

Conf. Com. Rep. No. 90-80 on H.B. No. 18

The purpose of this bill is to establish a council on revenues as is required by Article VII, section 7, of the State Constitution. The council is to prepare revenue estimates of the state government and to report the estimates to the governor and the legislature.

The creation of the council was authorized by the 1978 Constitutional Convention with the intention that the estimates to be prepared by the council would be considered by the governor in preparing the budget, recommending appropriations and revenue measures, and controlling expenditures. A further intention was that the legislature would also consider the estimates in appropriating funds and enacting revenue measures. Thus, the council's estimates should provide guidance to the governor and the legislature in four areas: (1) budget preparation by the governor; (2) appropriations by the legislature; (3) budget execution by the governor; and (4) adjustments to the State's revenue structure. The constitutional provisions do not require that the estimates of the council be binding on the executive or the legislature. However, should the governor or the legislature choose to deviate from the estimates, such deviation and the reasons therefor are to be publicly disclosed.

This bill makes clear that the council is to provide revenue estimates for the fiscal year in progress and each of the ensuing fiscal years of the six-year state program and financial plan. Such estimates will be required in order to provide for sound fiscal planning.

Under this bill, the council is to report to the governor and the legislature at least four times a year on June 1, September 10, January 10, and March 15. Your Committee believes that this timetable is necessary due to the budget preparation, budget appropriation and budget execution schedule of the State. Revenue estimates required on these dates will provide timely guidance for the executive branch and the legislature in the budgetary process.

This bill will also allow the council to meet in closed session, chapter 92 ("sunshine law") notwithstanding, when the council must discuss confidential tax information. Your Committee agrees that this exclusion from the "sunshine law" for certain council meetings is necessary in order for the council to be able to properly assess state revenues obtained from competitive businesses.

The council has been placed in the department of taxation for administrative purposes since revenue projection figures can be readily obtained from that department. The departments of budget and finance and taxation are directed to provide the council with such staff assistance and technical support as necessary.

Your Committee has amended this bill as follows:

- (1) The council is to be comprised of seven members. Three members are to be appointed by the governor, two members are to be appointed by the president of the senate and two members are to be appointed by the speaker of the house of representatives. These members shall then select a chairman from their membership.
- (2) The council members appointed by the governor shall serve for four year terms, and those appointed by the president of the senate and the speaker of the house of representatives shall serve for two year terms.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 18, 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. 18, H.D. 1, S.D. 2, C.D. 1.

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

Senators Chong and Yim did not sign the report.

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

Conf. Com. Rep. No. 91-80 on H.B. No. 1864-80 (Majority)

The purpose of this bill is to appropriate moneys out of the general revenues of the State for the payment of certain tax refunds, judgments, settlements, and outlawed warrants and accounts.

The claims were filed with the state director of finance who transmitted all the claims with supporting data to the legislature.

The large number of miscellaneous claims approved by the departments remains a matter of concern to your Committee. Your Committee agrees that standards and guidelines need to be developed for the review process of these claims. For that reason, your Committee has not granted relief at this time to various miscellaneous claims.

Your Committee has amended this bill to delete the claim for tax refund of Gasco, Inc. (\$41,564.71) and to amend the amount of the claim of George Montague from \$25,000 to \$40,000.

This bill as amended by your Committee appropriates \$321,142.54 representing 35 claims under section 3777 and chapter 662, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1864-80, H.D. 1, S.D. 2, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1864-80, H.D. 1, S.D. 2, C.D. 1.

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

Senators Chong and Yim did not sign the report.

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

Representative Lacy did not concur.

Conf. Com. Rep. No. 92-80 on H.B. No. 1865-80

The purpose of thi bill is to provide supplementary Judiciary appropriations for the fiscal biennium beginning July 1, 1979, and ending June 30, 1981.

Your Committee has assessed the Judiciary's operating request and has included among other requirements the following significant items:

1. Twenty-six positions with associated costs -- four for the Circuit Court, one for the Family Court, sixteen for the District Court, four for the Administrative Director Services, and one position for the Driver Education program;
2. \$75,000 to begin a review and analysis of the financial management systems of the Judiciary; and
3. Funding and appropriate language to enable the Judiciary to assume the security guard function, formerly under contract with the Attorney General's Office, thereby allowing for moe efficient utilization of this resource.

In addition, your Committee has reviewed the proposed appropriation increases in the capital improvement projects originally stipulated in Section 11 of Act 208. These projects are organized under the title of the Administrative Director Services (JUD 201) of the Judiciary. Your Committee has adjusted the Judiciary's request by deferring the appropriation request for equipment for the State Judiciary Complex on Oahu and reducing the request for renovation of Judiciary buildings statewide.

The cost of both the additional and new appropriations for capital improvement projects amount to the sum of \$35,509,000. This replaces last year's CIP sum of \$5,339,000, as shown in Section 5 and Section 6 of this bill and will be funded by general obligation bonds.

Section 6 of this bill is amended by revising the general obligation bond authorization to reflect reductions in appropriations. Section 7 of this bill has also been amended to synchronize the lapsing date for appropriations made for capital projects in accordance with constitutional amendments.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1865-80, 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. 1865-80, H.D. 1, S.D. 2, 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

Senators Chong and Yim did not sign the report.

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

Conf. Com. Rep. No. 93-80 on H.B. No. 2773-80

Recent economic conditions have resulted in alarming instability in the previously stable bond market. Interest rates on government bonds which were once relatively stable at six per cent or less have in recent months soared in excess of eight or nine per cent. Translated into dollars, each interest point increase on a long term multimillion dollar bond represents millions of dollars in extra interest expense which must be borne by government, and thereby the taxpayers, over periods ranging from twenty to thirty years.

Numerous major cities as well as states have recently postponed or cancelled planned bond issuance due to high interest rates demanded on government bonds.

Unlike many state and local governments, Hawaii is fortunate in that during this time of high interest costs, the State enjoys an ample surplus in its general fund. Thus, your Committee finds that it is undesirable at this time to allow the issuance of state bonds at interest rates which are so costly. Your Committee has therefore amended section 1 of this bill to provide for a nine and onehalf per cent limitation on State bonds and section 395, Hawaii Revised Statutes, is accordingly revised by your Committee.

Your Committee further agrees that unlike the State government, the counties are not in a position to resort to temporary cash financing for their capital improvement projects. Thus, the counties have no recourse but to seek to raise capital for such projects through the bond market. Your Committee therefore approves of the proposal to allow the county governments to issue bonds at rates which may be established by ordinance adopted by the respective county governing body. (See section 2 of this conference draft.)

Your Committee also has amended this bill by appropriately renumbering the remaining sections of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2773-80, 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. 2773-80, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 94-80 on S.B. No. 2795-80

The purpose of this bill is to conform the Hawaii Revised Statutes to the provisions of Article VII, Section 8 and 9, of the State Constitution as amended by the Constitutional Convention of 1978 and ratified by the voters on November 7, 1978.

This bill establishes a general fund expenditure ceiling as required by the constitution and sets forth a formula for adjusting that ceiling by the estimated rate of growth of the

State's economy.

The expenditure ceiling for each fiscal year as determined under this bill sets the limit of general fund appropriations which the legislature is authorized to appropriate from the general fund. In the event that the legislature should choose to exceed the expenditure ceiling this bill would first require the legislature to secure a two-thirds vote of each house of the legislature approving such excess appropriations; set forth the dollar amount and the rate by which the appropriations allowed exceeds the expenditure ceiling; and set forth the reasons for exceeding the expenditure ceiling in each act which will cause appropriations from the general fund to exceed those allowed under the expenditure ceiling.

The conferees of the Senate and the conferees of the House of Representatives engaged in considerable debate as to the appropriate formula for determining the general fund expenditure ceiling. Discussion centered principally around the appropriate indicator of state growth which would be utilized and which fiscal year would be designated the base year from which the expenditure ceiling for succeeding fiscal years would be calculated.

It was proposed by the Senate that the average rate of increase in total state personal income over a three year period be utilized as the index of state growth and that fiscal year 1978-79 be designated the base year and that the general fund appropriations made in that year be the base amount from which the expenditure ceiling for succeeding fiscal years be calculated. The Senate position was premised on the ground that total state personal income is an indicator which is best reflective of the economic condition of the state for the year for which it is determined and is readily available and objectively determined through the United States Department of Commerce.

The House proposal was that the average rate of increase in general fund revenues over a three year period be utilized as the index of state growth and that fiscal year 1980-81 be designated as the base year. This proposal was grounded in the argument that information regarding the increase in general fund revenues is readily available and substantially more current than the use of United States Department of Commerce information regarding total state personal income which is usually not available until sometime well into the year after the year for which the determination is made. The use of this indicator would thus ensure that the permissible increase in general fund expenditures would more likely correspond to current fluctuations in the rate of growth of the state economy.

Your Committee has agreed that the average rate of increase in total state personal income would be an appropriate indicator of state growth, provided that such average rate of increase would be reflective of the three calendar years immediately preceding the session of the legislature making appropriations from the state general fund rather than the three calendar years immediately preceding the calendar year before the session of the legislature making appropriations from the state general fund. This bill has been amended accordingly.

Your Committee has amended this bill to designate fiscal year 1978-79 as the base year and the general fund appropriations for that year as the expenditure ceiling from which the expenditure ceiling for succeeding years is determined.

Since there is usually a considerable lag between the end of the calendar year and the date of publication of the total state personal income for that year by the United States Department of Commerce, the bill has been amended to provide that for any calendar year for which total state personal income data has not yet been published by the United States Department of Commerce, total state personal income for that year as estimated by the council on revenues shall be the economic indicator utilized.

Your Committee has also amended the bill by adding a section directing the council on revenues to prepare an estimate of the total personal income for the calendar year in progress and to report its estimate and any revision thereto to the director of finance, the governor, the chief justice, and the legislature each July 15, and October 15. These dates are designated to correlate with the dates on which the director of finance is required to determine a preliminary and final estimate of the state growth and the expenditure ceiling.

The bill has been amended to change the date on which the director of finance is required to determine a preliminary estimate of the expenditure ceiling from July 1 to August 1 of each year. This change allows the council on revenues to have some lead time in which to obtain the second quarter tax receipts data and utilize such data in preparing its estimate of total state personal income for that year.

Your Committee has also made various other language changes including:

1. Amending line 17 of page 3 by substituting the word "adjusting" for "increasing".

This word change makes clearer the intent that the expenditure ceiling be increased or decreased as appropriate data regarding state growth becomes available.

2. Amending line 23 of page 4 by changing the phrase "For purposes of this section" to "For purposes of this subsection." This change clarifies the intent of that paragraph.
3. Amending line 13 of page 5 by substituting the word "four" for "three" and to thus require the governor to present the legislature with a statement showing the total state personal income for each of the four calendar years immediately preceding the session of the legislature making appropriations from the state general fund. This information is necessary in order to determine the rate of change in total state personal income for three years.

Your Committee has also changed the effective date of this Act to July 1, 1980 rather than upon its approval. Thus, the first state budget which the provisions of this bill would legally impact would be the budget for fiscal biennium 1981-83. However, your Committee intends that the provisions of this bill be self-imposed and utilized in guiding the development of the supplemental budget for fiscal year 1980-81.

Various members of your Committee remain uncertain as to the appropriateness of the use of total state personal income as the indicator of economic growth used to calculate the expenditure ceiling for any year. Your Committee has therefore amended this bill to address these concerns in the following manner: (1) a "sunset" provision has been added to provide for the repeal of the provisions of this bill as of June 30, 1984. This would require the legislature to conduct a review at that time of the appropriateness of the expenditure ceiling formula established by this bill; (2) the legislative auditor is directed to conduct a study of various economic growth indicators and to provide recommendations as to which indicators would be best indicative of the estimated rate of growth of the State's economy. The legislative auditor is directed to present such a report to the legislature prior to the 1984 regular session.

Your Committee has made other technical and non-substantive changes to this bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2795-80, 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. 2795-80, S.D. 1, H.D. 1, C.D. 1.

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

Senators Chong and Yim did not sign the report.

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

Representative Crozier did not sign the report.

Conf. Com. Rep. No. 95-80 on H.B. No. 1912-80 (Majority)

The purpose of this bill is to provide supplemental appropriations for fiscal year 1980-81 and to make other amendments to the 1979 General Appropriations Act.

This report summarizes the basic financial guidelines and program appropriation decisions agreed to by your Committee. To the extent that Standing Committee Report No. 667-80 of the House Committee on Finance and Standing Committee Report No. 959-80 of the Senate Committee on Ways and Means are not contradicted by provisions of the bill finally agreed to by your Committee or by this report, expressions of legislative concern, intent and direction in those reports are to be regarded also as expressions of your Committee.

Basic Financial and Budgetary Guidelines

General Fund Expenditure Ceiling. The 1978 State Constitution requires the legislature to establish a "general fund expenditure ceiling which shall limit the rate of growth of general fund appropriations ... to the estimated rate of growth of the State's economy as provided by law." The Constitution also requires that such a ceiling shall apply to the general fund expenditures proposed by the governor in the budget.

The requirement for a general fund expenditure ceiling has been established in separate legislation which provides for the application of a general fund expenditure ceiling beginning with the next fiscal biennium, using the rate of change of total state personal income as

the measure by which general fund appropriations shall be recommended by the governor and provided for by the legislature. However, uncertainty remains as to the appropriateness of the use of total state personal income as the indicator of economic growth used to calculate the expenditure ceiling for any year. Therefore the legislation regarding the expenditure ceiling has been amended to address these concerns in the following manner: (1) a "sunset" provision has been added to provide for the repeal of the provisions of such legislation as of June 30, 1984. This would require the legislature to conduct a review at that time of the appropriateness of the expenditure ceiling formula; (2) the legislative auditor has been directed to conduct a study of various economic growth indicators and to provide recommendations as to which indicators would be best indicative of the estimated rate of growth of the State's economy and to present such a report to the legislature prior to the 1984 regular session.

In the meanwhile, your Committee believes that the general fund appropriations made by this Session of the legislature should be controlled as if implementing legislation for the constitutional spending limitation were already in effect. This would be in keeping with the spirit of the constitutional provision. This was the guideline used in the development and passage of the General Appropriations Act of 1979, and it continues to be the guideline used by your Committee in this Supplemental Appropriations bill and other appropriation bills recommended for passage in this legislative session.

Funds for Private Organizations. Another constitutional matter resolved by your Committee is the question of the funding of the numerous programs of private organizations receiving state financial aid through grants, subsidies and purchases of service. Undoubtedly, many of these programs are for a public purpose and in the public interest, but the 1978 Constitution prohibits all funding of private organizations "except pursuant to standards provided by law."

Your Committee has decided that a system of both substantive and procedural standards should be incorporated in the supplemental appropriations bill. Such a system calls for private organizations funded by this bill and the 1979 General Appropriations Act to agree to certain fundamental conditions before funding can be released. It also requires appropriations intended for private organizations in this bill to be brought under such controls as are normally required to be exercised over appropriations to the programs of government agencies. In addition, the system of controls incorporated in this bill requires the development and implementation of procedures to ensure that requests for grants, subsidies and purchases of service for the next budget biennium will be reviewed and analyzed by the appropriate state agencies and the governor prior to consideration by the legislature.

It is intended by your Committee that the standards required by the Constitution shall be enacted through appropriate amendments to the Hawaii Revised Statutes in the 1981 Regular Session and that the standards provided for in this bill shall serve as the standards until such statutory amendments are effected. Such a sequence of actions will enable the standards of this bill to be tested in the next budget execution and budget preparation cycle before being established, and modified if necessary, in statutory form.

The major program recommendations of your Committee on the supplemental appropriations bill are covered in the remainder of this report.

ECONOMIC DEVELOPMENT

New and Emerging Industries. A diversified and stable economy has long been the goal of the Hawaii State Legislature. In this regard, funds have been made available to support the development of Hawaii's fledgling fishing industry in accordance with the recently completed Fisheries Development Plan. In addition, your Committee has provided funds to determine the environmental impacts of the manganese nodule processing industry, the electronics industry, and the garment industry.

Tourism. In recognition of the plight of Hawaii's major industry and the decline of west-bound visitors to Hawaii, additional funds have been provided to support tourism.

Redevelopment of the Aloha Tower Complex. Funds have been provided for development of design and financial criteria including site assessment studies intended to guide ultimate redevelopment of this significant landmark.

EMPLOYMENT

Disability Compensation. Your Committee has included appropriations to improve the State Workers' Compensation program. Improvements include establishing a unit in the Department of Labor and Industrial Relations for the rehabilitation of permanently disabled

workers and establishing a study commission to review the workers' compensation law and make recommendations on ways of reducing or stabilizing costs while maintaining benefits at existing levels.

Career Kokua. Funding is included to extend the services of the Hawaii Career Information Delivery System (Career Kokua) program to the neighbor islands. Career Kokua provides current occupational, educational, training, job search, and related occupational and career information.

TRANSPORTATION

General Aviation Airport. Hawaii's congested Honolulu International Airport (HIA) remains a concern due to the heavy mix of large and light aircraft. Funds have been made available to support a general aviation airport and relieve traffic at the HIA.

HEALTH

Emergency Medical Services. Your Committee recognizes the impact of higher inflationary costs for personnel, fuel, and drug and medical costs on the various county operated emergency medical services systems. Funds are included in the budget for this purpose.

Mental Health. Due to the recent and rapid increase of penal code patients admitted to the Hawaii State Hospital, your Committee has found that additional staffing is required by the facility for security purposes as well as for the rehabilitative needs of these patients and has provided funds accordingly.

Hospital Care. Your Committee recognizes the need for additional staffing to state-administered hospitals for expansion and upgrading of services. Additional funds for this need have been provided. Also, two of the major items for which funds are provided are for a new Acute Care Facility at Hilo Hospital and the modernization and renovation of Kula Hospital.

Adult Day Activity for Developmentally Disabled. Your Committee believes there is a need for additional pre-vocational services for developmentally disabled adults. Presently, there is a lack of programs for those over twenty years of age. Your Committee has therefore provided additional funds to meet this purpose.

Community Based Residential Treatment Program. Funds have been provided to initiate establishment of a system of community-based residential treatment programs for the mentally ill to provide alternatives to institutional settings.

SOCIAL PROBLEMS

Medicaid. Your Committee has provided for an appropriation of \$4 million so that payments to medical providers doctors and dentists can be made on a more equitable basis. The Medicaid profile had not been updated since 1975, but with the updating of the profile to 1979, this should substantially correct the inequities which have resulted. In the meanwhile, your Committee requests that the Department of Social Services and Housing explore and report to the 1981 session on ways to curb recipient abuse in the Medicaid program, including an analysis of a co-payment requirement for recipients. Your Committee also believes that the medical profession should come to grips with the problem of recipient abuse in Medicaid services. It therefore requests the Hawaii Medical Association to study and report on the controls which the medical community might exercise to assist in curbing recipient abuse.

Adult Boarding and Care Homes. Your Committee has provided additional funds to increase payments to recipients of Supplemental Security Income residing in adult and boarding homes. Current payment levels are inadequate for the continued operation of these homes and without additional payments many of these homes may close. Considering the expensive alternative of institutional care, your Committee believes that provision of additional payments to continue the operation of these homes is a cost effective means of maintaining care for Hawaii's needy.

Welfare Administration. The State's welfare program has grown substantially in recent years. Several audits have pointed out deficiencies in the administration of the Medicaid Program and your Committee has provided resources to address these deficiencies. Your Committee has also provided additional positions to adequately staff the Income Maintenance Program and to strengthen the fraud investigation capabilities of the Department of Social Services and Housing.

LOWER EDUCATION

Intensive Basic Skills. Funds have been provided to continue the special intensive

basic skills to students requiring such services. This program supplements on-going programs with the objective of assuring that students acquire the basic skills of speaking, reading, writing, listening, computing, and thinking.

Special Needs. The appropriation of special needs funds to each school was instituted by the Legislature in 1977 to enable each school to meet some of its own needs which are not met by the funds which the Department of Education ordinarily provides. From all accounts, the program has been successful and widely accepted by the schools. The current formula for the allocation of special needs funds provides for \$2,000 to each school, regardless of size, plus \$3.50 per pupil. Your Committee has reviewed the formula and finds that it unduly favors smaller schools over larger ones such that students in some schools receive more than three times those in other schools. While recognizing that there are probably economies of scale in larger schools, your Committee proposes that the formula be made less inequitable.

Under the new formula proposed by your Committee, each school is to receive \$1,000 plus \$5.00 per pupil. This means, for example, that a large school such as Waianae Elementary with 1,169 students would receive \$6,845 (\$5.86 per student), whereas it would have received \$6,092 (\$5.21 per student) under the old formula. A small school such as Anuenue with 156 students would receive \$1,780 (\$11.41 per student) under the new formula instead of \$2,546 (\$16.32 per student) under the old formula. Smaller schools would still receive a disproportionately larger share when calculated on a per capita basis, but the inequity when compared with larger schools would not be as great under the new formula.

Textbooks and Learning Materials. Your Committee is concerned over reports of widespread shortages of textbooks and other needed learning materials in the schools. However, no new appropriations are required at this time, inasmuch as it is your Committee's understanding that funds are available from salary savings resulting from the United Public Workers' strike to enable the necessary purchases to be made. It is your Committee's expectation that the Department of Education will institute a system by which textbook and learning material needs can be identified in a timely manner, budgeted for properly, and accommodated through timely purchases and distribution; and by which emergency shortages can be filled with minimum disruption of classroom instruction. The Department of Education should not have to conduct a special survey to determine the extent of textbook shortages if it has in place such a system. Your Committee requests the department to submit a report to the 1981 legislative session detailing what changes have been made to (1) assure that all schools have adequate textbooks and learning materials; and (2) assure that there will be no recurrence of a condition of shortages.

Athletic Coaches. While the compensation to athletic coaches in schools should be further reviewed, your Committee has taken the immediate step of providing funds so that all coaches who are authorized for a particular school can be compensated through state funds.

Hawaiian Culture and Language Program. The 1978 Constitutional Amendment (Article X, Section 4) requires the State to promote the study of Hawaiian culture, history, and language. Your Committee has provided funds to develop a plan to implement the intent of this amendment.

Limited English Speakers. Funds are included to accommodate additional students whose first or home language is other than English. This program will assist students in acquiring the necessary level of language proficiency to allow them to perform satisfactorily in regular classes where English is the instruction medium.

Asbestos in Classrooms. Your Committee has provided \$5.4 million in capital improvement funds to eliminate the asbestos health hazards in classrooms. These funds are in addition to \$25 million worth of cash financing of other urgent repairs and maintenance projects throughout the State, a substantial portion of which is directed at correcting deficiencies in the schools.

HIGHER EDUCATION

Continuing Education for Women. The Displaced Homemakers Program was evaluated and was found to provide valuable services to a growing amount of women in today's society. Courses provided under this program enabled program participants to better cope with the problems encountered in business and in their private lives. Funding support was provided to continue this program.

Graduate Assistant Stipends. Your Committee realizes the need for graduate assistants in the delivery of a quality educational program at the University of Hawaii. Since graduate assistants have not received any increases in their stipend allowance for over three years,

your Committee has provided additional funds to help these students meet some of the inflationary increases in the cost of living.

Maui Community College. Maui Community College serves as the only higher education institution for the county of Maui. Funds were authorized to provide students attending MCC better student housing by replacing the existing, dilapidated dorms with new facilities.

School of Law. The newly instituted School of Law at the University of Hawaii has begun to emerge as a positive force in the community. Services are provided through its community legal education programs, its research programs and the publication of the Law Review. Funding support was provided for physical facilities for the School of Law and to enhance its library collection.

CULTURE AND RECREATION

Public Television. Your Committee has provided capital improvement funds for the expansion of public television. Funds are included for expansion of existing studio facilities and for installation of translators to provide improved reception for residents of Windward Oahu, northern Kauai, and the Kona Coast and Volcano areas of the Big Island.

Historical and Archeological Places. Hawaii's cultural and historical sites are threatened by impending destruction in the face of rapid urban development. Your Committee has recognized this situation and has accordingly provided funds to save those sites for the posterity of the State.

Hawaii Foundation for History and the Humanities. The Hawaii Foundation for History and the Humanities has been dissolved and its functional responsibilities transferred to the State Foundation on Culture and the Arts and the Department of Land and Natural Resources.

Pacific War Memorial Commission. The Department of Budget and Finance has recommended that the Pacific War Memorial Commission be abolished and its functions transferred to the Department of Land and Natural Resources. In order to accomplish a smooth transition, funding for the Pacific War Memorial Commission has been continued through FY81.

PUBLIC SAFETY

Oahu Community Correctional Center. In order to help alleviate the overcrowded conditions in our prisons, your Committee has provided supplemental funds for positions and operating expenses for Modules 17, 18, and 19.

Other Programs. Your Committee has also provided funds for Liliha House II, a program to assist inmates in making the transition to living in a community setting.

GOVERNMENTWIDE SUPPORT

Reapportionment Commission. Funds for convening the Reapportionment Commission as mandated by Article IV of the Constitution of the State of Hawaii are provided.

Elections Administration. New Constitutional requirements mandating the single party primary and confidentiality in party preferences necessitated a unique approach to the administration of elections. Additional funding provided to the Lieutenant-Governor's office reflects the legislature's endorsement and accommodation of public intent in this regard.

RECOMMENDATION

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1912-80, 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. 1912-80, H.D. 1, S.D. 1, C.D. 1.

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

Senators Hara and Yim did not sign the report.
Senators Anderson and Yee did not concur.

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

Representative Narvaes did not concur.

Conf. Com. Rep. No. 96-80 on H.B. No. 1772-80

The purpose of this bill is to extend the State Program for the Unemployed as provided by Act 151, 1975, as amended.

As part of the State's effort to combat cyclical unemployment through a program similar to CETA, the 1975 Hawaii State Legislature established the State Program for the Unemployed (SPU). SPU, a temporary state funded program administered by the department of labor and industrial relations, has been extended from year to year by the State Legislature.

With unemployment rates still relatively high and unstable, there is still a need to continue programs such as SCET. Continued efforts in this area can also serve as a countercyclical strategy since State and national economic forecasts include continued recession and a down turn in the visitor industry in Hawaii. Your Committee therefore recommends that an appropriation be made to extend the SCET component of SPU.

Your Committee upon further consideration has amended this bill by providing the appropriation amount of \$3,000,000, to implement the program.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1772-80, 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. 1772-80, H.D. 2, S.D. 1, C.D. 1.

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

Senator Anderson did not sign the report.

Representatives Takamine, de Heer, Hagino, Kunimura and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 97-80 on H.B. No. 1853-80

The purpose of this bill is to amend Chapter 10 of the Hawaii Revised Statutes to provide that a portion of all funds derived from the public land trust be used by the Office of Hawaiian Affairs for the betterment of the conditions of native Hawaiians.

Your Committee on Conference has amended H.B. No. 1853-80, S.D. 3, by adding a new section to Chapter 10, Hawaii Revised Statutes, to provide that twenty per cent of all funds derived from public land trust, described in Section 10-3, shall be expended by the Office of Hawaiian Affairs for the purposes of Chapter 10. \$100,000 is also appropriated from the general revenues of the State for the purpose of the Office of Hawaiian Affairs.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1853-80, S.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1853-80, S.D. 3, C.D. 1.

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

Representatives Kawakami, Fukunaga, Holt, Honda, Nakamura, Sakamoto,
D. Yamada, Anderson and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 98-80 on H.B. No. 2035-80

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

House Bill No. 2035-80 has deviated from the traditional percentage formula of providing for a cost-of-living allowance inasmuch as the bill proposed would provide a fixed dollar increase based on the member's credited years of service rather than a flat percentage formula. Consequently, this would provide a higher allowance especially to those who are receiving lower benefits.

Estimates by the Employees' Retirement System indicate that the bonus proposed will provide for an average monthly increase of \$99.90 for those pensioners who retired prior to July 1, 1965; \$66.45 for those retired between July 1, 1965 and June 30, 1970; and \$23.36 for those retired between July 1, 1970 and June 30, 1975.

Your Committee has amended Section 1, paragraph 8 of the bill as follows:

1. Line 22 on page 4--substitute the date July 1, 1975 for July 1, 1970.
2. Line 6 on page 5, sub-paragraph A--substitute \$4.50 for \$3.
3. Line 9 on page 5, sub-paragraph B--substitute \$2.50 for \$1.50.
4. Include an additional sub-paragraph C as follows:

"(C) \$1 a month for each year of the retirant's or pensioner's credited service if the person retired after June 30, 1970 but prior to July 1, 1975."

The bill has been further amended to include a proviso that no special cost of living bonus be paid to those who have eight or less years of credited service.

The bill has also been amended to provide for an appropriation of \$3,800,000 in general fund revenues to be expended by the Department of Budget and Finance to carry out the intent of the bill. The Health Department is to expend \$35,000 of this amount to provide for bonuses to pensioners at Kalaupapa.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2035-80, 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. 2035-80, H.D. 2, S.D. 2, C.D. 1.

Senators Cayetano, Toyofuku, Kawasaki, Abercrombie, Anderson and Yee
Managers on the part of the Senate

Senator Anderson did not sign the report.

Representatives Stanley, Morioka, Andrews, Dods, Fukunaga, Holt, Kunimura, Lacy and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 99-80 on H.B. No. 1912-80

The purpose of this bill is to provide supplemental appropriations for fiscal year 1980-81 and to make other amendments to the 1979 General Appropriations Act.

This report summarizes the basic financial guidelines and program appropriation decisions agreed to by your Committee. To the extent that Standing Committee Report No. 667-80 of the House Committee on Finance and Standing Committee Report No. 959-80 of the Senate Committee on Ways and Means are not contradicted by provisions of the bill finally agreed to by your Committee or by this report, expressions of legislative concern, intent and direction in those reports are to be regarded also as expressions of your Committee.

Basic Financial and Budgetary Guidelines

General Fund Expenditure Ceiling. The 1978 State Constitution requires the legislature to establish a "general fund expenditure ceiling which shall limit the rate of growth of general fund appropriations ... to the estimated rate of growth of the State's economy as provided by law." The Constitution also requires that such a ceiling shall apply to the general fund expenditures proposed by the governor in the budget.

The requirement for a general fund expenditure ceiling has been established in separate legislation which provides for the application of a general fund expenditure ceiling beginning with the next fiscal biennium, using the rate of change of total state personal income as the measure by which general fund appropriations shall be recommended by the governor and provided for by the legislature. However, uncertainty remains as to the appropriateness of the use of total state personal income as the indicator of economic growth used to calculate the expenditure ceiling for any year. Therefore the legislation regarding the expenditure ceiling has been amended to address these concerns in the following manner: (1) a "sunset" provision has been added to provide for the repeal of the provisions of such legislation as of June 30, 1984. This would require the legislature to conduct a review at that time of the appropriateness of the expenditure ceiling formula; (2) the legislative auditor has been directed to conduct a study of various economic growth indicators and to provide recommendations as to which indicators would be best indicative of the estimated rate of growth of the State's economy and to present such a report to the legislature prior to the 1984 regular session.

In the meanwhile, your Committee believes that the general fund appropriations made

by this Session of the legislature should be controlled as if implementing legislation for the constitutional spending limitation were already in effect. This would be in keeping with the spirit of the constitutional provision. This was the guideline used in the development and passage of the General Appropriations Act of 1979, and it continues to be the guideline used by your Committee in this Supplemental Appropriations bill and other appropriation bills recommended for passage in this legislative session.

Funds for Private Organizations. Another constitutional matter resolved by your Committee is the question of the funding of the numerous programs of private organizations receiving state financial aid through grants, subsidies and purchases of service. Undoubtedly, many of these programs are for a public purpose and in the public interest, but the 1978 Constitution prohibits all funding of private organizations "except pursuant to standards provided by law."

Your Committee has decided that a system of both substantive and procedural standards should be incorporated in the supplemental appropriations bill. Such a system calls for private organizations funded by this bill and the 1979 General Appropriations Act to agree to certain fundamental conditions before funding can be released. It also requires appropriations intended for private organizations in this bill to be brought under such controls as are normally required to be exercised over appropriations to the programs of government agencies. In addition, the system of controls incorporated in this bill requires the development and implementation of procedures to ensure that requests for grants, subsidies and purchases of service for the next budget biennium will be reviewed and analyzed by the appropriate state agencies and the governor prior to consideration by the legislature.

It is intended by your Committee that the standards required by the Constitution shall be enacted through appropriate amendments to the Hawaii Revised Statutes in the 1981 Regular Session and that the standards provided for in this bill shall serve as the standards until such statutory amendments are effected. Such a sequence of actions will enable the standards of this bill to be tested in the next budget execution and budget preparation cycle before being established, and modified if necessary, in statutory form.

The major program recommendations of your Committee on the supplemental appropriations bill are covered in the remainder of this report.

SPECIAL PROGRAM RECOMMENDATIONS

Repairs and Maintenance. \$25 million worth of cash financing of urgent repairs and maintenance projects throughout the State has been included.

Land Banking, Water Resource Development, Flood Control, and Historic Site Preservation. An additional \$25 million of cash funding has been provided to initiate an accelerated program of land banking, water resource development, flood control and preservation of historic sites.

ECONOMIC DEVELOPMENT

New and Emerging Industries. A diversified and stable economy has long been the goal of the Hawaii State Legislature. In this regard, funds have been made available to support the development of Hawaii's fledgling fishing industry in accordance with the recently completed Fisheries Development Plan. In addition, your Committee has provided funds to determine the environmental impacts of the manganese nodule processing industry, the electronics industry, and the garment industry.

Tourism. In recognition of the plight of Hawaii's major industry and the decline of west-bound visitors to Hawaii, additional funds have been provided to support tourism.

Redevelopment of the Aloha Tower Complex. Funds have been provided for development of design and financial criteria including site assessment studies intended to guide ultimate redevelopment of this significant landmark.

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Disability Compensation. Your Committee has included appropriations to improve the State Workers' Compensation program. Improvements include establishing a unit in the Department of Labor and Industrial Relations for the rehabilitation of permanently disabled workers and establishing a study commission to review the workers' compensation law and make recommendations on ways of reducing or stabilizing costs while maintaining benefits at existing levels.

Career Kokua. Funding is included to extend the services of the Hawaii Career Information

Delivery System (Career Kokua) program to the neighbor islands. Career Kokua provides current occupational, educational, training, job search, and related occupational and career information.

TRANSPORTATION

General Aviation Airport. Hawaii's congested Honolulu International Airport (HIA) remains a concern due to the heavy mix of large and light aircraft. Funds have been made available to support a general aviation airport and relieve traffic at the HIA.

Kalanianaʻole Highway. Funds have been provided for the widening of the Kalanianaʻole Highway corridor.

HEALTH

Emergency Medical Services. Your Committee recognizes the impact of higher inflationary costs for personnel, fuel, and drug and medical costs on the various county operated emergency medical services systems. Funds are included in the budget for this purpose.

Mental Health. Due to the recent and rapid increase of penal code patients admitted to the Hawaii State Hospital, your Committee has found that additional staffing is required by the facility for security purposes as well as for the rehabilitative needs of these patients and has provided funds accordingly.

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Community Based Residential Treatment Program. Funds have been provided to initiate establishment of a system of community-based residential treatment programs for the mentally ill to provide alternatives to institutional settings.

SOCIAL PROBLEMS

Medicaid. Your Committee has provided for an appropriation of \$4 million so that payments to medical providers doctors and dentists can be made on a more equitable basis. The Medicaid profile had not been updated since 1975, but with the updating of the profile to 1979, this should substantially correct the inequities which have resulted. In the meanwhile, your Committee requests that the Department of Social Services and Housing explore and report to the 1981 session on ways to curb recipient abuse in the Medicaid program, including an analysis of a co-payment requirement for recipients. Your Committee also believes that the medical profession should come to grips with the problem of recipient abuse in Medicaid services. It therefore requests the Hawaii Medical Association to study and report on the controls which the medical community might exercise to assist in curbing recipient abuse.

Adult Boarding and Care Homes. Your Committee has provided additional funds to increase payments to recipients of Supplemental Security Income residing in adult and boarding homes. Current payment levels are inadequate for the continued operation of these homes and without additional payments many of these homes may close. Considering the expensive alternative of institutional care, your Committee believes that provision of additional payments to continue the operation of these homes is a cost effective means of maintaining care for Hawaii's needy.

Welfare Administration. The State's welfare program has grown substantially in recent years. Several audits have pointed out deficiencies in the administration of the Medicaid Program and your Committee has provided resources to address these deficiencies. Your Committee has also provided additional positions to adequately staff the Income Maintenance Program and to strengthen the fraud investigation capabilities of the Department of Social Services and Housing.

LOWER EDUCATION

Intensive Basic Skills. Funds have been provided to continue the special intensive

basic skills to students requiring such services. This program supplements on-going programs with the objective of assuring that students acquire the basic skills of speaking, reading, writing, listening, computing, and thinking.

Special Needs. The appropriation of special needs funds to each school was instituted by the Legislature in 1977 to enable each school to meet some of its own needs which are not met by the funds which the Department of Education ordinarily provides. From all accounts, the program has been successful and widely accepted by the schools. The current formula for the allocation of special needs funds provides for \$2,000 to each school, regardless of size, plus \$3.50 per pupil. Your Committee has reviewed the formula and finds that it unduly favors smaller schools over larger ones such that students in some schools receive more than three times those in other schools. While recognizing that there are probably economies of scale in larger schools, your Committee proposes that the formula be made less inequitable.

Under the new formula proposed by your Committee, each school is to receive \$1,000 plus \$5.00 per pupil. This means, for example, that a large school such as Waiānae Elementary with 1,169 students would receive \$6,845 (\$5.86 per student), whereas it would have received \$6,092 (\$5.21 per student) under the old formula. A small school such as Anuenue with 156 students would receive \$1,780 (\$11.41 per student) under the new formula instead of \$2,546 (\$16.32 per student) under the old formula. Smaller schools would still receive a disproportionately larger share when calculated on a per capita basis, but the inequity when compared with larger schools would not be as great under the new formula.

Textbooks and Learning Materials. Your Committee is concerned over reports of widespread shortages of textbooks and other needed learning materials in the schools. However, no new appropriations are required at this time, inasmuch as it is your Committee's understanding that funds are available from salary savings resulting from the United Public Workers' strike to enable the necessary purchases to be made. It is your Committee's expectation that the Department of Education will institute a system by which textbook and learning material needs can be identified in a timely manner, budgeted for properly, and accommodated through timely purchases and distribution; and by which emergency shortages can be filled with minimum disruption of classroom instruction. The Department of Education should not have to conduct a special survey to determine the extent of textbook shortages if it has in place such a system. Your Committee requests the department to submit a report to the 1981 legislative session detailing what changes have been made to (1) assure that all schools have adequate textbooks and learning materials; and (2) assure that there will be no recurrence of a condition of shortages.

Athletic Coaches. While the compensation to athletic coaches in schools should be further reviewed, your Committee has taken the immediate step of providing funds so that all coaches who are authorized for a particular school can be compensated through state funds.

Hawaiian Culture and Language Program. The 1978 Constitutional Amendment (Article X, Section 4) requires the State to promote the study of Hawaiian culture, history, and language. Your Committee has provided funds to develop a plan to implement the intent of this amendment.

Limited English Speakers. Funds are included to accommodate additional students whose first or home language is other than English. This program will assist students in acquiring the necessary level of language proficiency to allow them to perform satisfactorily in regular classes where English is the instruction medium.

Asbestos in Classrooms. Your Committee has provided \$5.4 million in capital improvement funds to eliminate the asbestos health hazards in classrooms.

HIGHER EDUCATION

Continuing Education for Women. The Displaced Homemakers Program was evaluated and was found to provide valuable services to a growing amount of women in today's society. Courses provided under this program enabled program participants to better cope with the problems encountered in business and in their private lives. Funding support was provided to continue this program.

Graduate Assistant Stipends. Your Committee realizes the need for graduate assistants in the delivery of a quality educational program at the University of Hawaii. Since graduate assistants have not received any increases in their stipend allowance for over three years, your Committee has provided additional funds to help these students meet some of the inflationary increases in the cost of living.

Maui Community College. Maui Community College serves as the only higher education

institution for the county of Maui. Funds were authorized to provide students attending MCC better student housing by replacing the existing, dilapidated dorms with new facilities.

School of Law. The newly instituted School of Law at the University of Hawaii has begun to emerge as a positive force in the community. Services are provided through its community legal education programs, its research programs and the publication of the Law Review. Funding support was provided for physical facilities for the School of Law and to enhance its library collection.

CULTURE AND RECREATION

Public Television. Your Committee has provided capital improvement funds for the expansion of public television. Funds are included for expansion of existing studio facilities and for installation of translators to provide improved reception for residents of Windward Oahu, northern Kauai, and the Kona Coast and Volcano areas of the Big Island.

Hawaii Foundation for History and the Humanities. The Hawaii Foundation for History and the Humanities has been dissolved and its functional responsibilities transferred to the State Foundation on Culture and the Arts and the Department of Land and Natural Resources.

Pacific War Memorial Commission. The Department of Budget and Finance has recommended that the Pacific War Memorial Commission be abolished and its functions transferred to the Department of Land and Natural Resources. In order to accomplish a smooth transition, funding for the Pacific War Memorial Commission has been continued through FY81.

PUBLIC SAFETY

Oahu Community Correctional Center. In order to help alleviate the overcrowded conditions in our prisons, your Committee has provided supplemental funds for positions and operating expenses for Modules 17, 18, and 19.

Other Programs. Your Committee has also provided funds for Liliha House II, a program to assist inmates in making the transition to living in a community setting.

GOVERNMENTWIDE SUPPORT

Reapportionment Commission. Funds for convening the Reapportionment Commission as mandated by Article IV of the Constitution of the State of Hawaii are provided.

Elections Administration. New Constitutional requirements mandating the single party primary and confidentiality in party preferences necessitated a unique approach to the administration of elections. Additional funding provided to the Lieutenant-Governor's office reflects the legislature's endorsement and accommodation of public intent in this regard.

RECOMMENDATION

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1912-80, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1912-80, H.D. 1, S.D. 1, C.D. 2.

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

Senator Yim did not sign the report.

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

Representative Lacy did not sign the report.

STANDING COMMITTEE REPORTS

SCRep. 1-80 Legislative Management

Informing the Senate that S.R. Nos. 1 and 2 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 2-80 Legislative Management

Informing the Senate that S.B. Nos. 1826-80 to 1945-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 3-80 Legislative Management

Informing the Senate that S.C.R. Nos. 1 and 2, S.R. Nos. 3 to 29 and S.B. Nos. 1946-80 to 1968-80 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 4-80 Judiciary on Gov. Msg. No. 2

Recommending that the Senate consent to the nomination of HERMAN T. F. LUM, as Associate Justice of the State Supreme Court, for a ten year term, in accordance with the provisions of Article VI, Section 3, of the Constitution of the State of Hawaii.

Signed by all members of the Committee except Senators Chong, Machida and Ushijima.

SCRep. 5-80 Judiciary on Gov. Msg. No. 3

Recommending that the Senate consent to the nomination of EDWARD H. NAKAMURA, as Associate Justice of the State Supreme Court, for a ten year term, in accordance with the provisions of Article VI, Section 3, of the Constitution of the State of Hawaii.

Signed by all members of the Committee except Senators Chong, Machida and Ushijima.

SCRep. 6-80 Legislative Management

Informing the Senate that S.C.R. Nos. 3 to 8, S.R. Nos. 30 to 41, Stand. Com. Rep. Nos. 4-80 and 5-80 and S.B. Nos. 1969-80 to 1978-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 7-80 Legislative Management

Informing the Senate that S.C.R. No. 9, S.R. Nos. 42 to 44 and S.B. Nos. 1979-80 to 2042-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 8-80 Legislative Management

Informing the Senate that S.C.R. No. 10, S.R. No. 45 and S.B. Nos. 2043-80 to 2071-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 9-80 Legislative Management

Informing the Senate that S.C.R. No. 11, S.R. Nos. 46 and 47 and S.B. Nos. 2072-80 to 2098-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 10-80 Legislative Management

Informing the Senate that S.C.R. No. 12, S.R. Nos. 48 to 53 and S.B. Nos. 2099-80 to 2145-80

have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 11-80 Legislative Management

Informing the Senate that S.R. Nos. 54 and 55 and S.B. Nos. 2146-80 to 2181-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 12-80 Ways and Means on S.B. No. 1826-80

The purpose of this bill is to appropriate funds for defraying the expenses of the Tenth Legislature up to June 30, 1981, and for the Legislative support agencies during the fiscal year 1980-81.

Upon consideration of the bill, your Committee recommends that specific amounts for the required appropriations be added to the bill and has amended it accordingly.

Upon consideration of the bill, your Committee has amended the bill to provide specific appropriations as follows:

SENATE AND HOUSE OF REPRESENTATIVES

\$1,776,992 is appropriated for the Senate and \$2,298,674 is appropriated for the House of Representatives, and these amounts represents a seven percent increase over the prior year's appropriations. Your Committee finds the increase necessary to meet existing costs for the fundamental needs of the Legislature for such items as equipment, supplies, staff services and other expenses.

LEGISLATIVE AUDITOR

The appropriation for the Office of the Legislative Auditor to meet the operating budget of that office is \$1,065,082. Also appropriated to the office is \$150,000 for special studies and other purposes to be jointly determined by the President of the Senate and the Speaker of the House of Representatives.

STATE ETHICS COMMISSION

The appropriation for the State Ethics Commission to meet the operating budget for that office is \$100,020.

No appropriation has been included for an increase in the salaries of the Executive Director and the Assistant Director of the Commission. Your Committee notes that the Executive Director was appointed at an annual salary of \$24,000 in March 1976, and within the short span of two years was enjoying a salary of \$31,000 which amounts to a staggering 30% increase. Had the Executive Director received normal incremental increases his salary on March 1, 1980 would amount to \$28,620 or about \$2,500 less than he received in 1978. Under these circumstances, your Committee cannot recommend an increase in the Executive Director's salary to \$33,170 at this time.

Your Committee is mindful of the fact that all other administrators of legislative agencies and administrators of executive agencies have had no salary increases for five years. Should the salary increase request be granted the Executive Director would be earning more than many administrators whose salaries are set by statute. For example, the Executive Director would be earning more than the Executive Director of the Hawaii Public Broadcasting Authority whose salary has been fixed at \$32,500 since 1975.

Unfortunately, the lack of restraint in compensation extends to the other professional employees of the Ethics Commission. In contrast to the starting salary of \$14,400 per annum at the Department of the Attorney General, the Associate Director (who has no professional employees to supervise) was hired at \$18,000 per annum in December 1979. Your Committee believes that a salary increase at this time for the Assistant Director is unjustified.

Your Committee is concerned about the proliferation of administrative positions attached to various boards and commissions in recent years, the salaries for which are set and raised without regard to any compensation policies. The Ethics Commission is only one example and pending development of sounder policies providing guidance in this area, your Committee believes salary increases at this time for the executive and associate directors of the Ethics Commission is unjustified.

LEGISLATIVE REFERENCE BUREAU

Your Committee approves of an appropriation of \$1,182,145 for the Legislative Reference Bureau. This appropriation does not include an appropriation for the purchase of a data processing system. The request for funds for such a purchase requires further review and any decision on the request is reserved.

The bill has been amended to make clear that the appropriation for the Legislative Reference Bureau includes funding for equipment relating to computer systems programming and operations.

OMBUDSMAN

Your Committee approves the appropriation of \$294,015 for the Office of the Ombudsman for the fiscal year 198081.

Your Committee finds that the appropriations recommended in this bill will provide for the most fundamental of legislative needs.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1826--80, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1826-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 13-80 Legislative Management

Informing the Senate that S.R.Nos. 56 to 62 and S.B. Nos. 2182-80 to 2242-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 14-80 Legislative Management

Informing the Senate that S.R. Nos. 63 to 66 and S.B. Nos. 2243-80 to 2297-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 15-80 (Joint) Health and Consumer Protection and Commerce on S.B. No. 2134-80

The purpose of this bill is to ensure that the people of this State can purchase drug products necessary for the prevention, treatment and cure of diseases at the least possible expense.

Your Committees find that a major part of a person's medical bills consists of expenses for needed medication prescribed by physicians. Your Committee further finds that many prescriptions are made by the trade or brand name of a drug product and that in many instances, there are available generic equivalents of brand name drug products which are less expensive than, and which are qualitatively, therapeutically and bioequivalently, as safe and effective as their brand name counterparts. Therefore, the purchase of appropriate generic equivalents of brand name drugs can result in savings to consumers of drug products without endangering the public health, safety and welfare.

This Bill assures that consumers of drug products are afforded the opportunity to purchase drugs at less expensive prices by establishing a procedure for substituting less expensive generic equivalents for brand name drug products when prescriptions are filled. In order to accomplish this, the major provisions of this bill:

1) Requires a dispenser filling a prescription for a drug product prescribed by its trade or brand name to substitute an equivalent drug product listed in the state drug formulary unless instructed otherwise by the person receiving the drug under prescription. Prohibits the dispenser from substituting an equivalent drug product (1) if the prescriber handwrites "do not substitute" on the written prescription; (2) if a prescription is ordered orally, unless the oral prescription is a refill of a prior written prescription for which selection of an equivalent drug product was permitted; or (3) unless its price to the purchaser is less than the price of the prescribed drug product.

2) Prohibits the designation of "do not substitute" and the physician's signature from being preprinted or stamped on the prescription.

3) Requires the dispenser to inform the person receiving the drug under prescription of the substitution of a lower cost equivalent drug product, the amount of the retail price

difference between the brand name drug product, the drug product substituted for it, and the person's right to refuse the product selected.

4) Establishes a drug product selection board composed of 2 representatives from the department of health, 1 representative from either the University of Hawaii school of medicine or the University of Hawaii school of public health, 2 physicians and 2 pharmacists, appointed by the governor for staggered terms with the advice and consent of the senate. Places the board within the department of regulatory agencies for administrative purposes.

5) Requires the board to establish, under the Administrative Procedure Act, rules for the establishment and maintenance of a state drug formulary of equivalent drug products and to effectuate the purpose of this Act. Requires the formulary to list all drug products that the Commissioner of Food and Drugs, United States Food and Drug Administration, has approved as safe and effective, and has determined to be therapeutically equivalent. Requires the formulary to list all drug products that (1) were not subject to premarketing approval for safety and effectiveness under the Federal Food, Drug, and Cosmetic Act; (2) are manufactured by firms meeting the requirements of that Act; (3) are subject to pharmacopeial standards adequate to assure product quality; and (4) have been determined by the Commissioner on Food and Drugs to meet any other requirements necessary to assure therapeutic equivalence. Allows the formulary to list additional drug products determined by the board to meet requirements adequate to assure product quality and therapeutic equivalence. Allows the formulary to delete approved drugs upon a finding that product quality or therapeutic equivalency or bioequivalency, as appropriate, is not adequately assured.

6) Requires every pharmacy to prominently display a sign in block letters stating in standardized language that a less expensive, equivalent drug may be substituted.

Your Committees on Health and Consumer Protection and Commerce are in accord with the intent and purpose of S.B. No. 2134-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Chong, O'Connor, Ushijima and Saiki.

SCRep. 16-80 Legislative Management

Informing the Senate that S.C.R. No. 13, S.R. Nos. 67 to 69, S.B. Nos. 2298-80 to 2325-80, Special Com. Rep. No. 2-80 and Stand. Com. Rep. No. 15-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 17-80 Legislative Management

Informing the Senate that S.R. Nos. 70 to 73 and S.B. Nos. 2326-80 to 2354-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 18-80 (Majority) Ways and Means on S.B. No. 1946-80

The purpose of this bill is to appropriate moneys to fund collective bargaining cost items in the agreements negotiated with the exclusive bargaining representatives of the public employee units. The Governor has requested immediate passage of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1946-80, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, Chong and Yim. Senator Kawasaki did not concur.

SCRep. 19-80 (Majority) Ways and Means on S.B. No. 1947-80

The purpose of this bill is to appropriate funds for adjustments authorized by Chapter 89C for state officers and employees excluded from collective bargaining. The Governor has recommended immediate passage of this bill.

Your Committee has heard the substance of this bill during a hearing on S.B. 1742, S.D. 2, H.D. 1 and H.B. 1639, H.D. 1, S.D. 1 which are identical to this bill in purpose

and intent.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. 1947-80, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, Chong and Yim. Senator Kawasaki did not concur.

SCRep. 20-80 Legislative Management

Informing the Senate that S.C.R. No. 14, S.R. Nos. 74 to 79, S.B. Nos. 2355-80 to 2443-80 and Stand. Com. Rep. Nos. 18-80 and 19-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 21-80 Legislative Management

Informing the Senate that S.C.R. Nos. 15 to 18, S.R. Nos. 80 to 85, and S.B. Nos. 2444-80 to 2533-80 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator George.

SCRep. 22-80 Judiciary on S.B. No. 1827-80

The purpose of this bill is to codify rules of evidence for use by Hawaii's courts, and thereby obtain uniformity of evidentiary rulings by our trial judges. This is expected to expedite trials, and to improve the ability of our attorneys to serve the public by making predictable the outcome of evidentiary decisions in litigation. Also, improved uniformity will minimize confusion in the public's conception of how judges function in their impartial endeavor to obtain effective justice.

1. Separation of powers. The stormy course followed in the adoption of the Federal Rules of Evidence by Congress has led to conflict between the judiciary and legislative branches in at least one, if not others, of our sister states. See 49 Temple Law Quarterly 860 (1976), also 29 Case Western Reserve Law Review 16 (1978).

In this State the judicial branch has submitted the proposed rules of evidence to the legislative branch for action.

Article VI, section 7 of the Hawaii State Constitution provides:

"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".

Attorney General's Opinion 67-9, construing article VI, section 7, states that such constitutional provision "does not place a mandate upon the judiciary to make procedural rules, to the exclusion of the legislature in this field." A.G.'s Opinion 67-9 at page 4.

The Hawaii Supreme Court in a footnote in Asato v. Furtado, 52 H. 284, (1970) at 294 indicated that,

"... [S]ince the adoption of the Constitution of the State of Hawaii, rules of practice and procedure adopted by this court supersede any conflicting provisions to be found in the Hawaii Revised Statutes or other legislative enactments. See, for example, the Hawaii Rules of Civil Procedure and the Hawaii Rules of Criminal Procedure, adopted and promulgated by this court."

The overlap of the Attorney General's Opinion 67-9 indicating concurrence of powers over procedural rules, and the subsequent footnoted indication by the Supreme Court appear to be inconsistent, however this is not a problem here as the proposed Hawaii Rules of Evidence were submitted by the judiciary to the legislature for enactment.

It is clear that by article VI, section 7 the constitutional authority of the judiciary's rule-making power is expressly confined to "process, practice, procedure and appeals ...". In contrast, article III, section 1 of the Hawaii State Constitution states unequivocally and very broadly that the "legislative process of the State shall be vested in a legislature, ...". As such, power over substantive law rests in the legislature whose membership is elected to effectuate social policy through the enactment of laws.

In Winberry v. Salisbury, 74 A.2d 406 (1950), it was concluded by the Supreme Court of New Jersey that under the constitutional provision of that state, the court's rule-making power was "not subject to overriding legislation." However, that court also carefully observed that such power was "confined to practice, procedure and administration" and that so confined "must not invade the field of the substantive law ..." 74 A.2d at 410 and 414.

In our review of the Hawaii Rules of Evidence we find that most of its provisions either directly affect substantive rights of individuals or that the effectuation of social policy is inextricably woven into matters that may on its face, or by semantic argument, appear "procedural."

Observing the caution in Winberry v. Salisbury, *supra*, to segregate the "substantive" and the "procedural", and noting the necessary merger of those aspects that permeate the Hawaii Rules of Evidence your Committee agrees with the evident conclusion of the judiciary inherent in its submission of the Hawaii Rules of Evidence for legislative enactment, that these rules require the exercise of legislative responsibility and the coordinated endeavor of both branches of government.

2. Origin and brief chronicle. The present need to codify evidentiary rules has come about because of the realization that traditional development of these rules on the case-by-case basis has been found woefully inadequate. Too often, the direction of evidentiary rulings in any given case has depended on the semantic propensities of individual judges. As such, "evidentiary rulings have not been uniform, and ... have been difficult to predict." See 54 Washington Law Review 31, page 54 et. seq.

The concept of justice presumes that principles of reasoning subsist, which when discovered and uniformly applied, will lead to fair and satisfactory results in resolving different and contending claims of right. By such premise, the fact that in practice some judges will admit certain types of evidence to influence the outcome of trial, while other judges do otherwise, can only erode public confidence in the judicial process. The Hawaii Rules of Evidence is a concerted effort to correct that flaw.

Also, it is in the interest of society, that contending parties be able to resolve their differences before resorting to the expensive process of trial. Pre-trial settlement among litigants is proportionate to the predictability of the eventual course of trial and the lawyers' effective communication of that prediction to their clients. This is precisely where the posture of evidentiary rules in Anglo-American jurisprudence has failed. The Hawaii Rules of Evidence seeks to correct that failure.

The Federal Rules of Evidence was officially put into practice on July 1, 1975. In Hawaii the effort to codify evidentiary rules was begun by introduction of House Bill No. 22 during the 1977 legislative session.

Legislative action on H.B. No. 22 was deferred, following a recommendation on behalf of the judiciary that action be postponed pending Judicial Council action. This was followed by the Honorable Chief Justice William S. Richardson's appointment of the Hawaii Judicial Council Rules of Evidence Committee chaired by Judge Masato Doi and including as members, Walter G. Chuck, David J. Dezzani, Marie N. Milks, Hideki Nakamura, Raymond J. Tam and Stephen D. Tom. Two among these were members of the Judicial Council, one each from among attorneys considered to practice predominantly for the plaintiff and defendant respectively in civil litigations, and one each from among attorneys respectively prosecuting and defending criminal cases.

Professor Addison M. Bowman of the University of Hawaii School of Law served as reporter to Judge Doi's committee, which was mandated to develop a set of rules for submission to the Supreme Court and the 1979 Legislature.

Judge Doi's committee followed the format and, to a great extent, the substance of the Federal Rules of Evidence, with modifications based on existing Hawaii statutes, Hawaii decisional law and the committee's best reasoning. We appreciate the many hours of labor contributed by Professor Bowman and the members of Judge Doi's committee.

After nearly a year's work, on February 6, 1979, Judge Doi's committee submitted to both houses of the legislature its proposed evidence rules for Hawaii, recommending that they be introduced during the 1979 session then studied during the interim for final legislative action during the following 1980 legislative session.

During the 1979 legislative session the Senate and the House of Representatives respectively appointed their judiciary committees to conduct interim review of the Hawaii Rules of Evidence. See S.R. No. 509-79 and H.R. No. 844-79 adopted by the Regular Session of 1979.

These committees held joint work sessions from October through December 1979 and recommend enactment of the Hawaii Rules of Evidence in the form of S.B. No. 1827-80 or H.B. No. 1771-80 (companion bills) as may be appropriately amended during the course of legislative process during the 1980 session. See Spec. Com. Rep. No. 2-80. Professor Addison Bowman again acted as reporter for the joint interim committee which met regularly over a four-month period in 1979.

As the foregoing summary of the chronicle of the development of the Hawaii Rules of Evidence demonstrates, the progress achieved thus far has been the joint and coordinated endeavor of both the judiciary and legislative branches.

3. General structure. Your Committee has reviewed the provisions of the Hawaii Rules of Evidence and comments generally on its structure as follows.

First, these rules reflect the effort of the draftsmen to delineate evidentiary rules in terms of their underlying principles and functions, as contrasted against the myriad of specific semantic arguments that pervade the confused status of decisional law. Your Committee expects that this effort to focus on basic principles will lead significantly toward obtaining the desired uniformity in the application of evidentiary rulings.

This is not to say that the Hawaii Rules of Evidence will stifle or prevent further development in the law of evidentiary rulings through decisional law. That has not been the experience with the Federal Rules of Evidence. Rather, these rules will function to give judges and attorneys in their resort to evidentiary rulings to properly consider their basic operational premises and objectives. As such, we expect that evidentiary rulings and their development in decisional law will be more reasonably confined in their appropriate track in the course of their progress.

Secondly, the Hawaii Rules of Evidence is also a very comprehensive compendium of rules that apply to situations in litigation which necessitate evidentiary considerations. It will, as such, afford to practitioners and lay public alike a singular and primary source where all evidentiary rules are rationally organized and discussed as they apply to cases litigated in Hawaii. In that regard a very substantial number of our sister states have already codified or are now in the process of codifying, their rules of evidence in similar fashion.

Also in that regard, commentary is now being prepared by Professor Bowman for publication in conjunction with the Hawaii Rules of Evidence. The commentary will not be available as evidence of legislative intent, but will provide a comprehensive aid in understanding and charting the development of these evidentiary rules.

Thirdly, the effort by Professor Bowman, as instructed by Judge Doi's committee, to model the Hawaii Rules of Evidence upon the federal rules, has the distinct advantage of affording the commentary to the federal rules and the comprehensive treatises and material by Moore's Federal Practice, Weinstein's Evidence and West Publishing, as additional resource materials. A fairly substantial body of case law has already developed over the five years since the adoption of the federal rules in 1975.

Moreover, substantial similarity between the Hawaii Rules of Evidence and the Federal Rules of Evidence will dispel the confusion and consternation by practitioners and their clients because of different patterns of justice that would otherwise obtain because of different evidentiary rules being applied in the state and federal courts. There will be some differences. However, the Hawaii Rules of Evidence does reflect a distinct effort to minimize the cause of these differences.

It should be noted in this regard also that as the National Conference of Commissioners on Uniform State Laws in August 1974 amended the Uniform Rules of Evidence to conform closely to the federal rules, there is common bond between the Hawaii and the Uniform Law versions of the rules of evidence.

4. Changes to the original draft. No effort will be made in this report to discuss each provision of the Hawaii Rules of Evidence in detail. Although the commentary to the Hawaii Rules of Evidence will not reflect legislative intent, it will provide discussions of the origin and supporting authorities for each rule, and in that manner function to provide the desired detailed discussions of these rules. It will suffice to say that in the main it is our intent that the provisions of the Hawaii Rules of Evidence track very closely with the federal rules as supplemented by existing Hawaiian decisional law.

In this part, your Committee will discuss the change that was made to the original version of the bill.

A. Article I GENERAL PROVISIONS. No substantive change was made to this article.

B. Article II JUDICIAL NOTICE. This article sets out the rules applicable to matters of fact or law which a court is required or allowed to assume without supporting evidence, either because the same is a matter of general knowledge or capable of accurate and ready determination from sources whose accuracy cannot reasonably be questioned. This situation is generally referred to among attorneys and judges as "judicial notice."

No change was made to any of the rules in this article as presented in the original draft of S.B. 1827-80.

C. Article III PRESUMPTIONS. "Presumption" is defined in Rule 301, as a rebuttable assumption of fact that must be made from another fact or group of facts.

(1) Rule 304(c) (7). This rule allows the court to presume that a person who has been absent for five years is dead. The change effected with respect to this rule does not change the substance of the original draft but merely conforms the evidence rule to the Uniform Probate Code provision which is section 560:1-107(3).

(2) Rule 306(a). This rule governs presumptions utilized against defendants in criminal cases. It sets forth requirements regarding their submission to the jury, and the manner by which the jury is to be instructed.

In its original form Rule 306(a) would have applied to facts which (1) establish guilt, (2) are elements of the criminal offense, or (3) which negate a defense to the criminal charge. As changed, Rule 306(a) is addressed only to items (2) and (3).

Your Committee concluded that the first item, facts which "establish guilt", is so broad in its scope that every fact that may be deemed to play a significant part in establishing the prosecution's case will be brought within the confines of Rule 306(a). This, it is feared, will virtually eliminate the use of presumptions in criminal cases.

D. Article IV RELEVANCY AND ITS LIMITS. "Relevant evidence" as defined in Rule 401 means those that have "any tendency to make the existence of any fact which is of consequence to the determination of the action more probable or less probable..."

(1) Rule 407. This rule is addressed to whether, and the extent to which, subsequent remedial measures taken after an event causing injury or damage, should be allowed to be admitted into evidence for the purpose of proving negligence.

In the original version, Rule 407 would have allowed evidence of subsequent remedial measures to be admitted as evidence of negligence.

Rule 407 has been changed to disallow such evidence, except that it would be admissible to prove ownership, control, feasibility of precautionary measures, or other matters which may be relevant to the issue of negligence, or for the purpose of impeachment, or for the purpose of proving dangerous defect in products liability cases.

(2) Rule 412. Although no change was made to this rule see discussion in Part 5.

E. Article V PRIVILEGE. "Privilege" is the concept whereby a witness is allowed to refuse to testify to a particular matter, transaction or communication, because public policy renders it desirable that their confidential nature be preserved.

(1) Rule 503(d)(6). Rule 503 preserves the confidentiality of matters disclosed by a client to his attorney in furtherance of obtaining professional legal service from the attorney.

Rule 503 (d)(6) excludes the lawyer-client privilege in communications between public officers and their government counsel, except that the privilege extends to matters involved with pending investigation, claim or action.

The original version of S.B. 1827-80 would have also required that before a communication between public officers and their government counsel is allowed the status of privilege, the court must previously determine that its disclosure will seriously affect pending investigation, claim or action.

The Attorney General's Office has strenuously objected to Rule 503(d)(6) and has asked that it be deleted in its entirety.

Your Committee is concerned that the lawyer-client privilege for public officers should

be confined to use where the government agency's pending investigation, claim or action would be jeopardized. We feel that possible extension and use of that privilege to shield a public officer's incompetence, inefficiency and the like should be avoided.

In that regard, the government attorney's client is the public agency. Accordingly, the public officer's privilege with respect to any communication with an attorney servicing such officer's employer/agency, must be confined to uses which will advance that employer/agency's legitimate purpose and endeavors.

We do not think the lawyer-client privilege, for example, should be available before a legislative inquiry seeking to evaluate the public officer's performance. In such event, we would expect that a deputy attorney general's prerogative would be to disclose matters that may reveal governmental inefficiency even if communicated to him by the public officer while rendering legal service to that officer's agency.

(2) Rule 504. Originally this rule governed the availability of privilege with respect to confidential communication between patients and their doctors and psychotherapists. Your Committee finds that there are significant differences between doctors and psychotherapists to require a division of these professions into two different rules.

Furthermore, your Committee believes that the term "psychologist" is a more all-inclusive term than "psychotherapist" and that this privilege should be extended to a psychologist with his client while engaged in an interview, a counseling session, or psychotherapy.

Accordingly, your Committee has divided Rule 504 into two rules, Rule 504 governing a doctor-patient relationship and Rule 504.1 governing a psychologist-client relationship.

A third change reflected in Rule 504 and Rule 504.1 is the inclusion in section (d)(1) in both rules that the privilege does not extend to communications relevant to an issue in proceedings to hospitalize the patient for "substance abuse".

(3) Rule 506(a)(1). This rule applies to the availability of privilege to confidential communication between a person and his clergy. The only change made would include "Christian Science practitioner" within the definition of "clergyman" as is found in the federal rules.

(4) Rule 507. This rule affords privilege from disclosure relative to voting at a political election. The change specifies political election as those held "pursuant to chapter II" of the Hawaii Revised Statutes.

F. Article VI, WITNESSES.

(1) Rule 603.1. This rule pertains to the disqualification of a person as a witness if he is incapable of expressing himself or of understanding the duty to tell the truth.

The original version vested the court with the discretion to disqualify a witness on the grounds there stated. The change makes it mandatory.

(2) Rule 609(a). This rule allows previous conviction of a crime to be admitted into evidence for purpose of impeachment if that previous crime involved dishonesty.

The word "dishonesty" is intended to function so as to allow the use of all convictions of previous crimes which show or tend to show that the witness does not tell the truth or which bear upon the witness's veracity, for purpose of impeachment. For example, a conviction for assault would not be available for impeachment but a conviction for larceny could be used to impeach.

(3) Rule 609(c). This rule allows previous conviction of a juvenile adjudication to be admitted for purpose of impeachment.

The original draft would admit such evidence with the proviso that the court determine that such evidence "is necessary for a final determination of the issue of guilt or innocence."

The change allows use to the same extent as in the case of adult criminal convictions under Rule 609(a).

G. Article VII, OPINIONS AND EXPERT TESTIMONY.

(1) Rule 705. This rule governs the manner an expert witness must disclose

the facts or data on which he bases his testimony.

Under the original draft the expert was able to give his opinion without prior disclosure of the underlying facts or data unless the court required otherwise.

As changed the expert may give his opinion without prior disclosure of the underlying facts or data if the same had been previously disclosed in discovery proceedings.

H. Article VIII, HEARSAY. The hearsay rule, Rule 802, prevents the admission into evidence of statements purported by a witness to have been made by someone other than himself and which is being offered for the truth of the matter asserted by that statement.

Although no change was made to this article, see discussion in part 5.

I. Article IX, AUTHENTICATION AND IDENTIFICATION. The rules in this article govern the manner by which evidentiary material require authentication or identification before being admitted into evidence.

No change was made to this article.

J. Article X, CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS. The rules in this article govern the manner by which copies are allowed to be offered in place of original documents.

No change was made to this article.

K. Article XI, MISCELLANEOUS RULES. No substantive change was made to this article. In Rule 1101(d)(3), the word "hearings" was substituted for the word "examinations", to include pre-sentence hearings and the like.

L. Sections 2 through 15 have been added to the original version of the bill and the same functions to repeal Sections 621-14 to 621-20; 621-20.5; 621-21 to 621-25; 622-21 to 622-5; 622-11 to 622-23; 622-31 to 622-33; 622-41; 622-42; 622-54; 622-55; 623-1 to 623-3; 635-15; 635-17; 707-742; 806-64; and 806-66, which are substituted by the provisions of the Hawaii Rules of Evidence.

5. Discussions on rules as to which no change was made. There were a few matters that arose in the course of hearing and decision making which did not result in amendments to the original version of S.B. 1827-80, but which we, nonetheless, feel warrant comment.

(1) Rule 412. As previously indicated Rule 412 pertains to the admissibility of rape victim's past sexual conduct. The language of this rule is taken verbatim from the recently adopted Federal Rules of Evidence, Rule 412.

Rule 412 will change the present law which is section 707-742 of the Hawaii Penal Code in the following respects:

(a) It will exclude reputation or opinion evidence of the victim's past sexual behavior in all instances.

(b) It will admit evidence of the victim's past sexual behavior only (1) if "constitutionally required to be admitted", or (2) if of behavior with other than the accused and is offered to prove "source of semen or injury"; or (3) if of behavior with the accused and it is offered to prove "consent."

(2) Rule 510(c)(2). Rule 510 establishes a privilege in the prosecution allowing refusal to disclose the identity of an informer. Rule 510(c)(2) provides that if an informer may be able to give testimony necessary to a fair determination of the crime of guilt or innocence in a criminal case or of a material issue on the merits in a civil case to which the government is a party, the identity of the informer must be disclosed, and that failure to make such disclosure will result in dismissal in a criminal case and the issuance of an appropriate order in a civil case.

It is our intent that Rule 510(c)(2) should not afford the defendant in a criminal case greater rights than are constitutionally required. In *McCray v. Illinois*, 386 U.S. 300 (1967) the United States Supreme Court did not require the disclosure of the informer under the facts of that case. It is expected that the application of Rule 510(c)(2) will follow further development of this area of the law.

(3) Rule 803(b)(22). Rule 803(b) specifies and lists a category of exceptions to

the hearsay rule. The particular exception provided by Rule 803(b)(22) allows judgment of previous conviction "entered upon a trial or upon a plea of guilty (but not upon a plea of nolo contendere)" being admitted into evidence.

Serious discussion arose as to whether convictions upon a plea of nolo contendere should be treated under Rule 803(b)(22) in the same manner as judgments of previous convictions obtained by trial and upon pleas of guilty.

The nolo contendere plea is recognized by Rule 11(b) of the Hawaii Rules of Penal Procedure promulgated by the Supreme Court. Its principal traditional characteristic is the avoidance of "admission of guilt which is inherent in pleas of guilty." See the Advisory Committee's Note to Rule 410 in the Federal Rules of Evidence.

The rationale for treating evidence of a final judgment entered upon a plea of guilty as an exception to the hearsay rule rests in the nature of the plea as an admission of guilt. In contrast, as the nolo contendere plea is availed for the purpose of avoiding admission, the nature of judgment obtained by such plea cannot be treated similarly without nullifying the purpose of its availability.

Your Committee considered that Rule 803(b)(22) be passed upon without modification subject to further legislative debate and action as may occur.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. 1827-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 1827-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong and Machida.

SCRep. 23-80 Legislative Management

Informing the Senate that S.C.R. No. 19, S.R. Nos. 86 to 91, S.B. Nos. 2534-80 to 2763-80 and Stand. Com. Rep. No. 22-80 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator George.

SCRep. 24-80 Legislative Management

Informing the Senate that S.R. Nos. 92 to 95 and S.B. Nos. 2764-80 to 3146-80 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator George.

SCRep. 25-80 Legislative Management

Informing the Senate that S.R. Nos. 96 to 103 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator George.

SCRep. 26-80 Consumer Protection and Commerce on H.B. No. 687

The purpose of this bill is to require that applicants for the transfer of liquor licenses follow the same procedure required of applicants for new licenses.

Under present law, the procedures required of an applicant transferring a liquor license are not as stringent as those required of an applicant for a new license. Specifically, applicants for transfers need only publish one notice of the liquor commission hearing and need not notify the property owners or lessees in the vicinity. This bill would require the transfer applicant to publish a notice of the hearing twice and notify the owners or lessees in the vicinity as required of a new applicant, as well as the various other provisions and conditions of sections 281-51 to 281-60, Hawaii Revised Statutes.

Your Committee received testimony from the Retail Liquor Dealers Association of Hawaii in opposition to the bill. The Association does not see the necessity of increasing the notice requirement where an existing use will be continued under new ownership.

Your Committee also received testimony from Mr. Eugene Carson, Liquor Control Administrator for the City Liquor Commission, expressing concerns over another aspect of the license transfer provisions.

Under the present liquor control statute, the liquor commission may deny a license to an applicant if he is not a "fit person." The statute requires the commission to be notified within

thirty days of the transfer of more than twenty-five percent of the corporate stock of a licensee, but provides that the liquor commission may revoke or suspend the license if the transferee is not a "fit person." The Liquor Control Administrator suggested that the statute be amended to require that the liquor commission be notified prior to transfer.

Upon consideration of this measure, your Committee finds that there is no compelling reason for imposing stricter requirements when transferring an existing license to new ownership. Therefore, your Committee has amended the bill to delete the proposed changes which would require that license transfer applications be processed in the same fashion as new applications.

Further, your Committee finds merit in the proposal that the liquor commission be given prior notice of proposed transfers of more than twenty-five percent of the capital stock of a corporate licensee, or of a transfer which would result in a transferee becoming the owner of twenty-five percent or more of the capital stock of a corporate licensee. This would allow the liquor commission to prevent a transfer to an improper or unfit person before it takes place rather than take action after the fact as is the case under the present law. Therefore, your Committee has further amended the bill to provide that such transfers of capital stock can be made only with the prior approval of the liquor commission.

Your Committee is in accord with the intent and purpose of H.B. No. 687, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 687, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 27-80 Legislative Management

Informing the Senate that S.C.R. No. 20, S.R. Nos. 104 to 106 and Stand. Com. Rep. No. 26-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 28-80 Legislative Management

Informing the Senate that S.C.R. Nos. 21 to 25 and S.R. Nos. 107 to 114 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 29-80 Human Resources on S.B. No. 1419

The purpose of this bill is to amend Section 28-11, Hawaii Revised Statutes, to grant the investigators in the Department of the Attorney General the benefits and privileges of a police officer or of a deputy sheriff.

Testimony submitted by the Attorney General indicates that investigators are routinely directed to support state law enforcement personnel to control public demonstrations and other security problems on State property. Investigators are also required to provide protective custody for witnesses during investigations of certain cases, to investigate threats upon the Executive and other public officials and to monitor organized criminal activities. These investigators are required to be armed. The work these investigators perform are no less than that of the investigators in the county prosecutor's office. Additionally, your Committee finds that the ambit of the investigators of the Attorney General includes the initiation and conduct of investigations on a statewide basis.

Your Committee feels that this bill conforms to the State's concept of equal compensation and benefits for equal work, and that these investigators should be given the same benefits and privileges of a police officer or of a deputy sheriff.

Your Committee has made nonsubstantive, technical amendments to this bill.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1419, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as S.B. No. 1419, S.D. 1.

Signed by all members of the Committee.

SCRep. 30-80 Human Resources on S.B. No. 2053-80

The purpose of this bill is to appropriate \$739,000 out of the general revenues of the State of Hawaii for the plans and construction of the Molokai Rehabilitation Facility, including

equipment, at Kaunakakai, Molokai.

Your Committee finds that the existing facility used by the Molokai rehabilitation program will have to be vacated in the imminent future. Maui County has been implementing its Master Plan for the area in which the existing facility is located, and has notified the agency operating the rehabilitation program that it must leave the area, creating the need for new facilities.

Your Committee further finds that the present facility is the only one providing rehabilitation services, and that the facility is in a decrepit condition. The program is designed to serve thirty-five clients, but only twelve clients are presently being aided because of regulations relating to adequate housing conditions. The need for rehabilitation services on Molokai is prevalent, but the existing facility cannot adequately service those needs with the present arrangement.

Your Committee 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. 2053-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2053-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 31-80 Human Resources on S.B. No. 2054-80

The purpose of this bill is to appropriate \$20,000 out of the general revenues of the State of Hawaii for the continued operation of the Maunaolu Youth Residential Shelter Program on Maui.

Your Committee finds that the Maunaolu shelter serves troubled youths who have runaway tendencies and those who need help primarily with family relationship problems within the tri-isle County of Maui, Molokai, and Lanai. Maunaolu is the only emergency shelter facility for teenage non-law violators on the tri-isle County.

Your Committee further finds that the Maunaolu Youth Residential Shelter has been a valuable resource in providing care to youngsters known to the department of social services and housing, family court, and the police.

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. 2054-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2054-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 32-80 Human Resources on S.B. No. 1834-80

The purpose of this bill is to substitute more appropriate, precise language for the antiquated terms "idiot", "lunatic", or "insane person" used in sections 580-21, 580-26, and 580-27 of the Hawaii Revised Statutes.

Throughout S.B. 1834-80, the language "lacked the mental capacity to consent to the marriage" has been inserted to replace the former terms of "idiot", "lunatic", or "insane person." Such replacement language better describes a person's mental condition which would allow for an annulment of a marriage.

A further amendment to section 580-26 replaces "relative" and "next friend" with "guardian". This insures that the incapacitated individual's best interests will be exclusively represented by the person legally authorized to act on the incapacitated individual's behalf.

In addition, section 580-26 equalizes the rights between the mentally incapacitated person and his or her spouse to apply for an annulment of the marriage. The revision allows the incapacitated individual to apply for an annulment as already is allowed to his or her spouse. The former prerequisite of the person's "restoration to reason" is discarded as being not only discriminatory but also irrelevant to the power of the courts to grant and the right of the person to petition for the annulment of a marriage. Pursuant to this, the word "either" replaces "the same" in defining which "party" can so apply.

Your Committee acknowledges the endorsement of this bill by Family Court Judge Betty M. Vitousek and the Task Force For the Study Of Laws Relating To Guardianship, Civil Commitment and Protective Services.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1834-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Chong.

SCRep. 33-80 Judiciary on S.B. No. 1836-80

The purpose of this bill is to clarify the language in section 578-2(c)(1)(G), Hawaii Revised Statutes, pertaining to the adoption of a child whose parent is mentally ill or mentally retarded.

Under the present statute, parental consent to the adoption of a child is not required where the parent is "judicially declared mentally incompetent or mentally retarded" and the court dispenses with such parent's consent.

Senate Bill 1836-80 proposes to amend section 578-2(c)(1)(G) in two substantial ways.

First, the phrase "mentally ill" has been substituted for the former phrase "mentally incompetent." This change in the law not only corrects whatever vagueness may be attached to the word "incompetent" but also conforms to the language of chapter 511, pertaining to the termination of parental rights which addresses the same class of person affected by section 578-2(c)(1)(G).

Second, this bill proposes to delete the phrase, "if the court dispenses with such parent's consent." Under subsection 2(c)(2) of section 578, the court may dispense with parental consent in three types of cases. All such cases refer to a father or stepfather and his relationship to the child to be adopted, and not to a mentally ill or retarded parent. Confusion has therefore arisen as to the appropriate use of this phrase in its application to a mentally ill or retarded parent under the present statute.

Senate Bill 1836-80 addresses this problem by requiring the court to find that the mentally ill or retarded person is "incapacitated from giving consent to the adoption of the child," before the court may grant a nonconsenting adoption petition for that person's child.

Your Committee finds that these changes to the present law are not only necessary to clarify adoption procedures, but also to protect the rights of mentally ill or mentally retarded individuals.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1836-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Chong.

SCRep. 34-80 Judiciary on S.B. No. 2030-80

The purpose of this bill is to explicitly exclude special election days from the list of state holidays enumerated in section 8-1, Hawaii Revised Statutes.

State holidays are costly to the State and should be avoided where unnecessary. Special election days are generally held on a Saturday and do not warrant a special holiday proclamation.

Under the present statute all election days except primary election days are holidays. As such the mayoral race for Maui county held on Saturday, October 20, 1979, required the preceding Friday to be taken as a state holiday. The expense incurred as a result thereof was unnecessary and would be avoided by passage of this bill.

Pursuant to this, the words "and special" are added to the exception clause on line three of page two of the bill. Thus, both primary "and special" election days are exempted from the list of mandated holidays.

The only amendment to the bill is necessitated to affect a grammatical change, i.e., a semi-colon has been inserted following "Prince Jonah Kuhio Kalaniana'ole Day."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2030-80, as amended herein, and recommends that it pass Second Reading in the form attached

hereto as S.B. No. 2030-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Chong.

SCRep. 35-80 Human Resources on S.B. No. 2050-80

The purpose of this bill is to provide \$54,511 for the continuation of day activity programs for severely disabled adults at Lanakila Center in Wahiawa.

Your Committee finds that the Rehabilitation Center in Wahiawa provides vocational experiences, community survival skills, and daily living skills for its 35-50 clients. In its past three years of operation, these programs have resulted in returning four persons to gainful employment, and nine to partial economic independence.

Your Committee further finds that the Lanakila Rehabilitation Center in Wahiawa provides the only day activity program for severely disabled adults in central Oahu. These individuals are served neither by the Department of Social Services and Housing due to their low employment potential, nor by the Waimano Training School and Hospital due to their functioning level, nor by the Department of Education, because they have passed the age limit for receiving these services. Consequently, pre-vocational programs are the only viable option for these clients.

After due consideration, your Committee has amended this bill to provide that the expending agency be the Department of Health which also administers these programs, rather than the Department of Social Services and Housing.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2050-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 2050-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 36-80 Human Resources on S.B. No. 2099-80

The purpose of this bill is to appropriate \$25,000 out of the general funds of the State for a grant-in-aid to the Hilo Association to Help Retarded Citizens for the continued development of respite care services.

Your Committee finds that the Hilo Association received a grant-in-aid in 1979 and 1980 to hire a respite coordinator to develop respite care services. Presently, an average of fifteen Hilo families per month utilize respite care services. Plans for services to the rural areas of Eastern Hawaii are being developed.

The proposed appropriation would allow the Hilo Association to implement this plan, provide services to twenty Hilo families, recruit and train volunteer workers, public information services to inform the community of the needs of the disabled, and meet staff and operating costs.

The bill has been amended by adding an "s" to "revenue" in Section 1, line 2.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2099-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2099-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 37-80 Judiciary on Gov. Msg. No. 72

Recommending that the Senate consent to the nomination of YOSHIMI HAYASHI, as Chief Judge of the Intermediate Appellate Court, for a ten (10) year term, in accordance with the provisions of Article VI, section 3 of the Hawaii State Constitution.

Signed by all members of the Committee.

SCRep. 38-80 Judiciary on Gov. Msg. No. 73

Recommending that the Senate consent to the nomination of FRANK D. PADGETT, as Associate Judge of the Intermediate Appellate Court, for a ten (10) year term, in accordance with the provisions of Article VI, section 3 of the Hawaii State Constitution.

Signed by all members of the Committee.

SCRep. 39-80 Judiciary on Gov. Msg. No. 76

Recommending that the Senate consent to the nomination of JAMES S. BURNS, as Associate Judge of the Intermediate Appellate Court, for a ten (10) year term, in accordance with the provisions of Article VI, section 3 of the Hawaii State Constitution.

Signed by all members of the Committee.

SCRep. 40-80 Judiciary on S.B. No. 1831-80

The purpose of this bill is to clarify and strengthen chapter 706, Hawaii Revised Statutes, in regard to the guidance given to the courts concerning imprisonment sentences.

The original bill removed section 706-620 from Part II of chapter 706 and placed it in Part IV with a change in emphasis. This change involved stating that prison would be mandated under three specific conditions rather than that prison sentences would be withheld except under the same three conditions. Your Committee feels that, either way, these conditions are vague, difficult to interpret and are redundant in the light of the guidance on withholding prison sentences contained in section 706-621 as amended by this bill. We have, therefore, deleted section 706-620 and replaced it with a provision that the courts, in exercising the option shall explain their reasons for either imposing or withholding a prison sentence.

In sum, the bill as amended gives the courts the option in each case of coming down on either side of imprisonment, or the withholding of imprisonment, in an evenhanded way, but requires that the courts state the reasons for their decision on the record.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. 1831-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1831-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 41-80 Judiciary on S.B. No. 2000-80

The purpose of this bill is to first clarify furlough eligibility by limiting this privilege only to those inmates who are considered to be minimum and lower security risks. Secondly, it statutorily allows the Department of Social Services and Housing to allow furloughs for valid purposes other than those specifically mentioned in the current law, in particular the special out-of-state furloughs granted to inmates when death or critical illness or injury occurs in his immediate family.

Although section 353-22.5 does not specifically authorize furloughs for funeral purposes, the administration has interpreted it to be within the umbrella of "social reorientation." This bill is to add specificity to the existing section. In addition, the present statute does not either authorize or prohibit out-of-state furloughs for funerals or visits to critically ill members of the family at the hospital or other special occasions.

Your Committee has amended the bill to provide that only those inmates already otherwise furloughed, such as those in the conditional release programs, shall qualify for the special out-of-state furloughs. Also, your Committee amended the bill to specify that the special out-of-state furloughs be granted to inmates at no cost to the State. Your Committee further amended the bill to mandate the Director of Social Services and Housing to notify the authorities of the State to which the inmate is furloughed of his impending arrival in that state.

Finally, upon the request of the Department of Social Services and Housing, with the approval of the Honolulu Police Department, your Committee has amended the bill to permit the Director of DSSH or his authorized agent to issue a warrant of arrest for a furlougee who is alleged to have violated the terms and conditions of his furlough, and to permit the Director of DSSH to have discretionary authority to authorize intra-state and inter-state furloughs of committed persons of minimum security classification to attend special functions or activities such as funerals of immediate members of the family.

Since the enactment of Act 75 (H.B. No. 761) in 1967 which authorized the establishment of conditional release centers and the granting of community furloughs to persons committed to adult correctional facilities, there have been instances in which the safety of the community and the continued good order of correctional programs required the apprehension and return to custody of a furlougee by the police, who are reluctant to act without a duly authorized warrant

of arrest. Personnel of the Corrections Division are not as well-trained or equipped to fulfill this function. In some cases, time may be a critical factor in the apprehension of the furlougee with the least risk to the public and correctional program.

Therefore, it is imperative that there be established a clear statutorily established authority which would allow the Director of DSSH or his authorized agent to issue warrants of arrest for a furlougee who is alleged to have violated the terms and conditions of his furlough and for the apprehension of the furlougee by the police. This is especially so where the furlougee may constitute a danger to himself or to others.

Your Committee feels that these amendments will help to insure public safety as well as promote the "social reorientation" philosophy of our corrections system.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2000-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2000-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ushijima, Carroll and Saiki.

SCRep. 42-80 Judiciary on S.B. No. 2109-80

The purpose of this bill is to delete the presently unnecessary reference to the validity of bail bonds for married women.

Under S.B. No. 2109-80, all references to married women have been deleted from section 804-12, Hawaii Revised Statutes. Such specific references, while necessary to protect the rights of married women under prior law, are no longer necessary to achieve this result. Furthermore, the deletion of "married women" from this section amends this statute to conform to the Constitutional standard of Article I, section 12 of the Hawaii State Constitution.

Several women's groups and other organizations testified favorably on this bill as a positive measure to equalize the rights of women with those of men.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2109-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 43-80 Judiciary on S.B. No. 2110-80

The purpose of this bill is to amend the community property law to refer equally to each spouse in a marriage rather than to one or the other in certain situations as is presently the case. To achieve this purpose, the term "spouse" is used generally in place of "husband" or "wife".

Community property law was adopted in Hawaii and used from 1945 to 1949. Nothing in this bill is meant to either expand or limit the rights of either the husband or the wife with regard to community property.

Language changes to section 510-5, Hawaii Revised Statutes, have been made simply to delete all discriminatory references to the wife in dealing with such property.

Several women's groups and other organizations testified formally concerning this bill as a positive measure to equalize the rights and duties of women with those of men.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2110-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 44-80 Judiciary on S.B. No. 2156-80

The purpose of this bill is to bring the State's Uniform Controlled Substances Act, Chapter 329, Hawaii Revised Statutes, into conformity with a recent amendment to the federal Comprehensive Drug Abuse Prevention and Control Act (21 U.S.C. §881). Chapter 329 is based upon the federal act.

In 1978, Congress added a section to the federal act to provide for the forfeiture of all monies, negotiable instruments, securities, and other things of value traceable to any intended or completed exchange for controlled substances in violation of the controlled substances statute. This allows law enforcement agencies to follow the money or the

proceeds traceable to an illegal exchange even if it changes form.

This amendment further enhances the purpose of both the federal and state laws to deter, discourage, and, if possible, stop the illegal distribution and sale of abusable drugs. The profits of illegal drug transactions can now be followed wherever they go, reducing the tremendous profits which support illegal drug traffic.

The act also provides built-in protection for an innocent owner of seized property when he is ignorant of the illegal activity that resulted in the seizure.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2156-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 45-80 Judiciary on S.B. No. 2028-80

The purpose of this bill is to provide \$33,000 for the continued operation of the Task Force For The Study of Laws Relating to Guardianship, Civil Commitment and Protective Services.

The Task Force was created in September 1978 to study the needs of mentally disabled individuals and to review and suggest amendments to laws pertaining to guardianship, civil commitment and protective services.

Task Force Chairman Thomas P. Huber testified before your Committee on January 30, 1980, that the \$33,000 appropriation will fund the entire budget for fiscal year 1980-1981. He reported that the final report on guardianship and protective services will be completed prior to the 1981 legislative session as will a report on civil commitment.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2028-80 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. 46-80 Ways and Means 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 has amended this bill by providing that the provisions of this Act are effective for a period of four years.

Your Committee has further amended this bill to require the Adjutant General to submit a report to the Legislature in the fourth year after enactment of this Act to allow the Legislature at that time to review the success of the program in promoting enlistment of residents in the Hawaii National Guard. Your Committee believes that at that time the Legislature can make a determination if the provisions of this Act should be allowed to continue beyond 1984.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1060, S.D. 1, as amended herein, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as H.B. 1060, S.D.2.

Signed by all members of the Committee except Senators Hara and Anderson.

SCRep. 47-80 Ways and Means 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.

The bill provides for only one such position to be so assigned by the Judiciary.

Your Committee has amended S.B. No. 1370, S.D. 1, by making non-substantive, technical changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1370, S.D. 1, as amended herein, and recommends that it be placed on the calendar for

Third Reading in the form attached hereto as S.B. 1370, S.D. 2.

Signed by all members of the Committee except Senators Hara, Yim and Anderson.

SCRep. 48-80 Ways and Means on S.B. No. 2531-80

The purpose of this bill is to amend and clarify Section 128 of Part V, Act 214, Session Laws of Hawaii, 1979 which provides for an encumbrance balance ceiling on capital improvement appropriations from the general obligation bond fund made prior to January 1, 1979. This bill would make clear that the \$110 million encumbrance balance ceiling provided for by that section does not include reimbursable general obligation bond funds.

Section 128 of Act 214, SLH, 1979 is an attempt to ensure that the Legislature will be able to authorize future general obligation bond issuances to provide for the capital improvement needs of the State within the new debt limitation imposed by Section 13 of Article VII of the State Constitution.

Reimbursable general obligation bonds are excluded from the debt limit imposed by the Constitution, to the extent that reimbursements to the general fund for the principal and interest on such bonds are in fact made. The exclusion from the encumbrance balance ceiling imposed by Section 128 of reimbursable general obligation bonds will not result in a situation where the amount of general obligation bonds which the Legislature may authorize and which may be issued will be diminished. This is due to the fact that bona fide reimbursable general obligation bonds will not be included in calculating the debt limitation imposed on the State.

Your Committee intends that, agencies of the State, in designating the funding source of capital improvement projects as being reimbursable general obligation bond funds first ascertain that the revenues or user tax receipts which will be utilized to retire such bonds will be adequate to meet the annual principal and interest payments on such bonds. The Legislature, in making its declaration of findings when authorizing the issuance of general obligation bonds will necessarily have to rely on assurances from the relevant State agencies that reimbursable general obligation bonds will in fact be "reimbursed". State agencies are therefore required to exercise considerable care and scrutiny in designating reimbursable general obligation bond funds as a funding source.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2531-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hara, Yim and Anderson.

SCRep. 49-80 Health on S.B. No. 1939-80

The purpose of this bill is to establish a Health Authority which shall investigate, review, design, and, if necessary, implement appropriate programs and cooperate with private enterprise and various components of federal and state governments in bringing health-related plans to realization.

Your Committee finds that health care delivery in the State suffers from rising costs, maldistribution of resources to reduce preventable, premature death and disability, inequitable access to services especially among low-income and rural populations, a lack of effective coordination among publicly funded health services, and in general, limited impact of planning efforts on health care delivery to implement changes designed to remedy these conditions.

Your Committee further finds that consumers of health care are too often not able to exercise their appropriate role in shaping health care policy in relation to health care providers. Moreover, the financing of health care especially through third party payors, has been cited frequently as an element contributing to the rising cost of care by separating consumer demand from the burdens of increased prices for services.

Your Committee further finds that health insurance considerations, health manpower, licensure, utilization review, and federal and state reimbursement programs affect the overall health care financing situation and should be analyzed as part of any program designed to develop a more responsive and cost-effective health care delivery system in the State.

The need for a new and comprehensive authority for continuous analysis of health services delivery, responsiveness, cost-effectiveness, planning, consumer advocacy, and coordination of all facets of the health care system is evident. This authority should also be responsible for developing long-range solutions to health care problems through public education

stressing health promotion and wellness. This authority, moreover, must work closely with the private sector, especially with hospitals, the health insurance industry, and the professional health provider groups to develop the most appropriate innovations in the organization, planning, overall management, and cost containing efforts to improve the responsiveness of the health care delivery system.

For the special needs identified by the authority, your Committee believes that planning which is directly tied to implementation will result in a health care delivery system which serves the highest needs and aspirations of Hawaii's people.

The bill as amended creates an authority and spells out the duties and responsibilities for the agency.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1939-80, as amended herein, and recommends it pass First Reading in the form attached hereto as S.B. No. 1939-80, S.D. 1, and be recommitted to the Committee on Health for further consideration.

Signed by all members of the Committee except Senators Machida and Yee.

SCRep. 50-80 Health on S.B. No. 3055-80

The purpose of this bill is to require the Department of Health in its budget request to the legislature to include the addition or deletion of personnel positions. The bill will also require the department to complete all procedural requirements established by rule or law for recruitment of new positions prior to its budget request.

The 1979 Legislature approved and funded over 140 positions that were requested by the County and State hospitals for Fiscal Year 1979-80. During the Department of Health budget hearings, it was discovered that many of the positions that were approved in 1979 were never filled. Moreover, the County and State hospitals requested in their supplemental budget additional positions and funding.

Your Committee finds that approving additional positions and funding when ultimately these positions are not being filled one year later is totally unacceptable. Your Committee feels that these funds could have been transferred to other health programs and put to more effective use.

It is the intent of your Committee to assure that once the legislature approves the new positions with the appropriate funding, that these new positions be filled in a timely and expeditious manner.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 3055-80 and recommends that it pass Second Reading and be referred to the Committee on Human Resources.

Signed by all members of the Committee except Senators Machida and Yee.

SCRep. 51-80 Consumer Protection and Commerce on S.B. No. 1829-80

The purpose of this bill is to completely recodify and make substantive changes to Hawaii's law regulating and registering business corporations.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1829-80 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Kuroda, Yim, Carroll and Yee.

SCRep. 52-80 Judiciary on S.B. No. 2029-80

The purpose of this bill is to clarify the language in section 11-23, Hawaii Revised Statutes, pertaining, in pertinent part, to the striking of names of voters who may be disqualified for certain mental conditions.

Under the present statute an adjudication of "insanity or feeble-mindedness," when communicated to the county clerk of the respective counties by any informing agency, triggers an investigation by the clerk, which may result in the removal of the name of the person so adjudicated from the voting register. The investigation includes notice to the person concerned and an opportunity to be heard. If the clerk finds, after investigation, that the person is "non compos mentis", the statute directs the clerk to remove the name of the

person from the register.

Senate Bill No. 2029-80 proposes to amend section 11-23 in two substantial ways to conform to the current statutory language used to describe these conditions.

First, the bill proposes to substitute, for an adjudication of "insanity or feeble-mindedness," adjudication "as an incapacitated person under the provisions of chapter 560, a mentally retarded person under the provisions of chapter 333, or a mentally ill person under the provisions of chapter 334." This amendment corrects whatever vagueness may be attached to the terms "insanity or feeble-mindedness" by substituting language conforming to specific, current, statutorily defined terms:

Second, this bill proposes to substitute for the words "non compos mentis," "incapacitated to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning voting." The proposed amendment corrects whatever vagueness may be attached to the words "non compos mentis" by substituting language appropriately reflecting the specific capacity needed to vote. The language recommended is similar to that used in the Uniform Probate Code (Chapter 560, Hawaii Revised Statutes) as adopted in Hawaii.

These changes to the present law are necessary not only to clarify imprecise language, but also to protect the rights of incapacitated, mentally ill or mentally retarded individuals.

Your Committee also acknowledges with gratitude the valuable contribution of the Task Force for the Study of Laws Relating to Guardianship, Civil Commitment and Protective Services in this matter.

Senate Bill No. 2029-80 has been amended to correct grammatical and technical errors. The section referenced on page 1, line 7, was incorrectly stated as section 831-1, but is more properly section 831-2, Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2029-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2029-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 53-80 Judiciary on S.B. No. 2035-80

The purpose of this bill is to revise three sections of Chapter 15, Hawaii Revised Statutes, that deal with absentee voting.

The intent of these revisions is to improve the absentee voting procedures in the name of increasing voter participation in our elections.

Section 15-2, Hawaii Revised Statutes, adds the phrase "or any voter who is sixty-five years of age or older" to expand upon those persons eligible to vote by absentee ballot. Such an addition accommodates those individuals sixty-five years or older who previously would not have voted on election day due to incapacity or great inconvenience.

Section 15-9, Hawaii Revised Statutes, is revised to include several minor word changes that clarify the return and receipt of absentee ballots.

In addition, the section adds a new paragraph that provides for return of an absentee voter's ballot at the regular polling place where the voter is registered. This additional means to complete the absentee voting process provides a convenient alternative to mailing or hand delivering the absentee ballot to the clerk's office.

Page 5, line 14 of this bill has been amended to delete the word "ballot," which was previously underscored. This change clarifies one of the purposes of section 15-9, which is to allow the election officials to invalidate any ballot which envelope appears to have been tampered with.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2035-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2035-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda, Machida and Mizuguchi.

SCRep. 54-80 Judiciary on S.B. No. 2120-80

The purpose of this bill is to amend section 577-22, Hawaii Revised Statutes, in order that both sexes rather than only females are included in this section which makes it illegal for minors to frequent any premises where compensation is paid for dancing partners.

The American Civil Liberties Union, National Organization of Women, Hawaii Federation of Business and Professional Women's Clubs, Hawaii Commission on the Status of Women, and the Hawaii Family Court all submitted testimony in support of this bill as a measure to equalize the rights of women with those of men.

Pursuant to this, all references to the female gender in the section including its title have been replaced with sex neutral language.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2120-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda, Machida and Mizuguchi.

SCRep. 55-80 Judiciary on S.B. No. 1847-80

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 Kuroda, Machida and Mizuguchi.

SCRep. 56-80 Judiciary on S.B. No. 2883-80

The purpose of this bill is to increase the per diem amount provided to witnesses from another state summoned to testify in a criminal prosecution or grand jury investigation in this State.

Section 836-3 of Hawaii Revised Statutes currently provides that a witness so summoned shall be tendered a sum equivalent to the cost of round-trip air fare to the place where the prosecution is pending and \$30 for each day that he or she is required to travel and attend as a witness. The amount of the current per diem allowance has remained the same since 1971.

S.B. No. 2883-80 proposes to amend section 836-3 by increasing the per diem amount from \$30 to \$50. Your Committee received testimony indicating that the majority of witnesses summoned pursuant to this section need hotel accommodations. The increased cost of such accommodations and increases in the price of restaurant meals have made the \$30 per diem amount insufficient to cover these expenses.

Your Committee believes that the efficient functioning of our criminal justice system would be furthered by S.B. No. 2883-80.

S.B. No. 2883-80 also proposes a minor grammatical change in section 836-3.

Your Committee gratefully acknowledges the assistance of the Victim/Witness Kokua Center, Office of the Prosecuting Attorney, City and County of Honolulu, in this matter.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2883-80, and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senators Kuroda, Machida and Mizuguchi.

SCRep. 57-80 Judiciary on S.B. No. 1835-80

The purpose of this bill is to change the legal standard in section 571-61(b)(1)(F), pertaining to the involuntary termination of parental rights of a legal parent who is found by the (family) court to be mentally ill or mentally retarded.

The present law, in pertinent part, permits the family courts to terminate parental rights in respect to any child as to any legal parent who is found by the court to be mentally ill

or mentally retarded and incapacitated from giving consent to the adoption of, or from providing "adequate care to the child."

Section 571-61(b)(1)(E), also pertaining to the involuntary termination of parental rights, provides that parental rights may be terminated if the child has been removed from the parent's physical custody and if the parent is found "to be unable to provide now and in the foreseeable future the care necessary for the well-being of the child."

The use of different language in these two subsections to describe the degree of care that a parent must be able to provide to avoid termination of parental rights implies that a different standard of care should be applied depending on the parent's mental condition.

Senate Bill No. 1835-80 proposes to amend section 571-61(b)(1)(F) by changing the legal standard regarding the necessary degree of care to the standard used in section 571-61(b)(1)(E).

Your Committee finds that there is no reason to have a different standard applied to those who are mentally ill or mentally retarded. Parents who are mentally ill or mentally retarded should be able to keep other children so long as they can provide the standard of care required for all other parents.

Your Committee acknowledges with gratitude the assistance of the Task Force for the Study of Laws Relating to Guardianship, Civil Commitment and Protective Services in this matter.

Senate Bill No. 1835-80 has been amended to correct technical errors in the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1835-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1835-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda, Machida and Mizuguchi.

SCRep. 58-80 Judiciary on S.B. No. 2047-80

The purpose of this bill is to appropriate public funds for partial financing of the campaigns of candidates for public offices of the State and its political subdivisions, as mandated by Article II, Section 5 of the Hawaii State Constitution.

Pursuant to Act 224, passed by the Legislature during the 1979 session, only candidates who have agreed to abide by expenditure limits will be entitled to receive public funds.

During a public hearing, Jack Gonzales, executive director of the Campaign Spending Commission, testified that an additional \$37,539 appropriation is needed to partially fund all candidates for all races in 1980. The \$37,539 appropriation is based on a projected number of candidates who would qualify for public funds and the anticipated amount of tax revenues to be received due to a taxpayer check-off system.

All public funds appropriated are to be deposited in the Hawaii election campaign fund and administered by the Campaign Spending Commission.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2047-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2047-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kuroda, Machida, Mizuguchi and Carroll.

SCRep. 59-80 Judiciary on S.B. No. 2603-80

The purpose of this bill is to provide needed administrative support for Volincor; specifically, \$11,400 for hiring of a clerk-typist.

Volincor is a highly laudable program which is funded by the Law Enforcement Assistance Administration through the State Law Enforcement Planning Agency. It provides a channel through which community volunteers can assist the Corrections Division of the Department of Social Services and Housing and the Paroling Authority in the difficult task of dealing with criminal offenders at a significant savings to taxpayers. A clerk-typist will help keep the program flowing smoothly and ease the load now carried by DSSH.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2603-80

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, Machida, Mizuguchi and Carroll.

SCRep. 60-80 Judiciary on S.B. No. 2869-80

The purpose of this bill is to include expenses to return defendants to a judicial circuit in the same budgetary procedure as is currently used for witness expenses.

Under present practice some expenses relating to defendants are processed through the courts. A more appropriate method is to remove the courts from having to cover such expenses and have the State bear all costs of the extradition procedure.

Your Committee has amended the bill to include requests for expenses by the Attorney General, as well as the county prosecutors, due to the Attorney General's prosecutorial function.

Your Committee's technical amendments are as follows:

- (1) The words "and defendants" have been included in the section title and subsection (c) to reflect the addition of defendant's costs in the new subsection (b);
- (2) "Law enforcement" has been substituted for "police" in line 12 on page 2 of the bill to allow for more flexibility;
- (3) The word "for" was removed from line 8, page 2, as being unnecessary grammatically.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2869-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2869-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kuroda, Machida, Mizuguchi and Carroll.

SCRep. 61-80 Judiciary on S.B. No. 2319-80

The purpose of this bill is to permanently place the Hawaii Criminal Justice Information Data Center within the Department of the Attorney General for administrative purposes, effective July 1, 1981.

Pursuant to Senate Concurrent Resolution No. 123, adopted in 1979, the State Law Enforcement Planning Agency and the Statistical Analysis Center conducted a study to determine the proper placement of the Data Center. The study recommended that the data center be placed within the Department of Attorney General for administrative purposes, effective July 1, 1981. The date of transfer was chosen to be in concert with the State's biennium budget period.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2319-80 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, Machida and Mizuguchi.

SCRep. 62-80 Judiciary on S.B. No. 2034-80

The purpose of this act is to mandate the drawing of lots between candidates tied after an election in order to determine the winner.

Previously, Section 11-157, Hawaii Revised Statutes, entitled "In case of tie", provided for the drawing of lots as one alternative in deciding a tie-vote election. To preclude the possibility of a candidate insisting on some less satisfactory alternative to resolve such a dilemma, the word "may" is replaced by "shall".

Since candidates shall draw lots in the event of a tie, it is advisable to restore the option of contesting an election as provided under Part XI of Chapter II.

Pursuant to the above, the second sentence of Section 11-157 is deleted in its entirety.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2034-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda, Machida and Mizuguchi.

SCRep. 63-80 Judiciary on S.B. No. 3135-80

The purpose of this bill is to appropriate \$1,000,000 or so much thereof as may be necessary for a grant to the City and County of Honolulu for personnel, equipment and other costs to upgrade the Honolulu Police Department and the Prosecuting Attorney's office.

The \$1,000,000 appropriation shall be used for the purpose of establishing new programs and procedures to upgrade these offices in the areas of criminal investigation and prosecution.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3135-80 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, Machida and Mizuguchi.

SCRep. 64-80 Judiciary on S.B. No. 2811-80

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 on Judiciary is in accord with the intent and purpose of S.B. No. 2811-80 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, Machida and Mizuguchi.

SCRep. 65-80 Judiciary on S.B. No. 2129-80

The purpose of this bill is to amend Section 52-37, Hawaii Revised Statutes, so that specific duties of the chief of police enumerated therein will appear without reference to gender.

The intent of the revisions is to remove any suggestion of sex bias in the statutory language of the Hawaii Revised Statutes. Your Committee acknowledges the concurring testimony submitted for the February 8, 1980, public hearing by the American Civil Liberties Union, the National Organization of Women, the Hawaii Federation of Business and Professional Women's Clubs, the Hawaii Commission on the Status of Women and the Family Court.

Pursuant to the above intent, all references such as "his" or "male" are replaced with neutral language describing the same specific duty.

Senate Bill No. 2129-80 has been amended to correct technical errors and to clarify language in the present statute.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2129-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2129-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda, Machida and Mizuguchi.

SCRep. 66-80 Judiciary on S.B. No. 2857-80

The purpose of this bill is to make an appropriation of \$22,984 for 65 subscriptions to the Hawaii Legal Reporter Service. All subscriptions will be mailed to the Lieutenant Governor's office for distribution among appropriate state agencies. Due to the large centralized order, the subscriptions are obtained at a discount to the State.

The Hawaii Legal Reporter Service is a publication which covers selected local and federal court and administrative decisions and awards of interest to concerned persons or agencies.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2857-80 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, Machida and Mizuguchi.

SCRep. 67-80 Legislative Management

Informing the Senate that S.C.R. Nos. 26 to 29, S.R. Nos. 115 to 127 and Stand. Com. Rep. Nos. 29-80 to 66-80 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 68-80 Consumer Protection and Commerce on S.B. No. 1951-80

The purpose of this bill is to allow the head of a family to produce two hundred gallons of beer a year for family use and not for sale. Presently, the law allows 200 gallons of wine to be produced under the same circumstances.

Your Committee received oral testimony from Mr. Eugene Carson, Liquor Control Administrator for the City and County of Honolulu's Liquor Commission, who stated no opposition to the intent of the bill.

Your Committee has amended the bill to reduce the amount of beer which may be produced to 100 gallons a year. Rather than an attempt to restrict by legislative action the consumption of "home-brewed" beer, this amendment is offered to counter the possibility of unlawful manufacture and sale of excess "home-brewed" beer, notwithstanding the potential problem of marketing "home-brewed" beer due to its inherent qualities (or lack thereof).

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1951-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1951-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 69-80 Consumer Protection and Commerce on S.B. No. 1985-80

The purpose of this bill is to increase the recording fees charged by the Bureau of Conveyances, which have remained unchanged since 1951.

Your Committee received testimony from the Chairman of the Board of Land and Natural Resources in support of this administration bill.

Your Committee recognizes that the establishment of rates by statute provides a certain safety against abuse, but is concerned that the time and expense involved in such statutory revision may be unwarranted especially where it will be necessary to continually amend the statute in inflationary times. Your Committee concurs with the need to raise these rates to cover administrative costs, but feels that the setting of these and other rates by rule-making may be more appropriate. Thus, your Committee requests that the Department of Land and Natural Resources submit a report to your Committee prior to the 1981 session on the desirability of establishing such rates by rule-making authority.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1985-80, 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. 1985-80, S.D. 1.

Signed by all members of the Committee.

SCRep. 70-80 Consumer Protection and Commerce on S.B. No. 1991-80

The purpose of this bill is to delete the statutory \$10 fee prescribed for the securities salesman examination, and provide instead that the fee shall be as prescribed by the securities commissioner.

The intent of this Administration bill (0-6(80)), as delineated in testimony submitted by the Department of Regulatory Agencies, is to provide flexibility in implementing the Uniform Securities Agent State Law Examination.

The Department stated: "Presently prospective salesmen must pass a Part I general

securities examination and a Part II state law examination. The Commissioner is presently contemplating requiring all prospective salesmen to take the uniform exam rather than the locally-devised state exam. The advantages of having applicants take the uniform exam would be threefold: 1) salesmen passing the exam would be able to be licensed in several states, 2) administrative time and expense would be reduced, and 3) issuance of licenses would be expedited. Because Hawaii's securities law is essentially the Model Uniform Securities Act no harm to the investing public would result from applicants essentially having to study the uniform securities act.

In order to implement the uniform exam the present \$10 examination fee must be increased. By giving the Commissioner the power to prescribe the fee, any fee change established by the National Association of Securities Dealer, the administrators of the uniform exam, can be adjusted more readily by rule-making rather than by legislation."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1991-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 71-80 Consumer Protection and Commerce on S.B. No. 2104-80

The purpose of this bill is to amend the language of Section 425-125, Hawaii Revised Statutes, by eliminating references to specific gender.

Your Committee has amended the bill by setting forth the entire section and changing the labeling of the subdivisions to conform to recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2104-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2104-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 72-80 Consumer Protection and Commerce on S.B. No. 1828-80

The purpose of this bill is to completely recodify and make substantive amendments for the regulation and registration of non-profit corporations.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1828-80 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 73-80 Consumer Protection and Commerce on S.B. No. 1833-80

The purpose of this bill is to delete the word "insanity" from the provisions of the Uniform Limited Partnership Act and to substitute a more definitive statement as to mental disability. The existing provisions of the Act do not provide guidelines for determining insanity.

Your Committee has made technical amendments to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1833-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1833-80, S.D.1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 74-80 Consumer Protection and Commerce on S.B. No. 1993-80

The purpose of this bill is to delete the exception from the provisions of chapter 465, Hawaii Revised Statutes, for a person performing any professional psychological services under the direction of an excepted person. The intent of the bill is to delete the loophole which allows a person who falls into one of the "excepted" categories from directing another uncertificated person in the performance of any professional services for which a certificate is required.

Your Committee received testimony in favor of this bill from the Board of Certification

for Practicing Psychologists, and the Hawaii Psychological Association.

Your Committee has made technical changes to the bill without amending the substantive intent.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1993-80, as amended herein, and recommends that it pass Second Reading and be placed on the calendar for Third Reading in the form attached hereto as S.B. No. 1993-80, S.D. 1.

Signed by all members of the Committee.

SCRep. 75-80 (Majority) Consumer Protection and Commerce on S.B. No. 2066-80

The purpose of this bill is to specifically permit small liquor licensees to group purchase liquor to obtain maximum discounts as do larger firms.

Your Committee received written testimony from the Retail Liquor Dealers Association of Hawaii in support of the bill. The Department of the Attorney General, Antitrust Division, submitted a memorandum stating that they were not in opposition to this bill, and suggesting amendments which would delete the provision requiring the liquor commission to approve the pool-buying agreement, and providing that the pool-buying agreement does not exempt the licensee from the antitrust law.

Your Committee has amended the bill in accordance with the Attorney General's recommendation.

Your Committee is in accord with the intent and purpose of S.B. No. 2066-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2066-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee. Senator O'Connor did not concur.

SCRep. 76-80 Consumer Protection and Commerce on S.B. No. 2119-80

The purpose of this bill is to clarify the bank examiner's discretion to conduct extra examinations or to devote extraordinary attention to the affairs or the condition of any bank, trust company, building and loan association, fiduciary company, industrial loan and investment company, or licensee under Chapter 409 whenever he determines that it is necessary. Additionally, the bill deletes discriminatory references to gender in Section 401-15, Hawaii Revised Statutes.

Your Committee has amended the bill to correct typographical errors and to add the word "by" between the words "produced" and "any" in line 11, page 3 to correct an apparent inadvertent omission in Section 401-15.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2119-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2119-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Chong.

SCRep. 77-80 Consumer Protection and Commerce on S.B. No. 2121-80

The purpose of this bill is to amend section 431-412, Hawaii Revised Statutes, by deleting the discriminatory wording used in the Insurance Law with respect to life or disability insurance issued to minors.

Presently, the law gives the primary right to the minor's father to surrender, make loans and to exercise any rights or privileges reserved to the minor provided the policy premium is not paid by the minor or unless the policy otherwise provides.

This bill gives the primary right to either or both parents instead of only to the father.

Your Committee has amended the bill to reinsert the provision providing the applicability of this subsection in the event of the death of the father, and has broadened applicability to include death of the mother in conformity with the general intent of this bill.

Other nonsubstantive amendments have been made to the bill.

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

purpose of S.B. No. 2121-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2121-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 78-80 Consumer Protection and Commerce on S.B. No. 2157-80

The purpose of this bill is to amend Chapter 329 to expand the grounds for suspension or revocation of a registration granted to manufacture, distribute, prescribe, and dispense a controlled substance.

Presently, an individual must obtain his State license to practice his profession, and also a registration permitting him to manufacture, distribute, prescribe, or dispense controlled substances. A loophole exists in the statute in that an individual may have his State license to practice his profession revoked or suspended by the applicable governing State board, and yet, that individual may continue to manufacture, distribute, prescribe, or dispense controlled substances pursuant to his State registration. This bill closes this loophole by inserting an additional ground under which the individual's registration to manufacture, distribute, prescribe, or dispense controlled substances may be revoked or suspended.

Your Committee received testimony in favor of this Administration bill (E-12(80)) from the Department of the Attorney General.

Your Committee has amended the bill to correct a technical defect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2157-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2157-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 79-80 Consumer Protection and Commerce on S.B. No. 2171-80

The purpose of this bill is to amend Section 431-317, Hawaii Revised Statutes, to delete the exemption given to annuity companies from the premium tax.

Inasmuch as annuity considerations have historically been considered "savings" held in trust by annuity companies, they have not been subject to any premium tax or other state taxes. However, as the popularity of annuity products grew, competition among insurers resulted in the inclusion of life insurance features in these contracts. The volume of annuity business has increased from \$4.7 million in 1968 to over \$43.9 million in 1978.

Presently, 14 other states tax annuity companies, with the tax rate varying from 1% to 2.5%. The tax proposed in this bill will be assessed at the rate of 1.918% for domestic insurers, and 3.197% for foreign and alien insurers. The tax revenues realized will be approximately \$1.5 million based on the 1979 annuity considerations.

Your Committee received testimony in support of this administration bill (0-4(80)) from the Department of Regulatory Agencies.

Your Committee is in accord with the intent and purposes of S.B. No. 2171-80 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. 80-80 Consumer Protection and Commerce on S.B. No. 2686-80

The purpose of this short form bill is to review and improve procedures relating to retail installment sales in Hawaii.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2686-80, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2686-80, S.D. 1, and be recommitted to the Committee on Consumer Protection and Commerce for further consideration.

Signed by all members of the Committee.

SCRep. 81-80 Consumer Protection and Commerce on S.R. No. 54

The purpose of this resolution is to request the Department of Regulatory Agencies to conduct a study on sex discrimination in insurance.

Your Committee has amended this resolution by substituting the Legislative Reference Bureau, with the assistance of members of the insurance industry, the Commission on the Status of Women, and other interested persons for the Department of Regulatory Agencies as the agency responsible for the study.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 54, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 54, S.D. 1.

Signed by all members of the Committee except Senator Yee.

SCRep. 82-80 (Majority) Consumer Protection and Commerce on S.B. No. 2215-80

The purpose of this bill is to provide the Director of Regulatory Agencies with a general subpoena power for the Department's investigations, and to provide the Department's investigators with the powers and authority of a police officer or of a deputy sheriff.

The Department of Regulatory Agencies submitted testimony in favor of the bill, stating that the proposed amendment would greatly aid the Department in carrying out its statutorily mandated mission of protecting the consumers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2215-80 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee. Senator Carroll did not concur.

SCRep. 83-80 Judiciary on S.B. No. 1851-80

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 Chong, Ushijima, George and Saiki.

SCRep. 84-80 Judiciary on S.B. No. 2379-80

The purpose of this bill is to appropriate \$25,000 for the hiring of an administrative coordinator to assist the Stay Straight Program.

The Stay Straight Program exposes youths to the realities of criminal and prison life as related by inmates of Hawaii State Prison. The inmate participants are concerned about increasing youth awareness about the debilitating effects of delinquent behavior and the horrors of prison existence. This heightened awareness can result in greater receptiveness by the youths to the efforts being made in their behalf by concerned counselors.

The Stay Straight Program conducted its first session in August 1979. Since then the frequency of sessions has increased from once per week to five times per week. More agencies and institutions have become involved as have more prison inmates.

This expansion of the program necessitates a paid administrative coordinator to handle the resulting complexities and workload. To this end, the sum of \$25,000 is to be appropriated by the legislature.

Your Committee acknowledges the extensive testimony on S.B. No. 2379-80 that was presented during the bill's hearing on February 19, 1980. This included primarily oral testimony from the officers of Ike Na Paahao (Experience of Prisoners), Mr. Barry Kaplan of the sponsoring Junior Chamber of Commerce organization, Mr. Larry Lee of the Waianae Rap Center, Mr. Larry DeRego of the City and County Anti-Vandalism Program, and several youths who had been through the Stay Straight experience.

Senate Bill No. 2379-80 has been amended to include the specific sum of \$25,000 to be appropriated for the program coordinator position.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2379-80,

as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2379-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Saiki.

SCRep. 85-80 Judiciary on S.B. No. 2580-80

The purpose of this bill is to provide for an adequate outdoor exercise area for the Oahu Community Correctional Center.

The original plans for the construction of the new modules at the Oahu Community Correctional Center called for tearing down the old cell blocks to make room for an outdoor exercise area. Due to the unforeseen overcrowding of this facility, it is now apparent that the old cell blocks must be retained for an indefinite period. This leaves the Oahu Community Correctional Center with no outdoor exercise area, an essential for prison programs and the health of the inmates. This bill corrects this serious deficiency.

This bill has been amended to provide only for the planning and designing of a recreation area rather than the actual construction of the project. For this purpose, a \$100,000 appropriation is requested to complete the plans for the recreation area.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2580-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2580-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Saiki.

SCRep. 86-80 Judiciary on S.B. No. 2764-80

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 Chong, Ushijima, George and Saiki.

SCRep. 87-80 Judiciary on S.B. No. 3012-80

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 Chong, Ushijima, George and Saiki.

SCRep. 88-80 Ways and Means on S.B. No. 2246-80

The purpose of this bill is to require the director of finance to declare in any budget submitted to the legislature proposing appropriations to be funded by general obligation bonds that the authorization of such bonds will not cause the debt limit established under Section 13 of Article VII of the State Constitution to be exceeded.

Your Committee believes that this measure is necessary in light of the new state debt limit imposed by the Constitution.

The Constitution requires that:

"Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance." Section 13, Article VII.

Your Committee finds that the purpose of this provision is to require the legislature to consciously review the amount of outstanding general obligation debt and the amount of authorized and unissued general obligation debt prior to any additional authorization of such debt. It is apparent that the Constitution is concerned with eliminating the authorization of debt which is solely for the purpose of authorization and unlikely to be issued. This provision of the Constitution is designed to encourage authorization of only such debt as will be issued in a timely fashion.

Your Committee finds further that the legislature must establish a reasonable basis for the declaration of findings which it required to make with regard to the debt limit. In forming the basis for this required declaration of findings there are several areas in which it will be desirable for certain difficult assumptions to be made. The bond counsel for the State of Hawaii, Wood & Dawson, has provided your Committee and the department of budget and finance with guidance as to the areas in which assumptions should be made. They are as follows:

First, the Constitution requires the determination be that the issuance of the proposed bonds would not cause the debt limit to be exceeded "at the time of issuance." It is unusual for the State to issue all the general obligations for a project in one issuance. Although the authorization for a project may be encumbered, a portion of the bonds will be issued in one year and the balance over the next one or two years. Therefore it is necessary to make some assumption as to the "time of issuance."

Second, since the time of issuance of all the bonds being authorized will not necessarily be in the same fiscal year, an assumption must be made with respect to the average of general fund revenues against which the measure will be made.

Third, in at least the current fiscal year (1979-1980) it is probable that the State will issue and sell a series of general obligation bonds which will cause a variation in the maximum debt service requirement on outstanding bonds during the legislative session. Consequently, a finding in February might be on a different basis than a finding in April.

Fourth, in order to measure the debt limit, an assumption as to the structure of the maturity schedule and interest rate for the bonds to be issued must be made.

With respect to the first assumption your Committee believes that historically, an encumbered project is financed over a period of a given number of years. It is appropriate therefore, to assume that an appropriation for a project to be satisfied from the proceeds of bonds will be encumbered during the next succeeding fiscal year, and that bonds to finance such project will be issued over the constitutional lapsing period. A historic review of the cash flow for such projects will be required to show that once encumbered a project is financed over a three year period in staggered amounts. Your Committee recognizes that this is a formidable task to accumulate data to support a pattern assumption but such data would be significant in sustaining the reasonableness of "spreading" expenditures.

Since the debt limit is measured against the average of general fund revenues of the State in the three fiscal years immediately preceding the issuance of bonds, that figure is the same from July 1 of one year to June 30 of the following year. Bond counsel has suggested that an assumption could be made that general fund revenues will increase each year at a rate which is approximately one-half of the lower of the average rate over ten or three years. This would result in a conservative percentage increase assumption.

Bond counsel has also recommended that the maximum debt service requirement for outstanding bonds be fixed by including a pro forma schedule of debt service for an additional series of bonds issued during the current fiscal year, in order to conservatively project that figure.

An examination of historical data will show that the schedule of maturities has been substantially the same for general obligation bonds for the last ten or more years. This historical schedule can be utilized to fix the schedule for future bonds.

It has been indicated by bond counsel that the maximum interest rate on general obligation bonds now allowed by statute (8% per annum) would be a reasonable rate to utilize in the preparation of the above-mentioned pro forma schedule and as the measure required to make the constitutional finding.

Your Committee believes that the executive branch is in the best position to obtain the necessary historical data to arrive at and justify the use of the assumptions required for the legislature to make its constitutionally compelled declaration. Your Committee therefore concludes that it is necessary that the executive branch make the declaration required by this bill in order that the legislature will be able to carry out its constitutionally mandated responsibility with respect to a declaration of findings that the debt limit will not be exceeded by the legislature's issuance of the bonds proposed by the governor and authorized by the legislature.

Your Committee has amended this bill by making clear that the bonds excluded by Section 13 of Article VII of the State Constitution from the determination of the power of the State to issue general obligation bonds are also excluded from the requirements proposed by this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2246-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2246-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hara, Yim, Anderson, Soares and Yee.

SCRep. 89-80 Ways and Means on S.B. No. 2360-80

Your Committee has considered said bill and has amended it by proposing amendments to various sections of the Hawaii Revised Statutes which fix the salaries of public officers at the same rate of compensation as circuit court judges.

The purpose of the bill as amended is to provide that salaries for various public officers be set independently of salaries set for circuit court judges.

The officers principally affected by this bill are the Legislative Auditor; Director of the Legislative Reference Bureau; Ombudsman; Chairman of the Public Utilities Commission; Chairman of the Hawaii Public Employment Relations Board; and Chairman of the Labor and Industrial Relations Appeals Board. Presently, the salaries for these officers are tied to the salary level of circuit court judges. This bill would eliminate the direct linkage of the salaries of these officers to the salaries of circuit court judges. The amendments to existing law proposed by this bill would retain the current salary level received by each officer.

Your Committee finds that this change is necessary since the duties of these officers are distinctly different from those of circuit court judges. Furthermore, there are divergent policy considerations which must be examined when setting the salary levels of judges and other officers of government. A direct linkage of salaries would prevent proper review of these considerations when establishing salary scales.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2360-80, as amended herein, and recommends that it pass First Reading by title, in the form attached hereto as S.B. No. 2360-80, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senators Carpenter, Hara, Yim, Anderson, Soares and Yee.

SCRep. 90-80 Ways and Means on H.B. No. 18

The purpose of this bill is to establish a council on revenues as is required by Article VII, Section 7, of the State Constitution. The council is to prepare revenue estimates of state government and to report the estimates to the governor and the legislature.

Your Committee takes note of the 1978 Constitutional Convention's Committee on Taxation and Finance's findings, which stated in its Standing Committee Report No. 66, that provision for such a council was made due to the perennial disagreements which arise between the governor and the legislature over budgetary and expenditure policies. These conflicts, the Committee Report ventures, are traceable in large part to a lack of agreement over revenue estimates between the two branches of government.

Your Committee agrees with the Con-Con Committee on Taxation and Finance's contention that revenue estimating is a function which should not be influenced by the politics of either the executive or legislative branches.

The intent of the 1978 Constitutional Convention and the intent of your Committee in creating this council is that the estimates which the council prepares should be considered by the governor in preparing the budget, recommending appropriations and revenue measures, and controlling expenditures. The legislature should also consider the estimates in appropriating funds and enacting revenue measures. Thus, the council's estimates will provide guidance to the governor and the legislature in four key areas: (1) budget preparation by the governor; (2) appropriations by the legislature; (3) budget execution by the governor; and (4) adjustments to the State's revenue structure.

The constitutional provisions and the provisions of this bill do not require that the estimates of the council be binding on the executive or the legislature. However, should the governor or the legislature choose to deviate from the estimates then this bill would require that such deviation and the reasons therefore be publicly disclosed.

Your Committee has made the following amendments to the bill:

(1) The bill has been amended to make clear that the council is to provide revenue estimates for the fiscal year in progress and each of the ensuing fiscal years of the six-year state program and financial plan. Such estimates will be required in order to provide for sound fiscal planning.

(2) The bill has been amended to require the council to report to the governor and the legislature at least four times a year on June 1, September 10, January 10, and March 15. Your Committee believes that this timetable is necessary due to the budget preparation, budget appropriation and budget execution schedule of the State. Revenue estimates will be required on these dates in order to provide timely guidance for the executive branch and the legislature in the budgetary process.

(3) The bill has been amended to provide that the council be comprised of five members. Your Committee believes that a five member council will be adequate to carry out the functions with which the council is charged. An excessively large membership on the council would only result in delay and difficulty in reaching consensus on estimates to be utilized.

(4) The bill has been amended to allow the council to meet in closed session, chapter 92 ("sunshine law") notwithstanding, when the council must discuss confidential tax information. Your Committee believes this exclusion from the "sunshine law" for certain council meetings is necessary in order for the council to be able to properly assess state revenues obtained from competitive businesses.

(5) The council has been placed in the department of taxation for administrative purposes rather than the department of budget and finance, since revenue projection figures can be more readily obtained from the department of taxation rather than the department of budget and finance.

(6) The departments of budget and finance and taxation are directed to provide the council with such staff assistance and technical support as necessary. Your Committee does not believe that permanent staff for the council is warranted and that the assistance of these two departments should provide adequate in helping the council fulfill its duties.

(7) The bill has been amended to require the governor and the legislature to disclose the use of any differing revenue estimate from the council's estimate rather than only revenue estimates which exceed the council's estimate. Your Committee believes that the use of lower revenue estimates can result in equally as many problems and disagreements as the use of higher revenue estimates.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 18, H.D. 1, S.D. 1, as amended herein, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as H.B. No. 18, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Hara, Yim, Anderson, Soares and Yee.

SCRep. 91-80 Transportation on S.B. No. 1865-80

The purpose of this bill is to require the Department of Transportation to plan and develop bikeways on highways under its jurisdiction whenever possible, and to allow the Department to use State highway funds for this purpose as provided in Section 248-9, Hawaii Revised Statutes.

The Department of Transportation testified that a Statewide Master Plan for Bikeways was completed in 1977 and the Department has made bikeway planning, design, and construction an integral part of its program.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1865-80 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. 92-80 Transportation on S.B. No. 2003-80

The purpose of this bill is to clarify the applicability of the motor carrier safety law to certain private carriers of passengers.

Your Committee finds that the purpose of Section 2 of Act 119, Session Laws of Hawaii 1979, was to amend the definition of "motor carrier" found in Section 286-201, Hawaii

Revised Statutes, by deleting certain language and adding other language to include private carriers of passengers within the meaning of "motor carriers". Your Committee further finds that inadvertently, the language intended to be deleted was not deleted in Act 119. This has resulted in a confused definition of "motor carrier" in the present law. This bill corrects the definition by making the appropriate deletion.

Your Committee notes that in printing the provisions of Section 286-201, as amended by Act 119, in the 1979 supplement to the Hawaii Revised Statutes, the words "a contract carrier by motor vehicle", were unintentionally omitted. These words are part of the language intended to be omitted by Act 119. This bill corrects Section 286-201 as it was enacted by Act 119 and not as printed in the 1979 supplement to the Hawaii Revised Statutes.

Your Committee has amended the bill by adding a comma after the word "industrial" in line 13 of the bill to conform the punctuation to the recommendations of the Hawaii Drafting Manual, Fourth Edition.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2003-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2003-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 93-80 Transportation on S.B. No. 2006-80

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

Your Committee finds that the existing statutes do not address the problem of structures parked, stored or abandoned within the highway rightofway. The proposed amendment would prohibit such acts and penalize persons found guilty of violating the provision.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2006-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 94-80 Transportation on S.B. No. 2007-80

The purpose of this bill is to prohibit vending from vehicles or structures parked or placed within any State highway right-of-way.

Your Committee finds that vending from state highways is unacceptable since traffic flow and safety are impaired. The Traffic Codes of the City and County of Honolulu and the County of Kauai prohibit such practice on federalaid highways. The other county ordinances and the State statutes do not address this problem. The enactment of this proposal would prohibit vending on state highways and provide the means to penalize persons found guilty of violating this provision.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2007-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 95-80 Legislative Management

Informing the Senate that S.R. Nos. 128 to 131 and Stand. Com. Rep. Nos. 68-80 to 94-80 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 96-80 Economic Development on S.B. No. 43

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 and pertaining to State Boundaries.

Article XV of the Constitution extends the boundaries of the State to include all the islands, appurtenant reefs, and territorial and archipelagic waters of the Territory of

Hawaii. The exception is to include Palmyra, Midway, Johnston, and Sand Islands or Kingman Reef.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 43 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 97-80 Economic Development on S.B. No. 2170-80

The purpose of this bill is to implement the recommendation made by the Legislative Auditor in his report on the Financial Audit of the Department of Land and Natural Resources of January 1979 which stated:

We recommend that DLNR prepare and present to the legislature legislation to repeal the creation of the special land and development fund (HRS §171-19), and to provide for the depositing of all public land proceeds into the public land trust fund.

Under Chapter 171, HRS, a public land trust was created for the holding of lands, including the funds derived from the sale or lease or disposition of lands, ceded to the United States by the Republic of Hawaii under the joint resolution of annexation, approved July 7, 1898, or acquired in exchange for lands so ceded, and returned to the State of Hawaii under §5(b) of the Admissions Act, or later conveyed to the State under §5(e) of the Act. However, no public land trust fund, per se, was created by statute. The specific uses of these funds derived from ceded lands were delineated in §5(f) of the Admissions Act as follows:

1. For the support of the public schools and other public educational institutions.
2. For the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended.
3. For the development of farm and home ownership on as widespread a basis as possible.
4. For the making of public improvements.
5. For the provision of land for public use.

A separate fund, designated the Special Land and Development Fund, was also created under Chapter 171, HRS, for the holding of funds derived from the sale or lease or other disposition of public lands which did not fall into the ceded land category described above. However, in the case of the sale of remnants of non-ceded lands, the proceeds were to be deposited in the general fund.

During the fiscal years 1970-71 to 1976-77, the average income per annum of the special land and development fund was about \$1.5 million. Expenditures averaged about \$742,000.00 per year over this same period. Of the \$742,000.00 spent, approximately \$600,000.00 was used annually for reimbursement of the general fund for principal and interest on general obligation bonds. The remaining \$142,000.00 was used to repurchase lands and to pay for incidental expenses such as appraisal fees and repair and maintenance charges on public lands. The average net income from this fund, therefore, was about \$758,000.00 per annum which was left to accumulate from year to year.

The principal aim of the bill is to create a single account, designated the public land trust fund, wherein all proceeds derived from the sale or lease or other disposition of public lands, ceded or non-ceded, could be deposited. The bill would:

1. Statutorily create a public land trust fund into which would be deposited all funds derived from the sale or lease or other disposition of all public lands, as defined in §171-2, HRS.
2. Eliminate the special land and development fund. By eliminating this fund, the monies accumulated therein would not lie fallow and be subject to transfer, as was done in February, 1978, when about \$6 million was transferred to the general fund at the discretion of the department of budget and finance and on strength of the attorney general's ruling. Thus, the net income per annum of about \$758,000.00 would be available for application against the uses specified under §5(f) of the Admissions Act, delineated above.
3. Include the proviso, as under the present law, that the fund shall be used only as authorized by the legislature, except that, without such prior legislative authority, the

board of land and natural resources may use funds necessary to accomplish specific purposes such as (a) to reimburse the general fund for advancements made; (b) for incidental maintenance of lands under control of the board, not to exceed \$100,000.00 in any fiscal year; (c) to repurchase any land in the exercise of the right to repurchase; (d) to pay non-reimbursable appraisal fees; (e) to pay for publication notices where required; (f) for the planning and construction of roads and trails not to exceed \$5,000.00 and in any fiscal year.

4. Eliminate the provision of the present law wherein proceeds of the sale of public lands, including the buildings thereon, once used but no longer necessary for school purposes, were appropriated to the county wherein the sale occurred for use by the county for acquisition of land or erection of buildings for school purposes. (Such functions formerly vested in the counties are now the responsibility of the State.)

5. Retain the provision concerning the funds realized from the sale of remnants of non-ceded lands which will continue to be deposited in the general fund.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2170-80 and recommends that it be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 98-80 Economic Development on S.B. No. 2211-80

The purpose of this bill is to amend Section 501-218, Hawaii Revised Statutes.

This schedule of fees has remained constant since 1957. The cost of recording documents has increased due to the increase of the State's cost of necessary supplies and storage equipment. The Department of Land and Natural Resources reported that for the 1978-79 fiscal year the collection was \$284,339, while operating costs were \$608,766. The Department fees that this amendment will generate approximately \$400,000.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2211-80, 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. 99-80 Economic Development on S.B. No. 2212-80

The purpose of the bill is to provide for a dam safety program under which there will be regulation of the inspection, construction, operation, and removal of certain dams to protect the health, safety, and welfare of all the citizens of the State by reducing the risk of failure of such dams.

The department of land and natural resources will be charged with the duties and responsibilities of administering the dam safety program, in cooperation and coordination with the United States government or any of its agencies, other state agencies, and the county governments or any of their agencies.

While there was general agreement for the need of a dam safety program in the State, there were areas of concern which were brought out that were considered worthy of note, among which were:

1. The criteria for the evaluation of existing dams which could involve the determination of standards set well above what could be considered "safe."
2. Whether or not regulation should be limited to dams with downstream habitation.
3. The need for review by this Committee of specific criteria needed for safe construction.
4. The availability of federal funds to assist owners who may be required to make extensive repairs or modifications to their dams as a result of the findings of an inspection. It was mentioned that the Corps of Engineers may have funds for the training of specialists in this area, but that no funds for the repair of dams are presently available.
5. Whether or not funding and personnel were available for DLNR to undertake this responsibility at this time. It was mentioned that DLNR contemplates performing its tasks in this area with resources presently available at least for the first year. From the experience gained, it can then be in a better position to express requirements for funding and/or additional personnel.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2212-80 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 100-80 Economic Development on S.B. No. 2450-80

The purpose of this bill is to provide tax incentives to encourage the establishment of new small businesses.

Your Committee is in accord with testimonies presented by operators of small businesses that such businesses have become increasingly vulnerable to unstable economic conditions and other employment factors. This is particularly true for new businesses during the initial years of operation. Accordingly, the provision of tax exemptions during the beginning years of operation would provide small business operators with a significant incentive to establish new businesses and to continue operation during the difficult initial years.

Your Committee has amended the bill by amending the definition of "new small business organization" in subsection (c) of section 2 to conform the definition to that used in other small business legislation.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2450-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2450-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 101-80 Economic Development on S.B. No. 2785-80

The purpose of this bill is to repeal subsection (f) (c), Section 246-10, Hawaii Revised Statutes.

Presently lands being changed from agricultural to urban penalizes the conversion and acts as a disincentive to landowners. In addition lands located in an area classified as agriculture and are converted to urban are still penalized even though the land remains in agricultural use. Finally, if the penalty were assessed, it would be passed on to the consumer, who is the least able to absorb the penalty. These are the reasons to repeal subsection (f) (c), Section 246-10, Hawaii Revised Statutes.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2785-80, 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. 102-80 Economic Development on S.B. No. 2973-80

The purpose of this bill is to extend the lapse date of Act 56 of Session Laws of Hawaii of 1979, from June 30, 1980 to June 30, 1981.

A statement by the Director of the Department of Agriculture indicated that from the \$4.1 million appropriation to the Kauai Task Force there exists a \$295,818 balance of non-committed funds. The Department would like the funds used to further develop agriculture on Kauai. Extension of the said lapse time would allow the Kauai Task Force to consider future agricultural developmental projects.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. 2973-80, 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. 103-80 Human Resources on S.B. No. 2046-80

The purpose of this bill is to appropriate \$50,000 to support core programs for the elderly at a Hawaii Gerontology Center.

Your Committee finds that the Hawaii Gerontology Center is a focal point, coordinating the resources of higher education institutions, public and private agencies, and community services. The Center stimulates both local and external support by providing technical

assistance and evaluation of aging programs, disseminating pertinent gerontological information, and coordinating demonstrations, forums and workshops on the needs and concerns of the elderly.

Your Committee further finds that knowledge of the elderly and their situation is of critical importance, and that the Hawaii Gerontology Center is the most viable mechanism for multi-disciplinary research, training, and demonstration programs with which to enhance our understanding of the problems and challenges of aging.

Your Committee has amended the bill by deleting the word "to" in line four, and replacing it with the word "for", and by deleting the words "the core operations" also of line four. This amendment is made to prevent possible misunderstanding in the future development and organization of a gerontology center.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2046-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2046-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 104-80 Human Resources on S.B. No. 2056-80

The purpose of this bill is to appropriate \$80,000 out of the general revenues of the State of Hawaii to provide for a Grant-in-Aid to the Welfare Recipient Advisory Council for their neighbor island programs for fiscal year 1980-1981.

The Council has an office on Oahu which is staffed by full-time salaried workers. The Council established operations on the neighbor islands in 1977 in order to further its efforts to inform and educate the public about the welfare system in the State. Each neighbor island now has one Recipient Advisory Council (RAC) Representative, functioning in a volunteer capacity.

Your Committee finds that the voluntary nature of these operations creates a restriction toward attainment of the Council's objective. As volunteers, the representatives do not necessarily have the proper training to become thoroughly knowledgeable in the area of the welfare system. Moreover, these volunteer representatives all have other jobs and cannot devote their full time to their duties on the Council.

Your Committee further finds that telephone contact between neighbor island clients and the RAC office in Honolulu is often necessary whenever the volunteer representatives are unable to deal with a problem or inquiry.

Your Committee recommends that funds be appropriated to the Council in order to establish full-time, salaried positions on the neighbor islands. This funding would insure competent, well-trained representatives who could provide better services in meeting the needs of neighbor island residents, and would obviate telephone contacts between neighbor island clients and the RAC office in Honolulu.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2056-80 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. 105-80 (Majority) Human Resources on S.B. No. 2070-80

The purpose of this bill is to remove the statutory requirement that no-fault insurers provide written policies to each public assistance recipient obtaining no-fault insurance coverage.

Your Committee finds that under the present statutory provision, the no-fault insurer must issue a no-fault policy to each certified public assistance recipient who obtains no-fault insurance coverage. This procedure requires much time and effort on the part of the agents servicing these non-revenue accounts. Current regulations require a commission of \$20 per policy for all new business and \$10 for renewals to be paid to the producer of record.

Under the proposed "certificate plan" in this bill, the Department of Social Services and Housing shall certify that a recipient meets the eligibility requirements by issuing a JUP (Joint Underwriting Plan) certificate. The certificate shall then be deemed a policy upon

the issuance of a valid no-fault insurance identification card.

This new system obviates a servicing carrier's issuance of a policy to each insured certified public assistance recipient, as well as eliminates producer commissions to the servicing agent since the certificate will be processed directly by the service carriers. Your Committee further finds that an annual savings of some \$400,000 can be realized by the service carriers, and ultimately, by the driving public.

Your Committee further finds that there are no changes or deletions in current coverages or services, but rather a reduction in the operational costs of administering the Hawaii Joint Underwriting Plan.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2070-80 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection.

Signed by all members of the Committee. Senator Abercrombie did not concur.

SCRep. 106-80 Human Resources on S.B. No. 2199-80

The purpose of this bill is to: (1) amend Section 346-34, Hawaii Revised Statutes (relating to public assistance program violations and penalties and food stamp fraud), to reorganize and clarify the language in this statute and to add a section to deal specifically with traffickers in food stamps; and (2) amend Section 346-1, Hawaii Revised Statutes (relating to definitions used in the public assistance program), to redefine the terms "public assistance", "applicant", and "recipient" in order to better conform to existing uses of these terms in the context of public assistance programs.

Your Committee finds that the present food stamp fraud statute covers only food stamp recipients and does not cover food stamp traffickers such as retail stores. An example of trafficking would be a retail store purchasing food stamps from a recipient at a discount rate and then fraudulently redeeming them at face value in apparent conformance with food stamp program regulations. Presently, food stamp fraud offenses are classified as misdemeanors, and the present fraud statute does not readily accommodate requirements for felony prosecution for a Theft in the First Degree felony charge because prosecution of a Theft in the First Degree requires the value of the property subject to the theft to be more than \$200. In the case of food stamp fraud by traffickers, valuation as to what dollar amount of food stamp redemption has actually been fraudulently obtained is a perplexing problem. Your Committee finds that this bill expressly prohibits food stamp trafficking and also provides for felony prosecutions in cases where the face value of the food stamps exceeds \$200, thereby eliminating the problem of proving valuation.

The amendment to the definition section of the public assistance law redefines the terms "public assistance", "applicant", and "recipient" to better conform the existing uses of these terms in the context of public assistance programs. This bill expands the definition of "public assistance" to include food stamp program benefits. The redefinition of "applicant" more narrowly defines the period during which a person is considered for public assistance.

Your Committee further finds that currently, two definitions of "recipient" are found in the public assistance statute. This bill deletes the definition found in the public assistance program violations and penalties law and expands the definition of "recipient" in the definition section of the public assistance statute.

Your Committee has amended this bill as follows:

- (1) On page 7, line 4, the quotation marks following the word "disposition" have been deleted.
- (2) On page 7, line 5, the bracket following the word "person" and prior to the word "for" has been deleted.
- (3) On page 7, line 6, a bracket has been inserted after the word "or" and prior to the words "a grant".

The purpose of these amendments is to correct drafting errors.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2199-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2199-80, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 107-80 Human Resources on S.B. No. 2390-80

The purpose of this bill is to appropriate \$190,000 out of the general revenues of the State for helping handicapped children with early intervention services.

The funds will be distributed as follows:

Oahu Easter Seals	\$47,000
Oahu HARC	27,000
Hawaii Easter Seals	46,000
Kauai Easter Seals	32,000
Maui Crippled Children	38,000

Your Committee finds that these agencies provide assessment, diagnostic, and educational services to help handicapped children overcome or minimize their disabilities.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2390-80 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. 108-80 Human Resources on S.B. No. 2393-80

The purpose of this bill is to appropriate \$60,000 out of the general revenues of the State for a grant-in-aid to the Variety Club School.

Your Committee finds that the Variety Club School provides services for a comprehensive diagnostic clinic and educational center to diagnose, treat and provide educational placement for children under six years of age with suspected learning disabilities in the State of Hawaii. The School also provides in-service training to parents on techniques for helping children with learning disabilities. The grant-in-aid proposed by this bill will allow the school to continue to provide these services.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2393-80 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. 109-80 Human Resources on S.B. No. 2397-80

The purpose of this bill is to appropriate \$65,000 out of the general revenues of the State for respite services to the developmentally disabled.

Your Committee finds that respite programs are a necessary and integral part of the de-institutionalization of developmentally disabled individuals because these programs provide much needed relief from the 24-hour a day demands placed on those who care for the developmentally disabled.

The appropriation will be administered on a contract basis through Part B of the Budget Act for the following agencies:

Easter Seals, Oahu County	\$39,000
Hilo Association for Retarded Citizens, Hawaii County	14,000
Maui Association for Retarded Citizens, Maui County	12,000

This appropriation will allow these agencies to continue to provide support services and temporary relief from the twenty-four hour demands placed on families, group home operators, and guardians caring for individuals being normalized and other individuals with developmental disabilities.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2397-80 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 110-80 Consumer Protection and Commerce on S.B. No. 1171

The purpose of this short form bill is to review and improve Hawaii's landlord tenant code.

During a public hearing on this bill, your Committee received testimony from the Office of Consumer Protection stating that pursuant to your Committee's interim request, they would be submitting a report on proposed legislative changes to the Landlord-Tenant Code in a few weeks.

Your Committee has received the report from the Office, and has amended S.B. 1171 in consonance with the report. Inasmuch as your Committee intends to hold a public hearing on S.D. 1 of this bill, the bill will be recommitted to your Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 111-80 Consumer Protection and Commerce on S.B. No. 1996-80

The purpose of this bill is to amend Section 26-9 to authorize the Director of Regulatory Agencies to increase or decrease certain fees assessed or charged by the boards and commissions placed within the Department for administrative purposes to maintain a reasonable relation between the revenues derived from the fee, and the cost or value of services rendered. Additionally, the bill allows the Director to establish separate fees for application, examination, and licenses for the professional and vocational licenses granted by the various boards and commissions. Finally, the bill makes "housekeeping" changes to delete the Board of Photography, which ceased to exist pursuant to Act 70, SLH 1977, as a board placed within the Department for administrative purposes, and to delete language stating that the Director shall be the State fire marshal, in accord with the deletion of this duty by Act 241, SLH 1978.

Your Committee received testimony from the Director of Regulatory Agencies in support of this administration bill (0-11 (80)). The Director stated that many of the current fees assessed by the boards and commissions which are set by statute were established or last amended over ten years ago. Granting the Director the power to change these fees by rule would obviate the time and expense of legislative amendment, free the boards from this ministerial function, and enable fees to be established on a more uniform, equitable basis.

The provision authorizing the Director to establish separate application, examination, and licensing fees would maintain a more accurate relation between revenues derived from the fee and the cost of services rendered, and provide a more equitable treatment of license applicants. For example, if fees are separated, an applicant not meeting the requirements for examination need only pay an application fee, and a candidate who fails the exam need not pay a license fee.

In his testimony, the Director stated that since these fee changes will be made in compliance with Chapter 91 and subject to approval by the Governor, adequate safeguards from arbitrary action have been provided. Additionally, the Director stated that prior to the introduction of the bill, he solicited comments from each board on this proposal and received favorable reaction.

Your Committee also received testimony from the Construction Industry Legislative Organization's Consumer Affairs Committee in favor of S.B. No. 1996-80. CILO's Consumer Affairs Committee expressed the concern that since revenues from fees in excess of administrative costs are deposited into the general fund, those professional and vocational groups with license or other fees which are set at excessive rates are in effect subsidizing the regulation of other businesses.

During a public hearing held on S.B. No. 1996-80, your Committee also took testimony on another administration bill, S.B. No. 1998-80 (0-14 (80)), which amends the same Hawaii Revised Statutes section as does S.B. No. 1996-80. Although a majority of the individual statutes dealing with the Department of Regulatory Agencies and its 33 boards and commissions provide for rule making powers, a number of those enacted prior to the enactment of Chapter 91 do not expressly grant the Director those powers. S.B. No. 1998-80 would clarify the Director's power to adopt rules for all such boards.

Your Committee has amended S.B. No. 1996-80 to include the provisions of S.B. No. 1998-80. Technical, nonsubstantive amendments have been made.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1996-80, as amended herein, and recommends that it pass Second

Reading in the form attached hereto as S.B. No. 1996-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 112-80 Consumer Protection and Commerce on S.B. No. 2079-80

The purpose of this bill is to make void any provision in a mortgage instrument on real property which requires an increase in rate of interest, immediate payment of the mortgage, a consent fee or any similar provision when the mortgagor enters into an agreement of sale.

Your Committee received testimony which indicated that this bill may interfere with government sponsored loans; therefore, your Committee has amended this bill by adding on line 5, page 1, the phrase "Except for programs funded by any government agency."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2079-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2079-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 113-80 Consumer Protection and Commerce on S.B. No. 2133-80

The purpose of this bill is to amend section 433-1, Hawaii Revised Statutes, by deleting the discriminatory term "wives" and replacing it with the term "spouses" with respect to the definition of a mutual and fraternal benefit society.

Presently, the law defines a mutual and fraternal benefit society as any non-profit corporation, unincorporated association, society, or entity organized and carried on for the benefit of its members and their beneficiaries, and to pay benefits in case of sickness, disability, or death of its members or members' wives and children. The bill replaces the word "wives" with "spouses" and deletes the term "fraternal" in the title of Chapter 433.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2133-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 114-80 Consumer Protection and Commerce on S.B. No. 2740-80

The purpose of this bill is to make two changes to Section 416-59, Hawaii Revised Statutes, relating to shares of capital stock without par value of Hawaii corporations.

Your Committee received testimony stating no opposition to this "housekeeping" measure from the Department of Regulatory Agencies.

Subsection (a) has been amended to make explicit that the preferences, voting powers, restrictions, and qualifications of a series of any class of stock without par value shall be set forth in the corporation's articles or determined as provided by Section 416-58, Hawaii Revised Statutes. Subsection (e) has been amended to provide that shares without par value of the same series of any class of stock will have the same dividends, rights on dissolution, preferences, voting powers, restrictions, and qualifications, but that this is not required with respect to the entire class of stock where the class has been divided into a permitted series.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2740-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 115-80 Consumer Protection and Commerce on S.B. No. 2746-80

The purpose of this bill is to enact a new chapter to the Hawaii Revised Statutes to set forth the rights and obligations of manufacturers, sellers, and users of products with respect to liability in case of harm or injury.

The bill has been drafted based on model legislation similar to the "Uniform Product Liability Act" as proposed by the U.S. Department of Commerce.

Your Committee received testimony in favor of the bill from the Office of Consumer Protection, the Hawaii Chapter of the Risk and Insurance Management Society, Inc., and the Hawaii Insurers Council. The Hawaii Insurance Association suggested that this complex bill be accorded a careful legal review and study prior to enactment. The Chamber of Commerce of Hawaii submitted testimony stating that they wished to more carefully consider this comprehensive and complex subject before making comments.

Your Committee respectfully requests the Senate Judiciary Committee to continue further study of this bill inasmuch as the complexity of this subject, and the legal and tort liability ambiguities yet to be clarified regarding the interests of vendors, manufacturers, and consumers, require complete legal review prior to enactment.

One item for attention, as indicated in testimony submitted by the Hawaii Chapter of the Risk and Insurance Management Society, Inc., is Section 6 of the chapter (page 15 of the bill), regarding basic standards of responsibility for product sellers other than manufacturers. The Society's testimony stated: "This section of the Act provides very little in the way of reform for wholesalers, retailers or distributors. It in fact creates a totem pole exposure. Not only is the non-manufacturer liable for its own misconduct, but it may also be found financially responsible for the misdeeds of a manufacturer that is out of business or not subject to judicial process. Under certain circumstances they become guarantors for the manufacturers. For retailers the model bill would codify the so called "deepocket liability."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2746-80 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 116-80 Legislative Management

Informing the Senate that S.C.R. No. 30, S.R. Nos. 132 to 145, Conf. Com. Rep. Nos. 1 and 2 and Stand. Com. Rep. Nos. 96-80 to 115-80 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 117-80 Government Operations and Efficiency on S.B. No. 2197-80

The purpose of this bill is to conform the law relating to purchase of goods from correctional industries to current administrative practices.

Your Committee received testimony from the Department of Social Services and Housing in support of this bill. Present practices for the purchase of products manufactured by state correctional industries have been proved to be more efficient. This bill will allow other departments of the state to purchase the goods directly from DSSH instead of going through the Department of Accounting and General Services. The bill also abolishes the requirement that exceptions to the use of the goods be made by a board consisting of the Director of Social Services, the Director of Finance and the Comptroller. Hereafter, all exceptions will be made by the Director of Social Services.

Your Committee has made a technical amendment to the bill by inserting a Section 2 indicating that Section 354-4, Hawaii Revised Statutes, is being amended and renumbering the original Sections 2 and 3 as Sections 3 and 4, respectively.

Your Committee on Government Operations and Efficiency is in accord with the intent and purpose of S.B. No. 2197-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2197-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 118-80 Health on S.B. No. 398

The purpose of this bill is to remove the present prohibition of the sale of prophylactics in vending machines and allow them to be sold under regulation by the Department of Health.

In support of this bill the Department of Health personnel and community members cited the problems of sexually transmitted diseases and high levels of teenage pregnancy and abortion in Hawaii. The easy accessibility to safe, non-prescription methods of contraception can

reduce the trauma of unwanted pregnancies, demand for abortion, and spread of venereal disease.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 398 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Campbell and Saiki.

SCRep. 119-80 Judiciary on S.B. No. 1860-80

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, Kuroda, Ushijima, Carroll and Saiki.

SCRep. 120-80 Judiciary on S.B. No. 1974-80

The purpose of this act is to provide supplementary judiciary appropriations for the fiscal biennium beginning July 1, 1979, and ending June 30, 1981.

Upon your Committee's review of the proposed supplementary appropriations for judiciary operations, the following action has been taken on the items as indicated:

Court Operations.

1. Circuit Court. (JUD 111)
 - A. First Circuit. No change. All items have been found to be justified.
 - B. Third Circuit. No change. All items have been found to be justified.
2. Family Courts. (JUD 112)
 - A. Third Circuit. No change. All items have been found to be justified.
3. District Courts. (JUD 121)
 - 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. All Circuits. No change. All items have been found to be justified.

Support Services.

1. Administrative Director Services. (JUD 201) No change. All items have been found to be justified.
2. Driver Education and Training. (JUD 221) No change. All items have been found to be justified.
3. Criminal Justice Information System Data Center. (JUD 231) No change. All items have been found to be justified.

In addition, your Committee has reviewed the proposed appropriation increases in the capital improvement projects originally stipulated in Section 11 of Act 208. These projects are organized under the title of Administrative Director Services (JUD 201) of the Judiciary. All appropriations have been found to be justified and are listed below:

Program and Capital Projects.

1. State Judiciary Complex, Oahu. No change. The increase reflects the construction and equipment costs for the State Judiciary Complex. Last year's budget only included funds for land acquisition.
2. Honolulu District Court, Oahu. No change. The increase provides additional funds necessary for the purchase of the site.

3. Remodeling and Upgrading Judiciary Buildings, Statewide. No change. The increase reflects additional funding needs for design, construction, and equipment.

4. Renovation of Lahaina District Court, Maui. No change. The increase provides funds for the renovation and furnishing of the Lahaina Courthouse.

5. New Capital Projects.

Two capital projects not appearing on last year's budget are proposed in this bill's capital improvement project section. The Wailuku Judiciary Complex located at the Wailuku Civic Center is to consist of the Wailuku District Court and Second Circuit Court. Appropriations for design of this complex are found to be justified.

The second additional capital project for this year consists of renovating the judiciary facilities located in the Hilo State Office Building for the purpose of expanding this facility. The appropriation for the expansion of the Hilo judiciary facilities is found to be justified.

The cost of both the additional and new appropriations for capital improvement projects amount to the sum of \$35,663,000. This total replaces last year's CIP sum of \$5,339,000, as shown in Section 4 and Section 5 of this bill and will be funded by general obligation bonds.

New language is added to Section 6 of this bill to designate the period during which the supplemental appropriations amounts as described herein will be reserved for use. Any supplemental "appropriations made to be expended in fiscal year 1980-81 which are unencumbered as of June 30, 1983 shall lapse as of that date."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1974-80 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 Campbell, Chong and Saiki.

SCRep. 121-80 Judiciary on S.B. No. 2882-80

The purpose of this bill is to increase witness fees for per diem attendance and per mile travel. The present fees were set in 1972 and are not appropriate, considering inflation, for the 1980's.

S.B. No. 2882-80 would increase a witness' fee from \$4 per day to \$10 per day and from 20 cents per mile to 30 cents per mile for each mile actually travelled. For witnesses travelling from an outer island, the fee would be \$12 for each day and 30 cents for each mile actually travelled on the ground in addition to the cost of a round trip plane ticket.

This bill has been amended to delete the words "or ship" from page 1, line 12. Current travel between the islands is by plane and not ship thereby eliminating the need for specifying this type of outdated cost.

Your Committee on Judiciary is in accord with the intent and purposes of S. B. No. 2882-80 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2882-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 122-80 Judiciary on S.B. No. 2986-80

The purpose of this bill is to appropriate the sum of \$212,300, or so much thereof as may be necessary, out of the general revenues of the State, to the Office of the Lieutenant Governor for the purpose of defraying the expenses of the 1981 reapportionment commission, including the hiring of necessary staff.

Article IV, Section 1 of the Hawaii State Constitution designates 1981 a reapportionment year. In 1979, the legislature amended Chapter 25, Hawaii Revised Statutes, to conform to certain changes to the Hawaii State Constitution proposed by the Constitutional Convention of 1978, and ratified by the voters on November 8, 1978. These changes pertain to reapportionment of the members of the State legislature and Hawaii's congressional districts for the United States House of Representatives.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2986-80, 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 Campbell, Chong and Saiki.

SCRep. 123-80 Legislative Management

Informing the Senate that S.R. Nos. 146 to 155 and Stand. Com. Rep. Nos. 117-80 to 122-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 124-80 Consumer Protection and Commerce on S.B. No. 2098-80

The purpose of this bill is to amend the Commercial Employment Agencies Law by increasing the bond requirement for an agency from \$5,000 to \$10,000, and by reducing from two years to one year, the requirement that an agency keep records as required by the Department of Labor and Industrial Relations.

Your Committee received testimony from the State Department of Labor and Industrial Relations opposing the reduction of the recordkeeping requirement inasmuch as it would reduce the availability of records for compliance and complaint investigations.

Your Committee also received testimony from the Hawaii Association of Personnel Consultants and the Hawaii Business League in favor of both amendments.

Your Committee has amended the bill to keep the two year requirement on recordkeeping. Other non-substantive amendments have been made.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2098-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2098-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 125-80 Consumer Protection and Commerce on S.B. No. 2175-80

The purpose of this bill is to amend Section 231-15, Hawaii Revised Statutes, to provide that the Department of Taxation may prescribe forms and issue regulations relating to signatures required on tax returns and tax statements, and to amend Section 235-62 to allow the usage of computer printouts for returns submitted.

The Department of Taxation submitted testimony in favor of this administration bill (Q-3(80)) stating that the amendments proposed in the bill will allow banks to file computer printouts for payroll reports for their clients. Although the Internal Revenue Service allows and encourages the submission of computer magnetic tapes for federal payroll taxes, the State does not have the facility to read these tapes.

Allowing the filing of computer printouts would be a service to banks and their clients, and would eliminate some clerical work for the Department of Taxation.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2175-80, 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. 126-80 Consumer Protection and Commerce on S.B. No. 2188-80

The purpose of this bill is to amend section 416-11, Hawaii Revised Statutes, to require that the articles of incorporation of a newly created corporation shall have a specific street address, and that the initial officers and directors shall list their residence addresses. Presently, the section allows new corporations and directors and officers to state a mailing address.

Your Committee received testimony from the Department of Regulatory Agencies stating no objection to the bill, but expressing concern that no specific street address is available in some rural areas of the State. The City Council submitted testimony in favor of the bill, stating that locating a corporation's officers and directors is timely and costly since Federal law prohibits providing information regarding identifying the personal owner of the post office number.

Your Committee has amended the bill to allow rural corporations operating out of remote areas to use their mailing addresses inasmuch as specific street addresses would not be available.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2188-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2188-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 127-80 Consumer Protection and Commerce on S.B. No. 3094-80

The purpose of this bill is to amend Section 515-5, Hawaii Revised Statutes, to include marital status as a basis for non-discrimination in real estate financing transactions.

Presently, it is a discriminatory practice for a financial institution or other lender to discriminate against an applicant in an application for the financing of real estate because of race, sex, color, religion, ancestry, or a physical handicap. The bill would add "marital status" to this list.

The bill also provides that an inquiry of marital status for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit (not to discriminate in a determination of credit worthiness), as allowed under the Fair Credit Extension Act (section 477E-3, Hawaii Revised Statutes) is excepted from the Discrimination in Real Property Transactions Act. Also excepted from the Discrimination in Real Property Transactions Act is a request for the signature of both parties to the marriage for legal purposes (not for determining credit worthiness) as allowed under the Fair Credit Extension Act.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 3094-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 128-80 Education on S.B. Nos. 2243-80, 2244-80, 2288-80, 2289-80, 2338-80, 2475-80, 2476-80, 2477-80, 2479-80, 2480-80, 2510-80, 2511-80, 2565-80, 2566-80, 2567-80, 2568-80, 2596-80, and 2597-80

The purpose of these bills is to appropriate funds as well as to authorize the issuance of general obligation bonds for various school facilities and projects.

Your Committee on Education is in accord with the intent and purposes of S.B. Nos. 2243-80, 2244-80, 2288-80, 2289-80, 2338-80, 2475-80, 2476-80, 2477-80, 2479-80, 2480-80, 2510-80, 2511-80, 2565-80, 2566-80, 2567-80, 2568-80, 2596-80, and 2597-80 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. 129-80 Education on S.B. Nos. 2336-80 and 2395-80

The purpose of these bills is to appropriate funds for various library facilities and purposes.

Your Committee on Education is in accord with the intent and purpose of S.B. Nos. 2336-80 and 2395-80 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. 130-80 Education on S.B. No. 2626-80

The purpose of this bill is to appropriate funds to provide library services, books, supplies, personnel and equipment for the Kihei community library on Maui.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2626-80 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. 131-80 Education on S.B. Nos. 2136-80, 2137-80, 2138-80, 2139-80, 2140-80, 2141-80, 2142-80, 2224-80 and 2506-80

The purpose of these bills is to appropriate funds for various school and library facilities and projects. Your Committee has amended these bills by adding the sum of \$1.00 to each bill so that the determination of the exact sums may be considered in the proper committee.

Your Committee on Education is in accord with the intent and purposes of S.B. Nos. 2136-80, 2137-80, 2138-80, 2139-80, 2140-80, 2141-80, 2142-80, 2224-80, 2506-80, as amended herein, and recommends that they be referred to the Committee on Ways and Means in the forms attached hereto as S.B. Nos. 2136-80, S.D. 1; 2137-80, S.D. 1; 2138-80, S.D. 1; 2139-80, S.D. 1; 2140-80, S.D. 1; 2141-80, S.D. 1; 2142-80, S.D. 1; 2224-80, S.D. 1; 2506-80, S.D. 1.

Signed by all members of the Committee.

SCRep. 132-80 Ways and Means on S.B. No. 2319-80

The purpose of this bill is to permanently place the Hawaii criminal justice information data center within the department of the attorney general for administrative purposes, effective July 1, 1981.

Pursuant to Senate Concurrent Resolution No. 123, adopted in 1979, the state law enforcement planning agency and the statistical analysis center conducted a study to determine the proper placement of the data center. The study recommended that the data center be placed within the department of the attorney general for administrative purposes, effective July 1, 1981. The date of transfer was chosen to be in concert with the State's biennium budget period.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2319-80 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 133-80 Consumer Protection and Commerce on S.B. No. 2081-80

The purpose of this bill is to amend Section 431-538(b), Hawaii Revised Statutes, so that the rate of interest that can be charged on life insurance policy loans can be increased from the present six per cent to any prescribed rate as may be agreed upon.

Testimony by the Department of Regulatory Agencies indicated that this change is ambiguous and may result in unfair discrimination. Additionally, various members of the insurance industry testified that a ceiling should be placed on the interest rate rather than leaving it open. The insurance industry also stated that the change in interest rates would enable insurance companies to lower the policy rates or to pay higher dividends to the policyholder.

Your Committee adopted the recommendations of the Department of Regulatory Agencies and insurance industry by amending the bill in the following manner:

1. By changing the maximum interest rate on a life insurance policy loan from six to eight per cent, and by deleting the phrase "any prescribed rate as may be agreed upon".
2. By inserting in Section 1 on page 1, line 11, the following phrase: "If the policy shall provide for a rate of return in excess of six per cent a year, the insurance commissioner may require assurances by the insurers that the holders of such policies will benefit through higher dividends or lower premiums."
3. By deleting a superfluous reference to subsection "(b)" in line 14, page 2 of the bill.
4. By amending Section 2 to provide that this bill will have no effect on existing policy loans.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2081-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2081-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda, O'Connor, Carroll and Yee.

SCRep. 134-80 Consumer Protection and Commerce on S.B. No. 2214-80

The purpose of this bill is to provide for the consolidation of the administration of the State's insurance laws into a single State departmental division.

Presently, the State's insurance laws are regulated by two State departmental divisions. Motor vehicle insurance is regulated by the Motor Vehicle Insurance Division, headed by a commissioner of motor vehicle insurance. All other insurance is regulated by the Director of Regulatory Agencies as the State's insurance commissioner. While both programs are housed in the Department of Regulatory Agencies, the Motor Vehicle Insurance program is attached to the Department of Regulatory Agencies for administrative purposes only.

This dual organizational structure was established by the Legislature in 1973 when it adopted the present motor vehicle nofault insurance laws (Act 203, SLH 1973). The reason for the establishment of a separate division for motor vehicle insurance commissioner as stated in Senate Conference Committee Report No. 28, for Act 168, SLH 1974, was to address the need for active, aggressive leadership devoted to the full implementation of the Act and nofault program.

Your Committee received testimony in favor of this Administration bill (03(80)) from the Department of Regulatory Agencies. The Department stated that since almost seven years have elapsed since the passage of Act 203, SLH 1973, the nofault program has been implemented and stabilized; regulation of the nofault program, as well as of insurance in general, now would be more appropriate if accomplished by a single agency.

Your Committee also received testimony in favor of this bill from Hawaii Chapter of the Risk and Insurance Management Society, inc., the Hawaii Insurance Association, and The Hawaii Insurers Council.

Your Committee has amended the bill to provide that the incumbent motor vehicle insurance commissioner become the new assistant insurance commissioner with the responsibility of supervising the new consolidated insurance division, and that the appointive power of the insurance commissioner become effective only after the incumbent's term of office expires. This amendment was recommended by the Director of Regulatory Agencies.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2214-80, S.D.1, as amended herein, and recommends that it pass Second Reading and in the form attached hereto as S.B. No. 2214-80, S.D.1, be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda, O'Connor, Carroll and Yee.

SCRep. 135-80 Human Resources on S.B. No. 1988-80

The purpose of this bill is to give public employees who are on leaves of absence the option of: (1) utilizing sick leave credits to supplement their weekly workers' compensation benefits to equal regular pay; or (2) to receive only the prescribed amount of their weekly workers' compensation.

Under present statutes and due to a recent ruling by the Attorney General, a public employee who is on industrial injury leave is required to use sick leave credits together with his workers' compensation wage loss replacement benefit so that he collects an amount equal to his regular pay. Some employees, however, prefer to collect just their weekly workers' compensation benefits (equivalent to 66 2/3 per cent of their regular salary), and to accumulate sick leave credits for possible later use. This bill allows a public employee to determine how he will draw benefits while on industrial injury leave.

Your Committee further finds that this bill does not deny or remove any benefit that a public employee has already earned, but merely allows the employee to choose whether or not to supplement his workers' compensation benefits with accumulated sick leave credits.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1988-80 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 O'Connor.

SCRep. 136-80 (Majority) Human Resources on S.B. No. 2048-80

The purpose of this bill is to (1) allow the department of labor and industrial relations to effectively prosecute certain unemployment insurance fraud cases as class C felonies; and (2) permit the department of labor to take criminal action against an employee as well as impose the two-year unemployment benefit disqualification in cases of fraud.

Your Committee finds that under present statutes, if an individual knowingly makes a false statement or misrepresentation to obtain unemployment benefits, or knowingly fails to disclose a material fact, each false statement, false representation, or non-disclosure of material fact constitutes a separate offense.

Therefore, an individual who fraudulently files a series of weekly claims may escape a felony charge on the ground that each weekly claim constitutes a separate offense and the amount of benefits paid for each week was less than the \$200 necessary for a class C felony charge; he can be charged at most with a misdemeanor. This is possible because presently, the maximum weekly benefit amount a claimant can receive is less than \$200 a week.

Your Committee further finds that currently, no fine or imprisonment can be imposed in unemployment insurance fraud cases in which a two-year unemployment benefit disqualification has already been determined. This bill enables the department of labor to effectively prosecute by allowing the department to take criminal action against an individual under section 708-831, Theft in the First Degree, Hawaii Penal Code; additionally, the department may impose the two-year unemployment benefit disqualification under section 383-30(5), Disqualification of Benefits, Employment Security Law.

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

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2048-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2048-80, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee. Senator Abercrombie did not concur.

SCRep. 137-80 Human Resources on S.B. No. 2055-80

The purpose of this bill is to provide \$10,304 for the continuation of chore services for the elderly at Hale Mahaolu housing project in Kahului. These services are currently being performed by handicapped trainees and workers from Maui Rehabilitation Center.

Your Committee finds that there are many elderly persons living at Hale Mahaolu who are unable to care for themselves or to perform such routine tasks as housekeeping, shopping, and personal hygiene. To alleviate the situation, the Maui Rehabilitation Center trains an average of five handicapped members per month to provide chore services for these elderly. The project is unique because it provides job training and paid employment for the handicapped of Maui Rehabilitation Center as well as a needed service to the elderly at Hale Mahaolu. The chore services which are provided allow the elderly to remain at their own residence; an alternative to the financial and emotional cost of institutionalization. At the same time, these services provide needed job training and employment for an average of five handicapped individuals per month, making it possible for them to gain outside, competent employment.

Your Committee further finds that the program is funded through a Purchase of Service Contract between Maui Rehabilitation Center and the Department of Social Services and Housing, utilizing Federal Title XX moneys requiring only a 25 per cent match of State funds.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2055-80 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 O'Connor.

SCRep. 138-80 Human Resources on S.B. No. 2103-80

The purpose of this bill is to provide \$60,000 for the continuation of group home treatment for deaf-blind multi-handicapped children in Hilo, Hawaii. This service is currently being provided by the Hilo Association for Retarded Citizens (HARC).

Your Committee finds that multi-handicapped, mentally retarded children who have

little or no vision and little or no hearing need very special care and training, as well as health and maintenance services. In the group home treatment setting provided by HARC, these children develop self-help skills, communication skills, and mobility training. Upon the completion of treatment, these children will be able to return to their families and live in their own community.

Your Committee further finds that if no group home treatment program is available on the big island, the children will have to be transported to Waimano Training School on Oahu, away from their families and at great cost to the State.

Your Committee has made nonsubstantive, technical amendments to this bill.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2103-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2103-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 139-80 Human Resources on S.B. No. 2165-80

The purpose of this bill is to provide for felony prosecution for the intentional submission of any false statement, representation, or claim to the Medical Assistance Program (Medicaid).

Your Committee finds that the submission of false information to the Medicaid Program for the purpose of obtaining benefits or furnishing services and supplies is a serious breach of the public's confidence. Presently, these abuses in the Medicaid Program are prosecuted as thefts under the Hawaii Penal Code. Felony prosecution under the Penal Code is difficult, as the value of stolen property must exceed \$200. The majority of Medicaid claims are often less than twenty dollars, and out of this sum, the amount that is fraudulently obtained may amount to less than five dollars. In order for one party to be prosecuted for a felony crime, numerous claims with misrepresentations are required for justification of a felony. This bill resolves this problem by providing for class C felony prosecution for Medicaid fraud.

Your Committee further finds that Medicaid crime should not depend on whether the scheme was successful and a claim paid, but should be based upon the knowing and wilful submission of any fraudulent statement for the purpose of receiving money or benefits. This bill also accomplishes this end.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2165-80 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 140-80 Human Resources on S.B. No. 2172-80

The purpose of this bill is to amend Chapter 346 (concerning the licensure of independent group residences) in order to facilitate the receipt of federal housing supplements under the Section 8 Housing Assistance Payments Program by the elderly, handicapped, or disabled individuals who live in an independent group residence.

U.S. Department of Housing and Urban Development (HUD) regulations specify that a state agency must license, certify, or provide approval of the group living facility in order for individuals to receive such supplements.

This bill defines the terms "independent group residences", "resident assistant", and "supportive services" and provides for the rules, regulations, and licensure of independent group residences by the department of social services.

This bill is amended to include an appropriation of \$20,000 for personnel and equipment costs which will be incurred in establishing regulations to license, monitor, and coordinate the HUD program, public housing agencies, and private organizations. The expending agency shall be the department of social services and housing. HUD will provide funds for the Section VIII program and the State must provide the funds to administer and implement the program.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2172-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2172-80, S.D. 1, and be referred to the Committee on

Ways and Means.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 141-80 Human Resources on S.B. No. 2240-80

The purpose of this bill is to amend the State's pension and retirement systems law to increase retirement bonuses to enable retirees to maintain an income level more consistent with today's economy by providing them with an additional special cost of living bonus.

Your Committee finds that in the past, there have been legislative attempts to alleviate the effects of the rising cost of living on retirees who must subsist on limited incomes.

Regular bonuses were first paid to all pensioners in 1945 to supplement the benefits that were being received by retirees. (This was amended in 1953 to require a minimum of ten years of credited service before a retiree became eligible to receive the bonus.)

In 1961, the legislature provided for a 1.5 per cent post retirement benefit based on the 1.5 per cent cost-of-living increase. This benefit was an automatic annual increase of 1.5 per cent to the pensioner's basic retirement allowance. In 1970, this post retirement benefit was increased by the legislature to the current 2.5 per cent level.

Because the regular and post retirement bonuses were insufficient to keep up with inflation, a special cost-of-living bonus was provided, and was first payable on January 1, 1966. This bonus was based on the monthly retirement allowance only, and was payable to those who retired prior to July 1, 1965.

On July 1, 1974, a new group of pensioners became eligible to receive the cost-of-living bonus. This group consisted of those pensioners who retired between July 1, 1965 and June 30, 1970, and who were receiving a retirement allowance on June 30, 1974.

These aforementioned legislative attempts have been insufficient to offset the rate of inflation and the effects of inflation on pensioners. Your Committee notes that the salaries on which certain pensioners' retirement benefits were computed are considerably less than that of other persons who retired in later years.

For example, for a teacher who retired in 1965, the average final compensation upon which his pension was computed is at least three and a half times less than that for a teacher who retired in 1979 (\$500 vs. \$1800).

This bill brings the incomes of pensioners to a level closer in line with today's actual cost of living in recognition of the considerably lower salaries of those pensioners who retired in earlier years, and their many years of dedicated government service.

Your Committee has amended this bill by redistributing the periods of retirement to encompass a total of four categories of retirees:

<u>Retirement Year</u>	<u>Amt. per month for each year of service</u>	<u>Cost</u>
Prior to 7/1/65	\$5	\$2,337,660
7/1/65-6/30/70	\$4	\$3,046,706
7/1/70-6/30/75	\$3	\$3,002,227
7/1/75-6/30/79	\$2	\$2,034,408

Your Committee feels that the addition of the \$3 per month provision is more in keeping with a fair, graduated bonus scale.

According to the Department of Budget and Finance, Employees Retirement System, the total annual cost for the cost of living bonuses provided by this measure is \$10.4 million.

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

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2240-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2240-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 142-80 Human Resources on S.B. No. 2241-80

The purpose of this bill is to permit a public employee to accept an appointive position in any agency or department of the State, its political divisions, or the federal government without the loss of civil service rights and benefits. Additionally, a public employee is accorded return rights to his former position or a substantially similar position upon completion of the leave of absence.

Your Committee finds that current statute, department rules, and collective bargaining contracts permit leaves of absence similar to that contained in this bill, but these leaves are limited to government jurisdictions (an employee in the executive branch may take a leave to work in the legislative or judicial branch, for instance), or for special work projects or programs in other agencies or departments. In most instances, an employee in the classified service is reluctant to take a leave of absence from his regular job to assume an appointive position in another political subdivision (State, county, or federal government) due to the attendant loss of his rights and benefits as a classified worker. This Act permits such a leave of absence without any loss of the employee's rights and benefits and accords the employee certain return rights upon completion of the leave.

Your Committee further finds that this bill allows for the utilization of specialized employee talent in positions where his particular knowledge or skill can be most effective for the public good.

Your Committee has amended this bill by substituting the phrase "civil service regular employee" for "public employee" to limit its applicability to regular, tenured employees. Your Committee feels that a non-permanent employee should not be covered under this Act.

Your Committee has further amended this bill by imposing a four year time limit on the duration of these leaves, with a provision to extend leaves for four additional years upon the discretion of the director of personnel services.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2241-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. NO. 2241-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 143-80 Human Resources on S.B. No. 2398-80

The purpose of this bill is to appropriate \$532,500 out of the State general fund for the expansion of pre-vocational and day activity programs throughout the State.

Your Committee finds that these agencies offer training programs to adults with developmental disabilities. These persons receive training in daily living skills and work skills (day activity training programs) and also prepare the person for vocational placement (pre-vocational programs).

The Department of Education (DOE) offers similar training programs to developmentally disabled persons under the age of twenty. At age twenty, these persons graduate from the DOE's program, and some qualified graduates are provided more advanced training by the Division of Vocational Rehabilitation of the Department of Social Services. However, many DOE graduates do not have sufficient training and living skills to qualify for the DSSH vocational rehabilitation program and are left with no other alternative than to stay home. This gap in services is counter-productive to the learning and progress these individuals have made while they were in the DOE program. Your Committee recognizes the need for more training programs for the adults in this gap group. There is a current waiting list of 123 persons in need of services, and this list will increase to 213 persons with the addition of this year's graduates from the DOE program and community placements from Waimano Home. This bill will allow the existing private agencies to expand their training programs to accommodate those persons on the waiting list at a yearly per client cost of \$2,500.

Your Committee intends for the moneys appropriated by this bill to be used specifically for the purpose of reducing the waiting list, and not for the purposes of establishing or funding new training programs within the service agencies.

Your Committee has amended this bill to correct the misspelled word "developmentaly" in the title.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2398-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2398-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 144-80 Human Resources on S.B. No. 2101-80

The purpose of this bill is to provide \$80,000 for the insulation of the ceiling for the Hilo Vocational Rehabilitation Center building at Hilo, Hawaii.

Your Committee finds that ceiling repairs are necessary at the Rehabilitation Center in order to resolve a high temperature problem. In November of 1977, the insulation material which was attached to the steel ceiling started falling off in the workshop, shipping and carpentry rooms. The falling material varied from dusty particles to 2" by 36" pieces, posing definite health and safety hazards. Therefore, in March of 1978 the entire insulation material was removed, but this caused the temperature at the Center to increase to 95 degrees fahrenheit. This increase in temperature creates unsafe working conditions, and affects the health of the workers and clients.

Your Committee further finds that the repair of the Center's ceiling will prevent potential economic hardship the facility may face in the event that worker's compensation claims are filed by employees who may be injured on the job due to the present working conditions.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2101-80 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 O'Connor.

SCRep. 145-80 Human Resources on S.B. No. 2234-80

The purpose of this bill is to extend the State Comprehensive and Employment Training (SCET) component of the State Program for the Unemployed (SPU) through June 30, 1981.

In 1975, the Legislature found that immediate action was needed to reduce the high unemployment level in the State and established the State Program for the Unemployed under Act 151-75 to help meet these needs.

Because unemployment was still high in 1976, additional resources were authorized for temporary employment as a short-term measure to reduce the impact of the high rate of unemployment. This program has been extended on a year to year basis by amending Act 151-75.

Your Committee finds that since the inception of this program, more than 4,700 unemployed and underemployed persons have participated in the SCET program. Additionally, labor market conditions in Hawaii have shown improvements since 1976.

Your Committee further finds that despite periods of low unemployment, there are certain groups who still encounter barriers to obtaining employment. Many of these individuals live in isolated areas where job opportunities are limited, and although statewide unemployment has eased, there are certain subareas of the State where unemployment is still high.

For example, although the City and County of Honolulu reflected a 6.9 per cent unemployment rate through the first quarter of 1979, the rate was as high as 15.7 per cent in Haleiwa, and 15.3 per cent in Nanakuli.

This trend was also reflected on the neighbor islands.

Kailua Village, County of Hawaii had a 23.5 per cent figure, the island of Molokai 14.5 per cent, and the unemployment rate in Puhī-Hanamāulu, County of Kauai was 10.6 per cent.

Your Committee intends under this Act that the Director of Labor and Industrial Relations shall have the authority to concentrate the efforts of the State Program for the Unemployed to subareas with higher rates of unemployment.

According to the department, the cost for continuing this program is \$3.5 million, and your Committee has amended this bill to reflect this cost.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2234-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2234-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 146-80 (Majority) Human Resources on S.B. No. 2375-80

The purpose of this bill is to add a new section to the Veterans Rights and Benefits statute that would provide for an annual State authorized appropriation of \$100,000 to the following:

(1) veterans cemetery, County of Hawaii	\$25,000
(2) veterans cemetery, County of Kauai	25,000
(3) veterans cemetery, County of Maui	25,000
(4) veterans cemetery, County of Molokai	25,000
	<u>\$100,000</u>

Your Committee finds that the State currently authorizes an annual appropriation of \$12,500 to the Counties for the operation and maintenance of their respective veterans cemeteries. The projected costs for the operation and maintenance of these cemeteries for the next fiscal year is expected to reach \$25,000 for each of these cemeteries. This bill will allow the counties to continue to operate and maintain these cemeteries.

Your Committee has amended this bill by correcting the spelling of "veterens" on page 1, line 12 and by making other technical nonsubstantive changes.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2375-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2375-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator O'Connor.
Senator Abercrombie did not concur.

SCRep. 147-80 Human Resources on S.B. No. 2538-80

The purpose of this bill is to appropriate \$1,200,000 out of the general revenues of the State for the final construction of the facilities for the extended workshop through Goodwill Industries of Honolulu at Shafter Flats in Mapunapuna.

Your Committee finds that during the past decade, the legislature appropriated \$1,230,000 for the design, acquisition of land, and the initial construction of the facility. This bill's appropriation provides funds for the final construction of the extended shelter workshop.

Your Committee further finds that the services of Goodwill Industries have been directed toward helping the disabled and the handicapped in finding and maintaining gainful employment. An eighteen-month training schedule is usually provided for each trainee. The schedule includes training activities in real-life skills, maintaining personal and social habits appropriate for employment, and preparation for entry and retention in a specific vocation.

From July 1978 to November 1979, Goodwill Industries claimed a 91 per cent retention rate for trainees finding gainful employment in the community and maintaining their vocational positions. No other similar extended sheltered workshop in Hawaii can claim such a high retention rate.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2538-80 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 O'Connor.

SCRep. 148-80 Human Resources on S.B. No. 2605-80

The purpose of this bill is to appropriate \$165,000 out of the State general fund for the planning and construction of the Kaneohe Multi-purpose senior citizens' center.

The Kaneohe senior citizens' center is operated by a volunteer council that is dedicated

to assisting senior citizens in meeting their recreational, health and other needs. The center is tremendously popular with senior citizens in the Kaneohe area, and services to these senior citizens has greatly increased as a result of the interest in the center.

The construction of the Kaneohe multi-purpose center is incomplete. The City and County of Honolulu has been financing the construction, but additional funds are needed to complete the center.

Your Committee feels that the Kaneohe senior citizens' center is providing vital services to senior citizens in the Kaneohe area. The maximum possible benefit of this center can only be accomplished by its completion.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2605-80 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 O'Connor.

SCRep. 149-80 Human Resources on S.B. No. 2809-80

The purpose of this bill is to provide for an occupational information coordinating committee to develop an occupational information system for planners and to deliver career information to students, trainees and job seekers by the Department of Labor and Industrial Relations.

The Hawaii State Occupational Information Coordinating Committee (HSOICC) has been mandated by federal law and should be provided for in Hawaii law so that its work may be implemented as an ongoing practice. The HSOICC and its advisory committees are made up of a number of agencies and boards. A Hawaii occupational information system is to be developed so that a standard set of demand and supply data and projections can be used for training, education and employment program planning. The HSOICC should manage, and the Department of Labor and Industrial Relations operate, a career information delivery system which uses this data.

Your Committee has made amendments to the bill on page 3, lines 3 and 4, and on page 4, lines 5 and 6. After the word "committees" the phrase "shall have managerial authority for their overview, policy, and resource allocation." has been deleted and a new phrase added to read as follows: "shall provide a form for integrating occupational information into program planning."

The purpose of the amendment to the bill is to clarify the language concerning the authorities of the HSOICC to coordinate the integration of occupational information into program planning.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2809-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2809-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 150-80 Human Resources on S.B. No. 2844-80

The purpose of this bill is to appropriate \$90,000 out of the State general fund for the operation of the Kapahulu Multi-purpose senior center in Kapahulu, Oahu.

The purpose of the center is to provide outreach, recreational, health, educational, and coordinating services for senior citizens. At one time, the center was coordinated by the State's Manpower Training Office. Last year, the legislature appropriated \$50,000 to the center and placed the center under the Executive Office on Aging. The center is funded solely by the State.

Your Committee finds that this bill allows for the continuation and expansion of services to the elderly by providing for the present personnel and operating costs of the staff of the center and the costs of an additional recreational service coordinator and educational aide.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2844-80 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 O'Connor.

SCRep. 151-80 Judiciary on S.B. No. 2329-80

The purpose of this bill is to clarify and update obsolete wording and to expand upon the exclusions from deferred acceptance of guilty pleas (DAG) in section 853-4, Hawaii Revised Statutes.

Under the proposed bill, DAG pleas shall not be granted where the defendant (1) has used a firearm in the commission of the offense charged, (2) is charged with distribution of a dangerous, harmful, or detrimental drug, (3) has previously been granted a DAG plea and is charged with a misdemeanor, or (4) has previously been granted a DAG plea and is charged with a felony whether or not the deferral period has expired.

These additions to the present law better define and expand upon the kinds of serious and violent types of crimes which exclude DAG pleas.

Your Committee has amended this bill by deleting proposed number (13) beginning on page 3, line 20, which would have explicitly listed certain types of crimes which would deny a DAG plea to a defendant. This list of offenses has been deleted because section 853-4, Hawaii Revised Statutes, as presently written, sufficiently describes in general terms the kinds of crimes spelled out in number (13) of section 1 of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2329-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2329-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 152-80 Judiciary on S.B. No. 2865-80

The purpose of Senate Bill No. 2865-80 is to allow the court, where a final judgment awards money damages against the State or the counties in a tort action, the ability to award the payment of such judgment not only in a lump sum but also by periodic payment.

Your Committee is made aware that the smaller counties are beset with the possibility of having judgments awarded against them which may exceed the ability of such counties to raise the money to pay such awards in a given fiscal period.

Senate Bill No. 2865-80 addresses that problem by allowing the court to award periodic payments in lieu of a lump sum payment. Clearly, such procedure is merely enabling and not mandatory upon the court. We expect that the judges will exercise their reasonable judgment in these matters on a case-by-case basis.

Your Committee has amended the original version of Senate Bill No. 2865-80 (1) to increase the judgment amount to \$500,000 in excess of which the periodic payment option is made available, and (2) to require the claimant's agreement in order for these statutory provisions to be imposed.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2865-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2865-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Carroll.

SCRep. 153-80 Education on S.B. No. 2716-80

The purpose of this bill is to provide an appropriation for positions for four security attendants for public libraries on the island of Oahu. The Department of Education testified that these positions are now being paid for out of SCET funds. Your Committee has amended the bill by inserting the sum of \$1.00 in line 2 until such time as a more definite cost figure can be determined.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2716-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2716-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 154-80 Education on S.B. No. 1933-80

The purpose of S.B. No. 1933, in its original form was to appropriate funds for the establishment of a pilot program in which troubled students between kindergarten and the

12th grade are identified and tracked through their school careers for the purposes of providing suitable educational services and mental health programs as soon as a need is indicated.

Your Committee believes that the original intent of the bill, to follow students through their school careers in order to provide necessary services and programs for the purposes of rehabilitation, is justified. In testimony on S.B. No. 1933, support for the concept of identification and tracking of students was given by the Board of Education, the Hawaii State Teachers Association, and Dr. Char, head of student health services, of the University of Hawaii at Manoa.

Your Committee feels that the original intent of the bill is in keeping with the general public sentiment on the critical need to reduce crimes committed by youth. Studies indicate that the greatest number of violent crimes are committed by youth. By providing a tracking system to identify potentially troubled students, necessary resources can be brought into action in order that rehabilitation of potentially troublesome students can begin.

Your Committee, believing that the original intent of the bill is sound and justifiable on the grounds of saving millions of dollars to the citizens of the state, amends S.B. No. 1933-80 to eliminate the need for a pilot program. Inasmuch as existing resources will be used, there will be no need for an appropriation. Instead, existing programs will be strengthened to identify and follow potentially troubled students. Because of possible negative connotations, the word "tracked" will be removed in favor of "followed".

In addition, in order to provide full and complete programs to all potentially troubled students, currently identified troubled students will be followed so that they may also benefit from rehabilitation services. Your Committee feels that the usage of existing programs and resources as well as the inclusion, for rehabilitation purposes, of currently identified troubled students will prove to be of the greatest economic value to the citizens of our state, as well as foster young men and women who will become productive citizens in the future.

Finally, your Committee finds that if currently available resources are properly coordinated, this program can be fully implemented in a reasonably short time. When all of the resources of all agencies involved with juveniles are coordinated, this program will be implemented to the fullest extent possible. In accord with this belief, the Department of Education, under the direction of the Board of Education, shall be the responsible agency for the implementation and coordination of this program. The Department of Education shall have the full cooperation and support of the Family Court, Departments of Health, Social Services and Housing, and the University of Hawaii including its community college system.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1933-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1933-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 155-80 Transportation on S.B. No. 2002-80

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

Your Committee heard testimony from the Department of Transportation that current law prevents the department from effectively operating a lost and found operation as all recovered items are legally required to be turned over to the county police. Your Committee finds that the present practice conflicts with the more logical procedure of operating an Airport Lost and Found Office in the airport terminal which would allow direct and almost immediate access to the general public.

Your Committee has amended the bill for reasons of style and clarity. These amendments have no substantive effect on the measure.

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

Signed by all members of the Committee.

SCRep. 156-80 Transportation on S.B. No. 2004-80

The purpose of this bill is to permit a boat dealer to move a boat and trailer from the

place of entry into the State to his place of business without a number plate attached to the trailer.

Your Committee heard testimony from the Department of Transportation that boat dealers are subject to and have been cited by the police for operating a trailer on a public highway without a number plate attached in accordance with Section 249-7, Hawaii Revised Statutes, during the movement of trailers from the point of entry to the dealer's place of business.

Upon consideration of this measure, your Committee finds that amending Section 286-53, Hawaii Revised Statutes, which deals with motor vehicle dealers, to achieve the purpose of this bill, could lend to confusion and that it would be preferable to add a new section dealing specifically with boat dealers.

Therefore, your Committee has amended the bill by deleting the proposed changes to Section 286-53 and in place thereof, adding a new section to the law specifically authorizing a boat dealer to operate boat trailers without license number plates on the public highways during the move from the point of entry into the State to the boat dealer's storage, display or sales area.

Your Committee is in accord with the intent and purpose of S.B. No. 2004-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2004-80, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 157-80 (Majority) Consumer Protection and Commerce on S.B. No. 2152-80

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes to regulate time-sharing, and to provide an appropriation of \$200,000 for the enforcement of this Act.

Your Committee has taken considerable testimony on this subject, and inasmuch as S.B. No. 1516, Relating to Time Sharing, is still in Conference Committee, your Committee has amended this bill to delete all substantive provisions, but maintain the \$200,000 appropriation.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2152-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2152-80, 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 Carroll.
Senators Chong and Campbell did not concur.

SCRep. 158-80 (Joint) Economic Development and Government Operations and Efficiency on S.B. No. 1885-80

The purpose of this bill is to aid small business by requiring all agencies establishing rules under the Administrative Procedure Act to establish a procedure to temporarily waive rules or to extend a compliance deadline for six months when strict application of such rules would cause substantial economic hardship on small businesses.

Various organizations representing small business, including federal, state, and private entities testified favorably for the passage of this bill. No testimony opposing this bill was presented.

Your Committees have amended the bill by amending the definition of "small business" in subsection (d), section 1, to conform the definition to that used in other small business legislation.

Your Committees on Economic Development and Government Operations and Efficiency are in accord with the intent and purpose of S.B. No. 1885-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1885-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 159-80 Economic Development on S.B. No. 1887-80

The purpose of this Act is to provide funds to insure the viability and expansion of Hawaii's garment manufacturing industry.

The State's comprehensive study of Garment Manufacturing in Hawaii by Kurt Salmon Associates, Inc., January 1979, recommends the State assist in establishing a power machine operator training program to fill the manpower needs of the industry and to establish an industrial engineering program to assist industry in becoming more efficient in competing with overseas manufacturers.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. NO. 1887-80 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. 160-80 (Joint) Economic Development and Government Operations and Efficiency
on S.B. No. 1888-80

The purpose of this bill is to promote energy conservation by requiring all plans and specifications for the construction and renovation of public buildings and facilities by the State or any of its political subdivisions to be prepared in a manner that will maximize the use of Hawaii's natural environment.

Your Committees find that energy conservation is a vital and indispensable component of the State's overall energy program, and that government should properly take the lead and set the example in this critical area by systematically incorporating energy conservation designs, whenever feasible, in the construction or renovation of public facilities. The energy consumption in state-owned facilities has increased drastically over the years, and this is due in part to the construction of facilities insensitive to energy conservation concerns.

Your Committees have amended the bill by:

1. Replacing the word "have" with the word "has" in line 9, page 1, to correct a grammatical error.
2. Rewording the section heading of the proposed new section for considerations of style.
3. Removing the word "and" between the words "thereof" and "subject" in line 16, page 2, for considerations of style.

Your Committees on Economic Development and Government Operations and Efficiency are in accord with the intent and purpose of S.B. No. 1888-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1888-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Toyofuku, Cayetano, Carroll and Saiki.

SCRep. 161-80 Economic Development on S.B. No. 1889-80

The purpose of this bill is to encourage the development and commercialization of geothermal energy resources by providing for the waiving of royalty payments to the State during the period July 1, 1980 to June 30, 1990, on leases for geothermal energy production. The bill further provides that in the event production is disrupted by acts of God, royalty payments, in proportion to the loss of the well field capacity, shall not be required for five years from the date of revenue loss.

As emphasized by testimony, your Committee finds that the suspension of royalty payments during the initial years of energy production, or when production is disrupted by acts of God, is a preeminent factor in attracting the considerable capital investment required for the exploitation of geothermal resources for electrical production. It is widely recognized that geothermal power has the potential to supply a very appreciable percentage of the electrical needs of the State.

Since the actual time-frame for exploratory and initial development is not known, and since the bill is intended to expedite the development of geothermal power beyond the exploratory stage, your Committee recommends according discretionary guidelines to the Board of Land and Natural Resources in suspending royalty payments to the State. Your Committee has amended the bill to reflect the foregoing recommendation.

Your Committee has further amended the bill by making style and language changes to section 182-7 for purposes of clarity. These changes do not affect the substance of the

bill as set forth above.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1889-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1889-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hara, Carroll and Saiki.

SCRep. 162-80 (Joint) Economic Development and Public Utilities on S.B. No. 1899-80

The purpose of the bill is to promote the development and commercialization of alternate energy resources by reducing the general excise tax assessment on electricity generated from non-fossil, renewable energy sources and sold to public utilities for resale to the public. The bill would enable the producers of electric power so generated to report sales to public utilities at the rate of one-half of one percent. Presently, the revenues from the sale of such power to public utilities are subject to the full general excise tax of four percent, even though the resale of such power by the utility is subject to the public service company tax, levied pursuant to Chapter 239, Hawaii Revised Statutes.

Your Committees find that every effort must be made to promote the development and commercialization of alternate energy resources to reduce Hawaii's extreme dependence on increasingly costly and unreliable imported petroleum. Your Committees find that a reduction of the general excise tax, as proposed by this bill, would serve as an important and useful incentive for the development of such renewable energy resources. Your Committees further find that the bill essentially broadens the reduced general excise tax provisions of Section 182-16, Hawaii Revised Statutes, applicable to geothermal producers, to include other alternate energy resources. Section 182-16 provides that the levy and assessment of the excise tax on the gross proceeds from the sale of electricity generated from geothermal sources shall be made only as a tax on the business of a producer, at the one-half of one percent rate assessed producers under Section 237-13(2)(A).

Your Committees have amended the bill to clarify the purpose by adding the phrase "generated from an alternate energy resource" to line 14, page 1.

Your Committees have also amended the bill by adding a new subsection defining the term "alternate energy resources".

Your Committees on Economic Development and Public Utilities are in accord with the intent and purpose of S.B. No. 1899-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1899-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Anderson, Soares, Yamasaki and Carroll.

SCRep. 163-80 Economic Development on S.B. No. 1906-80

The purpose of this bill is to provide a tax incentive to encourage the use of gasohol by exempting all the gross proceeds arising from the sale of gasohol by retail dealers from the state excise tax for a period of ten years.

Your Committee finds that exempting gasohol from the excise tax will make this product more competitive in the market place, and its exemption from the tax for ten years will provide a meaningful incentive to private industry to import ethanol, and more importantly, to construct production facilities in the State. To provide an adequate incentive to a potential instate producer, it is essential that the producer perceive the support as being of sufficient magnitude and duration as to make the undertaking economically viable.

Your Committee has amended this bill by specifically listing the ten year period of exemption from July 1, 1980 to July 1, 1990. It is also envisioned that prior to July 1, 1990 governmental incentives may no longer be required to make gasohol attractive to the retailer or consumer. Accordingly, Section (c) has been amended to read:

"The director of taxation shall annually submit a written report to the governor and legislature prior to the regular session of the legislature indicating a comparison of the number of gallons and average price per gallon of gasohol and gasoline sold in the State at the retail level and his recommendations as to whether the exemption under this section should continue at the current or at a lesser amount when the total exemption is no longer needed as an incentive to retailers and consumers for the marketing and use of gasohol."

This provision would eventually provide the legislature with an annual report to determine whether the tax exemptions would be necessary until July 1, 1990.

For the purposes of consistency, your Committee has amended the bill by changing the original subsection (c) to subsection (d).

Noting that this bill does not clearly state its purpose, your Committee has amended the bill by adding a section 1. Your Committee has further amended the bill to correct a typographical error by changing the word "appropriatley" in line 2, page 1 of the bill as originally drafted (line 5, page 1 of the amended bill) to "appropriately."

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1906-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1906-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hara and Carroll.

SCRep. 164-80 Economic Development on S.B. No. 1912-80

The purpose of this bill is to promote energy conservation by encouraging the acquisition and use of alternate energy systems. The bill provides a ten percent income tax credit to individuals or corporations using such devices, and requires that the application for credit first be made with the Energy Resources Coordinator. If satisfied that the alternate energy system meets the criteria established by him, the Energy Resources Coordinator certifies to that effect. Upon receipt of the certification from the Energy Resources Coordinator, the Director of Taxation allows the income tax credit. A taxpayer may claim such a credit for more than one alternate energy system. However, the energy systems must be placed in service before December 31, 1986.

Your Committee finds that energy conservation is an indispensable aspect of the State's overall energy program, and that every practicable effort in that regard should be fully encouraged and supported. The preeminent challenge of the decade is reducing the present dependence on increasingly costly and unreliable imported petroleum, and that can only be achieved through both energy conservation and the development and use of alternate energy resources. Your Committee further finds that the deepening energy crisis tends to override considerations of possible revenue loss, modest as it would be, stemming from this measure.

Your Committee notes that the purpose of the bill is not clearly stated. Your Committee has amended Section 1 to provide a concise statement of purpose.

Your Committee heard testimony from the Department of Taxation suggesting that the term "placed in use" be clarified in the bill. Your Committee is in agreement, and has amended the bill by adding appropriate language to paragraph (1) of subsection (c).

Your Committee notes that the bill essentially broadens the tax incentive provisions of Section 235-12, Hawaii Revised Statutes, to include all alternate energy systems, rather than only solar devices. Inasmuch as the bill would not only retain the tax credit for solar devices allowed by Section 235-12, but extend the time period for such a credit from December 31, 1981, to December 31, 1986, your Committee recommends that instead of creating a new section under Chapter 235, this bill amend Section 235-12 to conform to the purpose of the bill. Your Committee has amended the bill to that effect.

Your Committee further notes that the bill as originally drafted uses the term "purchased and placed in use" when referring to the year in which the credit may be taken and the term "erected and placed in service" when referring to the time period when the credit is available. In order to avoid confusion your Committee has amended the bill to use the term "purchased and placed in use" throughout the bill.

For purposes of consistency, your Committee has amended the definition of "alternate energy systems" contained in the bill by making explicit mention of a broader range of renewable energy resources, including solar.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1912-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1912-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Mizuguchi and Carroll.

SCRep. 165-80 Economic Development on S.B. No. 1924-80

The purpose of this bill is to provide tax incentives to encourage the commercial development of geothermal energy. The bill provides general excise exemptions to persons engaged in the construction of any facility or structure used in the drilling or development of a geothermal well for commercial production for a period of five years; provides excise tax exemptions on all gross proceeds received from the sale of geothermal power for a period of five years; and provides that in the event production is disrupted by acts of God, excise tax exemptions shall be granted until a positive revenue flow is attained.

Your Committee notes that under section 182-16, Hawaii Revised Statutes, producers of geothermal energy already enjoy a preferential excise tax rate of one-half of one per cent on all sales of geothermal resources or electrical energy. Nevertheless, your Committee finds that a full suspension is necessary during the initial exploratory stage in view of the high risk and considerable capital investment required. Your Committee further finds that the duration of the exemption should be extended from five years as originally proposed to ten years.

Accordingly, your Committee has amended the bill by adding the phrase "from an exploratory well" between the words "power" and "for" in line 8, page 2; and by modifying the phrase "for a period of five years from" in line 10, page 2, to "for a period of ten years after."

In order to make clear that the exemption for persons engaged in the construction or reconstruction of facilities or structures used in the drilling or development of geothermal wells is limited only to proceeds arising from such activities, your Committee has amended the bill by inserting the phrase "and arising as a result of such activities" after the word "energy" in line 4, page 2 of the bill.

Your Committee has also amended the bill to impose a time limit on preferential tax treatment following a disruption of production by acts of God by deleting the period after the word "attained" in line 16, page 2, and by adding the phrase "or no more than five years after the event, whichever occurs first."

In addition, your Committee has made a nonsubstantive amendment by deleting the word "the" after the word "adopt" in line 18, page 2 of the bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1924-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1924-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hara and Carroll.

SCRep. 166-80 Economic Development on S.B. No. 1925-80

The purpose of the bill is to provide financial assistance to alternate energy development projects to increase the supply of energy from nonfossil, renewable sources.

Your Committee finds that it is essential that continued financial support be extended to various alternate energy development projects in the State. Reducing the present, extreme dependence on increasingly costly and unreliable imported fossil fuels is the most urgent challenge confronting this State, as well as the nation, and this can only be achieved through both conservation and the development of alternate energy resources. Your Committee further finds that the funding proposals contained in the bill are based, in large part, on recommendations made by private citizens, expert witnesses, appropriate government officials, and the county energy selfsufficiency committees at the Senate-sponsored Legislative Energy RD&D Workshop held in November, 1979.

For purposes of clarification, your Committee has amended the bill to specify that all sums appropriated from the general fund to be expended by the University of Hawaii shall be expended by the Hawaii Natural Energy Institute through the Research Corporation of the University of Hawaii, and all sums authorized from the general obligation bond fund to be expended by the University of Hawaii shall be expended by the Hawaii Natural Energy Institute. The sums authorized from the general obligation bond fund shall constitute a special fund excluded from any administrative or institutional ceiling.

To insure that no provision of the bill jeopardizes the receipt of federal funds, your Committee has amended the bill by adding a section to read as follows:

"It is the intent of this Act not to jeopardize the receipt of any federal aid, nor to impair the obligation of the State or any agency, and to the extent, and only to the extent,

necessary to effectuate this intent, the governor may modify the provisions of this Act, but shall promptly report any such modification, with reasons therefor, to the legislature at its next session thereafter for review by the legislature."

In view of stringent budgetary limitations, your Committee has been compelled to reduce the total appropriation proposed in the bill from \$37,350,000 to \$16,610,000. This sum is considered sufficient to continue funding research, development, and demonstration projects in priority program areas. Specific amendments by program area are as follows:

(1) Biomass. Your Committee has reduced the total biomass program appropriation from \$1,550,000 to \$750,000, to be appropriated as follows: core biomass support (HNEI): \$50,000; sugar/other biomass: \$50,000; gasoline from trees/others: \$100,000; tree farm program: \$200,000; other tree farms: \$100,000. Your Committee added a \$250,000 appropriation from the general fund, to be expended by the University of Hawaii (UOH), for a liquid fuels from biomass feasibility study. This sum will be used as state matching for a U.S. Department of Energy grant.

(2) Geothermal. Your Committee has reduced the total geothermal program appropriation from \$3,450,000 to \$1,050,000, to be appropriated as follows: continued assessment: \$100,000; engineering RD&D (HNEI Core): \$100,000; environmental/social programs: \$50,000; non-electrical uses: \$50,000; step-out well: \$750,000.

(3) Hydroelectric. As recommended by the feasibility study now underway, your Committee has amended the designation "Molokai 100 KW construction" to read "Molokai 90 KW construction," and "Molokai 1.5 MW pump/store/hydro" to read "Molokai 1.6 MW pump/store/hydro." Your Committee has reduced the total hydroelectric program appropriation from \$6,200,000 to \$1,000,000, to be appropriated as follows: Molokai 90 KW construction: \$450,000 in revenue bonds and \$50,000 in general obligation bonds; Molokai 1.6 MW pump/store/hydro: \$400,000 in general obligation bonds, run-of-river anal/plan/specs: \$100,000.

(4) OTEC. Your Committee has reduced the total OTEC program appropriation from \$24,700,000 to \$12,200,000, to be appropriated as follows: core RD&D program (HNEI): \$200,000; pilot plant match: \$10,515,00 in general funds; opencycle expansion: \$500,000; OTEC-aquaculture RD&D: \$500,000; Waianae coast study/permits: \$485,000. Your Committee has also changed the OTEC pilot plant funding from \$20,000,000 in revenue bonds to \$10,000,000 in general funds due to the lack of a revenue fund mechanism from which the bonds could be floated.

(5) Solar. Your Committee has reduced the total solar program appropriation from \$1,300,000 to \$1,100,000, to be appropriated as follows: RD&D matching: \$600,000; space cooling demonstration: \$500,000.

(6) Wind. Your Committee has reduced the total wind program appropriation from \$400,000 to \$250,000, to be appropriated as follows: core RD&D support program (HNEI): \$100,000; wind characteristics: \$50,000; Kalaupapa wind energy system: \$50,000; utility interfacing analysis: \$50,000.

(7) Other. Your Committee has reduced the total appropriation for other research, development, and demonstration programs from \$750,000 to \$260,000, to be appropriated as follows: submarine cable: \$100,000; energy storage: \$100,000; small scale technology: \$100,000. To clarify intent, your Committee has amended the designation "appropriate technology program" to read "small scale technology program."

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1925-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1925-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hara and Carroll.

SCRep. 167-80 (Joint) Economic Development and Government Operations and Efficiency
on S.B. No. 1945-80

The purpose of this bill is to promote energy conservation by requiring all public housing and public facilities constructed by the State or any of its political subdivisions to be equipped with alternate energy water heating systems when the use of such systems would result in cost savings for heating water.

Your Committees find that energy conservation is an integral aspect of the State's overall energy program, and that government should set the example by promoting the use of various alternate energy systems in public housing, publicly assisted housing, and other

public facilities.

The Constitution of the State of Hawaii, as amended, requires that the State share in the cost of any new program mandated by the legislature to its political subdivisions. Therefore, your Committees have amended the bill to make the installation of alternate energy water heating systems mandatory at the State level, but optional at the political subdivision level, by adding the phrase "and all public housing, publicly assisted housing, and other public facilities constructed by any of the State's political subdivisions may be equipped with such alternate energy water heating systems" after the words "subsection (b)" in line 12, page 1.

Pursuant to testimony heard from the Department of Social Services and Housing, your Committees have further amended the bill by adding the phrase "publicly assisted housing" in line 7, page 1; and by adding the phrase "publicly assisted housing" after the word "housing" in line 13, page 1.

Your Committees on Economic Development and Government Operations and Efficiency are in accord with the intent and purpose of S.B. No. 1945-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1945-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Hara, Toyofuku and Carroll.

SCRep. 168-80 Economic Development on S.B. No. 2551-80

The purpose of this bill is to fulfill the need for a comprehensive state water code considered essential to deal effectively with current and emerging water management problems.

The bill designates the department of land and natural resources (DLNR) as the lead agency in the formulation of the water code, in coordination with, and participation by, appropriate state, federal, and county water agencies, water users and surveyors, and the general public. The bill requires the DLNR to submit a report through the governor to the legislature no later than 30 days prior to the convening of the third regular session following the effective date of this Act, summarizing the action taken, the department's recommendation, and a draft water code proposal for consideration and adoption by the legislature. Additionally, a sum of \$350,000 is to be appropriated out of the general revenues for the support of this project to cover its three-year life span.

Your Committee has adopted the recommendation of the DLNR by amending section 6 of the bill by deleting all references to the fiscal year of the appropriation and by specifying June 30, 1983 as the lapsing date of the appropriation.

A major argument made against the bill was that it was premature to pass it at this time in light of the "Hanapepe Case", which is on appeal at the 9th Circuit Court of Appeals. However, it was the consensus of your Committee that the legislature should press on with the development of the water code since the time within which that case will be resolved is uncertain. And, if the case is resolved while the water code is still under development, the specific points of the ruling by the court can be accommodated within the broad comprehensive framework of the water code. Additionally, the water code when developed and reported on three years hence will be in a form of a proposal to the legislature. A thorough public airing will be given the proposed bill at that time.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2551-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2551-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Mizuguchi and Carroll.

SCRep. 169-80 Economic Development on S.B. No. 2901-80

The purpose of this bill is to appropriate funds from the general revenues of the State, the sum of \$3,101,000, or so much as may be necessary, to provide expenditures for the Major Disaster Fund for disasters occurring during the fiscal year July 1, 1980 to June 30, 1981.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. 2901-80, 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. 170-80 Economic Development on H.B. No. 278

The purpose of this bill is to allow an investment credit which shall be deductible from a taxpayer's net income tax liability.

This proposal is intended to stimulate the purchase or modernization of productive assets. It is not based on a revenue producing concept, but rather is designed to be an economic stimulator.

This bill amends HRS chapter 235 to allow an investment tax credit which shall be deductible from the taxpayer's net income tax liability. The investment tax credit is allowed on certain property, which was constructed, reconstructed, erected, or acquired after December 31, 1978. If the credit amount exceeds the limitation amount, the excess shall be an investment credit carryback to each of the three taxable years preceding the unused credit year--and an investment credit carryover to each of the seven taxable years following the unused credit year.

S.B. No. 1909-80, companion to H.B. 278, H.D. 1, was the bill heard by your committee.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. 278, H.D. 1, and recommends that it pass Second Reading in the form attached hereto, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Carroll.

SCRep. 171-80 (Joint) Economic Development and Consumer Protection and Commerce
on S.R. No. 20

The purpose of the resolution is to request the Energy Resources Coordinator and Consumer Protector to review the solar system standards and other consumer protection safeguards adopted by the solar industry, with a view toward determining the need for legislation in this area.

Your Committees find that it is in the best interests of both the consumer and the solar industry to provide uniform safeguards against misleading advertising, spurious claims, and other questionable practices relating to the sale and installation of solar energy devices. Your Committees find that solar energy is one of the few alternate energy sources currently available to the individual consumer, and that poor consumer acceptance resulting from questionable or misleading business practices could seriously affect present efforts to encourage the use of alternate energy systems. This concern was echoed by testimony presented to your Committees. In particular, the Solar Energy Association voiced its strong support for the resolution, and offered its full cooperation in carrying out its objectives.

Your Committees on Economic Development and Consumer Protection and Commerce concur with the intent and purpose of S.R. No. 20, and recommend its adoption.

Signed by all members of the Committees except Senators Campbell, Carpenter, Kuroda, O'Connor and Carroll.

SCRep. 172-80 (Joint) Economic Development and Government Operations and Efficiency
on S.R. No. 23

The purpose of this resolution is to request the State Energy Resources Coordinator and the State Comptroller to develop and implement an explicit energy conservation plan for all state buildings and facilities.

Your Committees find that in addition to the rapid development of Hawaii's various renewable energy resources, there is an imperative need to institute effective and systematic energy conservation programs to reduce the State's increasingly costly dependence on unreliable, imported fossil fuel. Your Committees find that government should serve as a model in this regard by instituting energy conservation measures in the design and use of all state buildings and facilities. The state government builds and operates many of the larger office buildings and facilities in the State, and substantial energy is consumed in their operation.

Your Committees heard testimony from the Department of Planning and Economic Development suggesting it would be more appropriate for the State Comptroller, rather than the State Energy Resources Coordinator, to develop, implement, and report on a state facilities conservation plan since the Department of Accounting and General Services is charged with the construction, operation, and maintenance of state facilities. Your Committees also find it appropriate that the State Comptroller should report on the status of the State's

present energy savings program in state buildings and facilities.

Accordingly, your Committees have amended the BE IT RESOLVED clause to read as follows:

"Be It Resolved by the Senate of the Tenth Legislature of the State of Hawaii, Regular Session of 1980, that the State Comptroller is requested to report on the status of the present energy savings program in state buildings and facilities, including recommendations for legislative action to the legislature, at least ten legislative days prior to the adjournment of the 1980 Regular Session; and"

Your Committees have amended the BE IT FURTHER RESOLVED clause to read as follows:

"BE IT FURTHER RESOLVED that the State Comptroller is requested to develop and implement an energy conservation plan for all state buildings and facilities, and to submit a progress report of the actions taken to implement an energy conservation plan to the legislature at least twenty days prior to the convening of the Regular Session of 1981; and"

Your Committees have further amended the resolution by adding a second BE IT FURTHER RESOLVED clause to read as follows:

"BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Governor of the State of Hawaii and the State Comptroller."

Your Committees on Economic Development and Government Operations and Efficiency concur with the intent and purpose of S.R. No. 23, as amended herein, and recommend its adoption on the form attached hereto as S.R. No. 23, S.D.1.

Signed by all members of the Committees except Senators Toyofuku, Cayetano, Carroll and Saiki.

SCRep. 173-80 Economic Development on S.B. No. 2954-80

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$160,000, or so much thereof as may be necessary, for purposes related to providing additional support to the Hawaii's Soil and Water Conservation District, to expand their new responsibilities mandated by the Environmental Protection Agency, Act 108, in the Hawaii's water quality program.

This appropriation is to allow the Soil and Water Conservation District to manage the additional responsibility of soil and water conservation management.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2954, 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 Mizuguchi and Carroll.

SCRep. 174-80 (Joint) Economic Development and Government Operations and Efficiency on S.B. No. 1920-80

The purpose of this bill is to promote the use of the fuel extender gasohol by requiring all motor vehicles owned or controlled by the State, or any county thereof, to use gasohol when it becomes available.

Your Committees find gasohol to be a useful and effective means for extending fossil fuel supplies, or conversely, for reducing the overall consumption of fossil fuel. Your Committees further find that government should take the lead and set the example by using gasohol when it becomes available.

The Constitution of the State of Hawaii, as amended, provides that the State shall share in the cost of any new program mandated to its political subdivisions. For considerations of cost, therefore, your Committees have amended the bill by deleting the phrase "or by any county thereof" in line 7, page 1, and by deleting the phrase "in the case of the State and the director of public works in each county" beginning in line 8, page 1.

Testimony revealed that gasohol may not be suitable at this time for two-cycle, diesel, and other similar engines, as well as for certain emergency vehicles, such as ambulances. Your Committees have amended the bill to reflect the foregoing by adding the phrase "and shall, at his discretion, exempt only such vehicles for which gasohol may be unsuitable"

after the word "section" in line 10, page 1.

Your Committees on Economic Development and Government Operations and Efficiency are in accord with the intent and purpose of S.B. No. 1920-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1920-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Toyofuku and Carroll.

SCRep. 175-80 Agriculture on S.B. No. 67

The purpose of this bill is to provide government support through financial assistance to strengthen and revitalize the transportation systems for agricultural commodities.

Your Committee received testimony in favor of the bill from the Department of Agriculture, the Hawaii Farm Bureau Federation, and Life of the Land.

Your Committee has amended the bill to provide an appropriation of \$50,000, to provide that the funds lapse as of the end of the 1980-1981 fiscal year, and to change the effective date of the Act to July 1, 1980.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 67, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 67, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Kawasaki, Yim and Anderson.

SCRep. 176-80 Agriculture on S.B. No. 73

The purpose of this bill is to appropriate funds to the Governor's Agriculture Coordinating Committee to assist in the growth of the flower, foliage, and nursery product industries so that they may attain their potential.

Your Committee received testimony in favor of this bill from the Hawaii Farm Bureau Federation, the Dendrobium Orchid Growers Association of Hawaii, and the Governor's Agriculture Coordinating Committee.

Your Committee has amended the bill to provide \$50,000 for the purposes of this bill, and that any unexpended or unencumbered balance shall lapse at the end of the next fiscal year.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 73, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 73, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Kawasaki, Yim and Anderson.

SCRep. 177-80 Agriculture on S.B. No. 2335-80

The purpose of this bill is to make an appropriation of \$200,000 to support sugarcane research to assist in the development of new varieties of sugarcane which are high in sugar content and, for energy production purposes, high in fiber content.

Your Committee received testimony in favor of the bill from the Governor's Agriculture Coordinating Committee, and the Hawaiian Sugar Planters' Association.

Your Committee has amended the bill to make style changes and to change the Act's effective date to July 1, 1980.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2335-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2335-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Kawasaki, Yim and Anderson.

SCRep. 178-80 Agriculture on S.B. No. 2598-80

The purpose of this bill is to make an appropriation of \$500,000 for a study to be conducted

by a private, independent organization to examine the threat posed by the "tri-fly" and the mango weevil and methods by which these pests can be controlled in order that mangoes and avocados may be shipped to the continental United States.

Your Committee received testimony in favor of this bill from the Department of Agriculture and the College of Tropical Agriculture.

Your Committee has amended the bill to decrease the appropriation to \$50,000, provide that the funds lapse as of the end of the 1980-1981 fiscal year, change the expending agency to the Governor's Agricultural Coordinating Committee, and change the effective date of the Act to July 1, 1980.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2598-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2598-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Kawasaki, Yim and Anderson.

SCRep. 179-80 Agriculture on S.B. No. 2943-80

The purpose of this bill is to make an appropriation for the new and young farmer program.

Testimony in support of this popular program was received from the Department of Agriculture, the College of Tropical Agriculture, the Hawaii Farm Bureau Federation, the Hawaii Young Farmers' Association, and Dexter Dixon.

The New and Young Farmers Program was developed and implemented in 1976 as a joint effort of the Department of Agriculture, the Young Farmers Association, the College of Tropical Agriculture and Human Resources, the Community Colleges and various organizations and individuals.

Inasmuch as the average age of a farmer in Hawaii has been estimated at 55 years, the primary goals of this program are to encourage young people to consider farming as a career and to assist those entering this field in developing their expertise in farming techniques and methodologies. This has been accomplished by conducting a series of short courses in a variety of farm-related subjects, by arranging field trips, field demonstrations and utilization of other organized group teaching methods.

The young people who have attended these sessions have broadened their outlook towards agriculture as a whole and those already in farming have also benefited from this program.

Your Committee has amended the bill to provide \$25,000 for this program, and to change the effective date of the Act to July 1, 1980.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2943-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2943-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Kawasaki, Yim and Anderson.

SCRep. 180-80 Agriculture on S.B. No. 2945-80

The purpose of this bill is to make an appropriation for expediting the implementation of the Kula agricultural park.

Your Committee received testimony in support of this bill from the Hawaii Farm Bureau Federation. The Department of Economic Development of Maui County presented testimony in favor of the bill, and briefed your Committee on the status of the county's Kula agricultural park development plan. Testimony was also received from the Department of Land and Natural Resources indicating that the State has no plans for an agricultural park at Kula, but is aware of the county's efforts.

After full and free discussion, your Committee has amended the bill to provide that a sum of \$2,000,000 be appropriated and be expended by the County of Maui for the Kula agricultural park, and that the county submit an annual progress report on the development. It is envisioned that the State and County of Maui will work hand in hand to develop the agricultural park at Kula.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2945-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2945-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Yim and Anderson.

SCRep. 181-80 Agriculture on S.B. No. 2947-80

The purpose of this bill is to appropriate \$15,000 for a pest control aide or plant quarantine inspector for Maui County. The sum appropriated shall be expended by the Department of Agriculture.

Testimony submitted by the Department of Agriculture indicated that workload activities relating to cargo, mail and ship inspections in Maui County has increased 20-25% during each of the past two fiscal years and is expected to increase another 25% during this fiscal year. Also, during the past two fiscal years, the number of burrowing nematode certified nurseries increased from 5 to 11 and the certified area increased from 24,725 to 131,269 sq. ft. resulting in increased workload in nematode laboratory testing from 1,915 to 2,437 samples.

Your Committee has amended the bill to include a position count after the sum appropriated.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2947-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2947-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Yim and Anderson.

SCRep. 182-80 Agriculture on S.B. No. 2949-80

The purpose of this bill is to allow the Department of Agriculture to continue providing retail market information through the consumer food price reporting service currently being conducted in cooperation with the two daily newspapers.

Your Committee finds that this service has been found, especially in these times of high inflation, to generate wide public support and interest. Presently, the service has been operated by a person hired under the SCET program. When the SCET program expires the Department will not have sufficient funds to continue this services.

Your Committee has amended the bill to include a position count next to the appropriation.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2949-80, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2949-80, S.D.1., and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Yim and Anderson.

SCRep. 183-80 Agriculture on S.B. No. 2958-80

The purpose of this bill is to appropriate funds for a feasibility study on recycling of solid livestock and poultry wastes with the objective of identifying or developing and implementing programs or techniques which effectively minimize fly populations and offensive odors while simultaneously generating additional income to livestock producers. The bill proposes to have the Governor's Agriculture Coordinating Committee (GACC) the expending agency.

Your Committee received testimony from the Governor's Agriculture Coordinating Committee, the Hawaii Farm Bureau Federation, and the College of Tropical Agriculture in support of the bill.

The College of Tropical Agriculture stated that the poultry and swine industries analyses completed for the GACC show that waste management is a high priority bottleneck for both industries, that "methods for properly disposing of poultry farm wastes that would minimize fly populations and at the same time, bring economic returns to farmers are lacking," and that "the swine waste management system best suited to Hawaii's environmental conditions has not yet been established." The College's testimony also stated that "though the analyses

of the beef cattle and dairy industries are not completed yet, it is very likely that waste management will also surface as a bottleneck for both of these industries."

Inasmuch as this program has been identified as a priority for these industries, the College recommended that the appropriation be in the amount of \$20,000 a year for a minimum of three years.

Your Committee has amended the bill in consonance with the College's recommendation.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2958-80 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2958-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Yim and Anderson.

SCRep. 184-80 Agriculture on S.B. No. 3021-80

The purpose of this bill is to make an appropriation to further research on alternate crops that are suitable for commercial production on the existing sugarcane lands of the Hilo Coast.

Your Committee received testimony in support of this bill from the Hawaii Farm Bureau Federation, the State Department of Agriculture, and the College of Tropical Agriculture.

Your Committee has amended the bill to provide \$10,000 for the purposes of this bill, and to make the effective date of this Act July 1, 1980.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 3021-80 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3021-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Kawasaki, Yim and Anderson.

SCRep. 185-80 Agriculture on S.B. No. 3022-80

The purpose of this bill is to establish facilities to transport, recover, and reuse an agricultural waste resource for the purposes of land reclamation. Such facilities would benefit the State by enhancing its near-shore water quality while converting State lands presently not suitable for productive agricultural endeavors into productive use.

The Department of Agriculture submitted testimony supporting the intent of the bill. Under Act 214, SLH 1979, the legislature appropriated \$50,000 for a feasibility study for this type of a project, and the Department of Agriculture has been working with its consultant, Kennedy Engineers, on this study. While it is not yet completed, preliminary findings of the study are that it is technically feasible.

The Hilo Coast Processing Company (HCPC) submitted testimony in favor of the bill. The Company stated that this proposed appropriation can alleviate an alluvial problem at the Hilo Coast Processing factory where an estimated one million tons of topsoil a year and approximately four million gallons of water per day must be disposed of in a manner that meets EPA requirements. Their testimony stated that this operation cost HCPC more than a million dollars in 1979, required 225 acres of prime agricultural land for settling ponds and soil and trash disposal, and was the equivalent of well over \$10 per ton of sugar produced.

The College of Tropical Agriculture and the Hawaii Farm Bureau Federation also presented testimony in favor of the bill.

Your Committee has amended the bill to appropriate \$1 for this project, and has changed the effective date of the Act to July 1, 1980. Your Committee respectfully requests the Ways and Means Committee to appropriately augment the appropriation amount.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 3022-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3022-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Kawasaki, Yim and Anderson.

SCRep. 186-80 Agriculture on S.B. No. 3043-80

The purpose of this bill is to make an appropriation of \$100,000, or so much thereof as may be necessary, for the development of the jojoba nut crop in Hawaii.

Your Committee on Ecology, Environment, and Recreation held a public briefing during the interim, and was informed of the potential for jojoba oil in replacing sperm whale oil, and for its pharmaceutical and industrial applications. The plant grows in arid regions, and may be able to be commercially cultivated in barren, presently non-productive lava fields.

Your Committee on Agriculture received testimony in favor of this bill from the Governor's Agriculture Coordinating Committee, and the College of Tropical Agriculture, which has been conducting research on a limited scale on the early stages of crop establishment.

Your Committee has amended the effective date of the bill to July 1, 1980 and has corrected a typographical error in the title in the word "APPROPRIATION".

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 3043-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3043-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Yim and Anderson.

SCRep. 187-80 Agriculture on S.B. No. 3045-80

The purpose of this bill is to appropriate \$30,000, or so much thereof as may be necessary, for the development of the honey bee industry, including the processing and marketing of honey.

Your Committee received testimony in favor of the bill from the College of Tropical Agriculture, the Governor's Agriculture Coordinating Committee, and the Hawaii Beekeepers Association.

Your Committee has amended the bill to make the effective date of this Act July 1, 1980.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 3045-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3045-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Yim and Anderson.

SCRep. 188-80 (Joint) Agriculture and Higher Education on S.B. No. 2942-80

The purpose of this bill is to provide \$50,000 to restore the level of service provided by extension agents of the cooperative extension service to farmers in the East Oahu area.

Your Committees received testimony in favor of the bill from the College of Tropical Agriculture and the Hawaii Farm Bureau Federation.

Your Committees on Agriculture and Higher Education are in accord with the intent and purpose of S.B. No. 2942-80 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, Cayetano, Yim, Young, Anderson, Carroll and Saiki.

SCRep. 189-80 (Joint) Agriculture and Higher Education on S.B. No. 2944-80

The purpose of this bill is to make an appropriation to expand or refine educational programs and activities designed to upgrade the agri-business knowledge and skills of Hawaii's farmers.

Your Committees received testimony in favor of this bill from the College of Tropical Agriculture and the Hawaii Farm Bureau Federation.

The College suggested that the Governor's Agriculture Coordinating Committee be designated

as the expending agency, and that the amount appropriated be \$10,000.

Your Committees have amended the bill in consonance with the College's recommendations.

Your Committees on Agriculture and Higher Education are in accord with the intent and purpose of S.B. No. 2944-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2944-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Carpenter, Cayetano, Yim, Young, Anderson, Carroll and Saiki.

SCRep. 190-80 (Joint) Agriculture and Higher Education on S.B. No. 2948-80

The purpose of this bill is to make an appropriation for purposes related to expanded research and development of disease resistant edible ginger root.

The College of Tropical Agriculture and Hawaii Farm Bureau Federation submitted testimony in favor of the bill.

Your Committees have amended the bill to appropriate \$5,000 for the purposes of this Act, to designate the Governor's Agriculture Coordinating Committee as the expending agency, and to change the effective date of the Act to July 1, 1980.

Your Committees on Agriculture and Higher Education are in accord with the intent and purpose of S.B. No. 2948-80 as amended herein and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2948-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Carpenter, Cayetano, Yim, Young, Anderson, Carroll and Saiki.

SCRep. 191-80 (Joint) Agriculture and Higher Education on S.B. No. 2952-80

The purpose of this bill is to provide an appropriation to enable the hiring of at least one additional plant crop agent for the Kona experiment station.

Your Committees received testimony from the College of Tropical Agriculture and the Hawaii Farm Bureau Federation in support of the intent of this bill.

Your Committees respectfully request the Ways and Means Committee to set an appropriate amount for the purposes of this bill.

Your Committees on Agriculture and Higher Education are in accord with the intent and purpose of S.B. No. 2952-80 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, Cayetano, Yim, Young, Anderson, Carroll and Saiki.

SCRep. 192-80 (Joint) Agriculture and Higher Education on S.B. No. 2959-80

The purpose of this bill is to make an appropriation of \$75,000 for research and development, including the construction of greenhouse facilities, at the Kona experiment station of the College of Tropical Agriculture.

Your Committees on Agriculture and Higher Education are in accord with the intent and purpose of S.B. No. 2959-80 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, Cayetano, Yim, Young, Anderson, Carroll and Saiki.

SCRep. 193-80 (Majority) (Joint) Agriculture and Higher Education on S.B. No. 3046-80

The purpose of this bill is to make an appropriation of \$100,000 to establish a permanent program for the identification of alternative crops for Kohala, to ensure, on a continuing basis, the best agricultural utilization of Kohala lands.

Your Committees received testimony in favor of the bill from the College of Tropical Agriculture, the Department of Agriculture, and the Hawaii Farm Bureau Federation.

Your Committees on Agriculture and Higher Education are in accord with the intent and purpose of S.B. No. 3046-80 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, Cayetano, Yim, Young, Anderson, Carroll and Saiki.
Senator Kawasaki did not concur.

SCRep. 194-80 (Joint) Education, Higher Education and Ways and Means on S.B. No. 2355-80

The purpose of this bill is to require the board of regents and the board of education to exercise fiscal responsibility in establishing their respective departmental budgets and in reviewing the internal organization and management of their respective departments. This bill would accomplish this by requiring the two boards to take into account the state general fund expenditure ceiling and the state debt limit as established by constitutional and statutory law when reviewing and approving their respective proposed departmental budgets. The boards would also be required to consider their departmental long range plans as well as their respective six-year program and financial plan.

Under this bill, most current budgetary procedures would continue to be followed. The boards will continue to submit their proposed budgets to the governor who in turn will incorporate the budgets into the executive budget with his recommended changes. In submitting the proposed budgets to the governor and later to the legislature, the boards will be required to include proposed changes in programs and operations which would result in greater effectiveness of programs and economy in operations.

This bill would impose an appropriations ceiling on the board's budgets akin to the state expenditure ceiling. In the event that the proposed budgets of each respective department exceeds the previous fiscal year's general fund appropriations by more than the applicable state growth rate as defined in chapter 37 (i.e., chapter 37, amended, as proposed in S.B. 2795-80 concerning the state expenditure ceiling), then the respective board would be required to delineate the dollar amount and the percentage by which the ceiling is exceeded and the specific reasons therefor.

Your Committees find that in light of the constitutional provisions calling for a state general fund expenditure ceiling it is timely for the requirements of this bill to be imposed on the board of education and the board of regents. On too many occasions in the past have the two boards presented the legislature with "shopping lists" as budget proposals without regard to scrutinizing those appropriation requests in light of state fiscal constraints.

Your Committees find further that the provisions of this bill aid in delineating the respective roles of the board of education, the board of regents, and the legislature in the area of education. Frequently, the areas of educational policy and state fiscal policy overlap and make unclear the proper roles of the legislature, the governing boards of the Department of Education and University of Hawaii.

The willingness of the two boards to exercise closer scrutiny of the internal operations and management of the departments within their respective jurisdiction with a view to the fiscal restrictions imposed upon the State as a whole will contribute to alleviating the need for the legislature to involve itself in areas which tend to border on educational policy-making. The more the governing boards are able to shape their proposed budgets in a manner which takes into account the restraints imposed on government spending, the less the legislature will have to exercise oversight over the fiscal policies of the University of Hawaii and the Department of Education.

Your Committees on Education, Higher Education and Ways and Means are in accord with the intent and purpose of S.B. No. 2355-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2355-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Hara, Toyofuku, Young and Anderson.

SCRep. 195-80 Ways and Means on S.B. No. 2883-80

The purpose of this bill is to increase the per diem amount provided to witnesses from another state summoned to testify in a criminal prosecution or grand jury investigation in this State from \$30 to \$50.

Your Committee agrees that an increase is necessary and is justified by rising hotel and meal costs.

Your Committee has amended this bill by increasing the per diem amount to \$60. Sondra Dockham, Coordinator of the Victim/Witness Kokua Center, Office of the Prosecuting Attorney of the City and County of Honolulu, testified that a \$60 per diem amount would be more appropriate. Your Committee is in agreement that rising costs have necessitated such an increase in the per diem amount so that witnesses will not be unduly deterred from testifying due to financial restrictions.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2883-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2883-80, S.D. 1.

Signed by all members of the Committee except Senators Abercrombie, Hara, Toyofuku and Anderson.

SCRep. 196-80 Ways and Means on S.B. No. 2869-80

The purpose of this bill is to include expenses to return defendants to a judicial circuit in the same budgetary procedure as is currently used for witness expenses.

Under present practice some expenses relating to defendants are processed through the courts. A more appropriate method is to remove the courts from having to cover such expenses and have the State bear all costs of the extradition procedure.

Your Committee has amended this bill to make clear that claims for payment shall be paid upon vouchers approved by the state director of finance and warrants drawn by the state comptroller.

Your Committee has made minor technical amendments to correct capitalization, grammar, and Ramseyer underscoring.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2869-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2869-80, S.D. 2.

Signed by all members of the Committee except Senators Abercrombie, Hara, Toyofuku and Anderson.

SCRep. 197-80 Health on S.B. No. 128

The purpose of this bill is to appropriate funds to the Information and Learning Center for Battered and Abused Women for preventive and outreach programs.

The purpose of the Center is to address the issue of domestic violence by providing an advocacy service to victims of abuse. Your Committee recognizes the complexities of situations precipitating abuse, and finds that continuing attention and resources devoted to services for abused persons can offer the necessary acute and preventive support.

The bill has been amended by specifying an appropriation amount and expending agency, and by adding a lapsing clause.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 128, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 128, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 198-80 Health on S.B. No. 132

The purpose of this bill is to appropriate funds for helipads at Castle Hospital, Waianae, and Kahuku.

Testimony from Castle Hospital cited that since the state became a participant in the "Military Assistance to Safety and Traffic" program (MAST) conducted by the Army 68th Medical Detachment at Wheeler Air Force Base in 1974, some 1,000 critically injured civilians have been transported to hospitals on Oahu. There are over 16 MAST programs in the United States, and of the 16, only three have flown more missions than the one on Oahu. The Chairman of the MAST Coordinating Committee also indicated that the MAST operations are of no cost to the State.

Your Committee recognizes that the MAST program has aided the County ambulance systems, and has benefitted the health and well-being of the people of the State.

Your Committee amended the bill by specifying the appropriation amount and organizations, and by adding various technical changes.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 132, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 132, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 199-80 Health on S.B. Nos. 955, 1875-80, 1969-80, 2021-80, 2303-80, 2610-80, 2658-80, 2662-80, 2980-80 and 3062-80

The purpose of these bills is to appropriate moneys to support community-based health-related programs and projects throughout the State.

Your Committee has amended the bills as follows:

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| 1. S.B. No. 955 | Amended lapsing date from 1980 to 1981; |
| 2. S.B. No. 1875-80 | Amended expending agency to Department of Health; Technical amendment to correct a typographical error; |
| 3. S.B. No. 1969-80 | Inserted an appropriation amount of \$110,000; |
| 4. S.B. No. 2021-80 | Inserted a lapsing year of 1981; |
| 5. S.B. No. 2303-80 | Inserted a lapsing year of 1981; |
| 6. S.B. No. 2610-80 | Inserted an appropriation amount of \$100,000; Added lapsing clause; |
| 7. S.B. No. 2658-80 | Inserted an appropriation amount of \$500,000; |
| 8. S.B. No. 2662-80 | Inserted an appropriation amount of \$100,000; |
| 9. S.B. No. 2980-80 | Decreased appropriation amount to \$262,000; |
| 10. S.B. No. 3062-80 | Amended appropriation to reflect only fiscal year 1980-81 request; adjusted moneys and lapsing year accordingly; |

While your Committee supports financial assistance to community-based projects for health-related programs, your Committee also recommends that no employee of the organization who receives an appropriation under these bills should receive a pay raise higher than that percentage amount given to State employees (7%, plus \$20).

Your Committee on Health is in accord with the intent and purposes of S.B. Nos. 955, 1875-80, 1969-80, 2021-80, 2303-80, 2610-80, 2658-80, 2662-80, 2980-80, and 3062-80, as amended herein, and recommends that they pass Second Reading in the forms attached hereto as S.B. Nos. 955, S.D. 1, 1875-80, S.D. 1, 1969-80, S.D. 1, 2021-80, S.D. 1, 2303-80, S.D. 1, 2610-80, S.D. 1, 2658-80, S.D. 1, 2662-80, S.D. 1, 2980-80, S.D. 1, and 3062-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 200-80 Health on S.B. No. 1084

The purpose of this bill is to amend Section 326-3, Hawaii Revised Statutes, to require the Department of Health to inform leprosy patients of any arrangements made for their care and treatment.

Your Committee heard testimony from the Hawaii Council of Churches, American Civil Liberties Union of Hawaii, and other concerned citizens of the need to ensure the rights of leprosy patients to participate in decisions as to where they will receive care.

Your Committee recognizes the human rights of all individuals, and it is the intent of your Committee to address the issue of patients' rights and to encourage persons in all

health care facilities to exercise their ability to make informed decisions concerning their care.

Your Committee has amended the bill to also require the patient's consent for any arrangement for his care and treatment so as to further encourage and safeguard the patient's rights to decide and act.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1084, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1084, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 201-80 Health on S.B. No. 1971-80

The purpose of this bill is to make the poison information services program a State responsibility by adding a new section to Chapter 321, Hawaii Revised Statutes.

Your Committee heard testimony from the Department of Health and the Hawaii Medical Association-Emergency Medical Services Program that a centralized source of poison information for the general, professional, and paraprofessional public is necessary. This service would provide current and appropriate information relating to substance identification, diagnosis, and treatment.

Your Committee recognizes that childhood poisoning is the major cause of emergency pediatric incidents, and that funding of a statewide poison information service will make outreach, evaluation, and data collection components available for the State.

Your Committee has amended the bill to allow the Department of Health to contract with one or more health care facilities to provide the poison information service. Your Committee felt the original language mandating the Department to contract with an acute care facility was unnecessarily restrictive. The definition of "acute care facility" was also deleted.

An additional amendment gives the Department of Health the option of consulting with the advisory committee regarding the selection of the facility or facilities to provide such services, rather than making such consultation necessary.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1971-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1971-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 202-80 Health on S.B. No. 1982-80

The purpose of this bill is to distinguish between overall coordination and program responsibilities at the branch level and actual delivery of mental health services to children and youth.

The Department of Education, Department of Health, Mental Health Association in Hawaii, and the National Association of Social Workers Inc. all concur with the intent of the bill to delineate and strengthen the relationship between the Departments of Health and Education.

Your Committee has amended this bill by the following:

(1) By the addition of private, non-profit agencies under contract with the Department of Health when referring to the mental health services to children and youth that are to be coordinated by the children's mental health services branch. Your Committee added this language with the intent of enhancing statewide coordination of services.

(2) By stipulating that the Departments of Education and Health shall develop a memoranda of agreement which shall share responsibilities and include, but not be limited to, provisions for the five points as outlined in Section 321-174, Hawaii Revised Statutes. This amendment creates a minimum criteria/standards for the memoranda of agreement.

(3) By reinstatement of Subsections (7) and (8) under Section 321-175, Hawaii Revised Statutes, referring to the statewide children's mental health services plan. Subsection (7) has been amended to call for an "implementation" plan, rather than a "full description of the state plan" since it is your Committee's intent to require specific goals and objectives, as well as a plan of action. Your Committee feels that these two subsections are not duplications of any other provisions in this section, and therefore warrant reinstatement.

(4) By requiring that the current and prevailing memoranda of agreement be submitted during the biennial review of progress pursuant to Section 321-176, Hawaii Revised Statutes.

Your Committee chose not to statutorily determine which agency (Department of Health or Department of Education) shall be responsible for the five provisions outlined in Section 321-174, Hawaii Revised Statutes, since your Committee expects that this judgment will be duly agreed upon by the respective agencies through the memoranda of agreement in a timely and professional manner.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1982-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1982-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Machida.

SCRep. 203-80 Health on S.B. Nos. 2019-80, 2039-80 and 2389-80

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. 2019-80, 2039-80 and 2389-80 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. 204-80 Health on S.B. Nos. 2025-80, 2040-80, 2396-80, 2442-80, 2656-80
and 3053-80

The purpose of these bills is to appropriate moneys to support communitybased health-related programs and projects throughout the State.

Your Committee on Health is in accord with the intent and purpose of S.B. Nos. 2025-80, 2040-80, 2396-80, 2442-80, 2656-80, and 3053-80 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. 205-80 Health on S.B. Nos. 2026-80, 2060-80, 2344-80, 2352-80, 2576-80,
2624-80, 2625-80, 2910-80, 3100-80 and 3114-80

The purpose of S.B. No. 2026-80 is to provide a general fund grant-in-aid of \$100,000 to St. Francis Hospital for a hospice care program.

The purpose of S.B. No. 2060-80 is to provide a general fund grant-in-aid of \$100,000 for the maintenance of veteran cemeteries on the islands of Hawaii, Maui, Kauai, Molokai and Lanai.

The purpose of S.B. No. 2352-80 is to provide a general fund grant-in-aid to Molokai General Hospital of \$40,000 for repairs due to storm damages and for current unavoidable expenditures.

The purpose of S.B. No. 3100-80 is to provide a general fund grant-in-aid of \$25,000 to the Pearlridge Hospital for the development of a computer data information system.

The purpose of the remaining bills is to provide for capital improvement projects for health facilities throughout the State.

Your Committee has amended the bills as follows:

1. S.B. No. 2026-80 Added lapsing clause;
2. S.B. No. 2060-80 Added lapsing clause;
3. S.B. No. 2344-80 Added lapsing clause;
4. S.B. No. 2352-80 Added lapsing clause;
5. S.B. No. 2576-80 Amended lapsing year from 1983 to 1981;
6. S.B. No. 2624-80 Added lapsing clause;

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| 7. S.B. No. 2625-80 | Added lapsing clause; |
| 8. S.B. No. 2910-80 | Added lapsing clause; |
| 9. S.B. No. 3100-80 | Added an appropriation amount of \$25,000; |
| 10. S.B. No. 3114-80 | Amended lapsing year from 1982 to 1981. |

Your Committee on Health is in accord with the intent and purpose of S.B. Nos. 2026-80, 2060-80, 2344-80, 2352-80, 2576-80, 2624-80, 2625-80, 2910-80, 3100-80, and 3114-80, as amended herein, and recommends that they pass Second Reading in the form attached hereto as S.B. Nos. 2026-80, S.D. 1, 2060-80, S.D. 1, 2344-80, S.D. 1, 2352-80, S.D. 1, 2576-80, S.D. 1, 2624-80, S.D. 1, 2625-80, S.D. 1, 2910-80, S.D. 1, 3100-80, S.D. 1, and 3114-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 206-80 (Joint) Economic Development and Public Utilities on S.B. No. 1895-80

The purpose of the bill is to promote the development of alternate energy resources by diverting approximately onethird of utility tax revenue increases directly attributable to increases in fossil fuel costs to fund energy research or provide additional alternate energy tax credits.

Your Committees find that the most pressing and urgent task confronting this State is reducing the present, extreme dependence on imported fossil fuels through the development and commercialization of alternate energy resources. Your Committees find that in view of the high risk and enormous capital investment required, continued state assistance for such development is imperative. Your Committees find that the bill properly advances the objective of greater energy selfsufficiency by amplifying the State's capacity to render needed assistance by making available a hitherto untapped source of funding that does not further burden the taxpayer.

Your Committees note that escalating oil prices have not only resulted in higher utility bills for consumers, but in dramatic tax revenue increases for the State; that by the mid-1980's utility tax revenues may amount to over \$50 million; that the State has benefitted from such large "windfall" tax revenues at the expense of utility rate payers; and that it is only proper that part of these artificial revenues be used to benefit the consumer in the longrun by supporting the development of renewable energy resources. Your Committees further note that testimony was generally in accord with the intent of the measure.

Your Committees note that the bill as originally drafted provides for the diversion of approximately onethird of utility tax revenue increases due to increases in fuel costs after 1981. Recognizing the urgency of the energy crisis, your Committees have amended the bill by changing the date from 1981 to 1980.

Your Committees heard testimony from the Director of Taxation noting that several other measures before your Committees appear to provide sufficient tax credits for alternate energy development. Accordingly, your Committees have amended the bill by deleting the phrase "or to provide additional alternate energy tax credits."

Your Committees note that the bill provides for the diversion of "windfall" utility tax revenues to fund energy research. Your Committees have amended the bill by deleting the phrase "energy research" and adding the phrase "alternate energy development projects."

Your Committees note that the bill recommends the implementation of a program to use "windfall" utility tax revenues for alternate energy purposes. Your Committees have amended the bill to provide for the implementation of such a program by establishing an alternate energy development fund.

Your Committees on Economic Development and Public Utilities are in accord with the intent and purpose of S.B. No. 1895-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1895-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Carpenter, Yamasaki, Anderson, Carroll, George, Saiki and Soares.

SCRep. 207-80 Economic Development on S.B. No. 2409-80

The purpose of the bill is to appropriate the sum of \$2.835 millions in fiscal year 1980-81

for the purpose of drilling, testing, and encasing groundwater exploratory wells at various locations on Oahu.

The total project involves the drilling of 15 exploratory wells: 12 in the Windward District, 2 in the Honolulu District, and 1 in the Leeward District. These exploratory wells are part of a long range plan developed by the Honolulu Board of Water Supply in coordination with the Department of Land and Natural Resources, covering the period 1980-1986.

The data developed by the exploratory wells should form the basis for a realistic plan for Oahu's future domestic water needs. Accordingly, the Honolulu Board of Water Supply is requesting favorable consideration of this bill which will provide State financial aid to assist the Board in accelerating its search for additional groundwater sources.

Your Committee had requested the Honolulu Board of Water Supply to submit its recommendation as to the priority of each of the groundwater exploratory wells contained in the bill to assist in the determination of budgeting requirement for fiscal year 1980-81. Said list of priorities will be made available to the Committee on Ways and Means.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. 2409-80 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 Carpenter, Yamasaki, Carroll, George and Saiiki.

SCRep. 208-80 Economic Development on S.B. No. 2554-80

The purpose of S.B. No. 2554-80 is to support the commercial development of gasohol through the production of ethanol from sugarcane. This support would take the form of subsidizing all losses through 1989 or eight years after production is in place, whichever is later, by making interest-free loans to any agricultural cooperative processing raw sugarcane with 50 or more patrons engaged in producing sugarcane in the State.

The loans may be made annually to cover the processor's net losses, if any, in the fiscal year immediately prior to the date of application of the loan. The amount of loan cannot exceed the total amount of the processor's net losses, and the total of all such loans outstanding cannot exceed the total amount of loan funds available. Repayment of the loan is to be based upon the processor's ability to produce a net profit, and at maturity date, the obligation of the processor to repay any outstanding loan balance is to be forgiven.

Funding for the loans is to be derived from a Hawaii Self-Sufficiency Fuel Tax to be imposed on wholesale and retail sales of gasoline. The bill would exempt gasoline from the general excise tax of 4 per cent but subject gasoline to the new aforementioned fuel tax in order to create a source of funds for the loans to the processor.

Your Committee finds that this proposal has a number of undesirable features. The definition of an eligible producer is so limited as to allow only one cooperative to qualify. Your Committee is also concerned that the bill in its present form could be used to cover not only losses related to producing alcohol but also losses related to growing sugarcane. Your Committee is further concerned over the bill's proposal to allow loans to be made without payment of interest.

Accordingly, your Committee has amended the bill to provide a broader definition of who is eligible for support from the fund, eliminate use of funds for non-alcohol producing operational losses, and provide for interest payments on loans to be determined by the energy resources coordinator.

Section 1 of the bill has been revised to amend certain findings and purposes to conform to the broader definition of who is eligible for support from the fund.

Section 3, relating to the Hawaii Self-Sufficiency Fuel Fund has been substantially amended by including a new set of definitions, revising the eligibility criteria, providing that the fund is to be administered by the energy resources coordinator instead of a board, and providing that the fund can be used for loans and grants under the conditions and for the purposes specified by the new section. The purpose of the loans is to provide assurance to the alcohol producer that support payments will cover start-up losses of an alcohol facility. Grants may be made to off-set operating cash losses of the producer until the price of unleaded gasoline equals the cost of alcohol in the gasohol blend. Interest rates are to be set by the energy resources coordinator. The amended section also contains the duties and powers of the energy resources coordinator in administering the fund.

Your Committee has also revised the effective date of the bill to July 1, 1980, instead of having it take effect upon its approval.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2554-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2554-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Yamasaki, Carroll, George and Saiki.

SCRep. 209-80 Economic Development on S.B. No. 2635-80

The purpose of this bill is to provide for the issuance of special purpose revenue bonds to assist industrial enterprises.

Article VII, section 12, of the Constitution of the State of Hawaii, as amended by the Constitutional Convention of 1978, provides that the Legislature, by a two-thirds vote of both houses, may enact enabling legislation for the issuance of special purpose revenue bonds separately for each special purpose entity, and by similar vote and by separate legislation, may authorize the State to issue special purpose revenue bonds for each single project or multiproject program of each special purpose entity. Such bonds may be authorized or issued to assist, among other things, manufacturing, processing, or industrial enterprises; however, the Legislature must find the issuance of the bonds to be in the public interest.

Among other things, the bill allows the Department of Budget and Finance to issue special purpose revenue bonds to finance industrial enterprises; requires the State to be reimbursed for all expenses associated with entering into any agreement concerning such bonds for industrial enterprises; provides that any industrial enterprise shall contract with the Department to pay sums sufficient to cover the principal and interest on such bonds, to maintain a reserve as required, and to pay all fees and expenses of the State; provides that such bonds shall only be paid from revenues derived from payments made to the Department by such industrial enterprise, and that such bonds shall be secured solely by industrial enterprises; provides that such bonds shall not be a general obligation of the State and shall not be secured by the full faith and credit of the State, and that no state revenues or taxes shall be pledged to the payment of such bonds; and provides that such bonds, and the income and interest therefrom, shall be exempt from all state, county, and municipal taxation, except inheritance, transfer, and estate taxes.

Your Committee finds that the most critical and urgent challenge confronting the State of Hawaii is reducing the present, extreme dependence on imported fossil fuels. Your Committee finds that gasohol, usually a blend of ninety per cent gasoline and ten per cent ethanol, is currently the only known viable alternative to pure gasoline, that its widespread use could significantly extend the State's fossil fuel supply and decrease the dependence on imported foreign oil, and that, therefore, its production and use should be encouraged and supported. Your Committee further finds, however, that a major impediment to the development of a viable gasohol program is the lack of alcohol plants. Although several corporations have expressed an interest in constructing alcohol plants, the unfavorable financing economics for such plants have precluded the necessary capital investments. Your Committee finds, therefore, that there is a need for government assistance in reducing the cost of constructing alcohol plants, and that one means of doing so is authorizing the issuance of tax exempt bonds for the financing of such plants.

Pursuant to recommendations from bond counsel, transmitted through the Department of Budget and Finance your Committee has made several amendments to the bill. The amendments, with line and page references to the bill as originally drafted are as follows:

- (1) The word "bond" on line 13 of page 5 is amended to "bonds".
- (2) In prudent business practice, cost of operations are funded by current revenues rather than longterm borrowings. The use of longterm borrowing is used to purchase assets which will benefit the borrower over the life of the loan and generates revenue to repay the loan. Therefore, the word "operation," is deleted on line 17 of page 5.
- (3) The word "revenue" is inserted between the words "purpose" and "bonds" on line 20 of page 5.
- (4) The word "revenue" is inserted between the words "All" and "bonds" on line 6 of page 10.

- (5) The words "inclining working capital," on line 13 of page 11 are deleted to be consistent with the non-inclusion of operating expenses.
- (6) The words "section 103-7 and" are added between the words "with" and "section 103-22" on lines 1 and 2 of page 5, to provide for exemption from the section which requires authorization by the legislature and the governor. This provision relates primarily to state owned and operated capital improvements such as highways, airport improvements and the like.

Your Committee has also amended the bill by deleting reference to the establishment of an alcohol plant in a specific county of the State of Hawaii.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2635-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2635-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Yamasaki, Carroll, George and Saiki.

SCRep. 210-80 Economic Development on S.B. No. 2356-80

The purpose of this bill is to allow the legislature to appropriate money to the firefighter's contingency fund.

Section 185-3, H.R.S., relates to payment or reimbursement for fire fighting. Presently, the fire fighter's contingency fund under the control of the department of land and natural resources is appropriated \$200,000 each fiscal year. Any unused portion lapses at the end of the fiscal year.

In 1978, section VII, article 11, of the State Constitution was amended to require that all appropriations from the general fund of the State be for a specified period of time. Any amendment relating to such appropriations, therefore, should be consistent with the amendment.

Your Committee has revised the language of the proposed amendment to section 185-4, Hawaii Revised Statutes, to use specific language which will avoid any question of providing an open-ended appropriation which would be unconstitutional.

Your Committee has made technical, spelling, and grammatical amendments to the bill and changed section 2 to conform to proper bill drafting style.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2356-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2356-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Yamasaki, Carroll, George and Saiki.

SCRep. 211-80 Tourism on S.B. No. 2447-80

The purpose of the bill is to appropriate \$100,000 out of the general revenues of the State of Hawaii to conduct a social impact analysis of the tourism industry. The sum appropriated is to be expended by the Department of Planning and Economic Development.

Your Committee heard testimony from the Department of Planning and Economic Development stressing the importance of a social impact monitoring system. It was argued that a social impact analysis, focusing on the social impact of tourism at one point in time, should also provide the methodology for monitoring change over time. Your Committee is in agreement, and recommends the development of such a monitoring system upon completion of the social impact analysis.

Your Committee finds that \$15,000 was appropriated last session to design a study of the social effects of tourism. The funding was to define the scope and direction of a later study. Your Committee notes that this bill is for the actual conduct of that much needed social impact analysis or study.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 2447-80 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 Soares and Yee.

SCRep. 212-80 (Majority) Tourism on S.B. No. 3016-80

The purpose of this bill is to appropriate \$200,000 out of the general revenues of the State of Hawaii to establish a neighbor island tourism promotion program to attract visitors to the neighbor islands in order to stimulate both business activity and employment opportunities for island residents.

Your Committee finds that although the State as a whole enjoyed an increase in the number of visitors in 1979, the islands of Kauai and Hawaii experienced a significant decline. Your Committee also finds that officials in the tourism industry forecast a further reduction in business activity and employment opportunities over the coming year. Your Committee finds that action should be taken to combat this serious decline in the visitor trade in the neighbor islands by supporting various focused promotion programs.

Your Committee notes that testimony received from the Department of Planning and Economic Development, the Hawaii Visitors Bureau, and the County of Hawaii indicates that the Legislature appropriated \$200,000 for fiscal biennium 1977-79 to fund programs to control low hotel occupancy rates experienced in the neighbor islands. The County of Hawaii, which received most of the funding, used its portion to promote the Big Island through a national advertising campaign and by funding, in part, a major conference of travel writers. Your Committee heard testimony attesting to the success of these efforts to reverse the decline of visitors to the Big Island.

Your Committee further notes that the private sector has also been doing its part to cope with the decline in interisland visitors. In 1978, a private organization, "The Other Hawaii," was established for the purpose of promoting Kona, Hilo, Maui, and Molokai as tourist destination areas. Funding for this successful program is derived entirely from the private sector.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 3016-80 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 Soares.
Senator Kawasaki did not concur.

SCRep. 213-80 Transportation on S.B. Nos. 2185-80, 2287-80, 2343-80, 2452-80, 2503-80, 2569-80, 2768-80, 2909-80, 3015-80, 3044-80 and 3067-80

The purpose of these bills is to provide for capital improvement projects and studies for transportation systems throughout the State of Hawaii.

Your Committee has amended the following bills for the following reasons:

- S.B. No. 2185-80 Amended the bill to include a lapsing provision.
- S.B. No. 2287-80 Amended the bill to include a lapsing provision.
- S.B. No. 2343-80 Amended the bill to include a lapsing provision.
- S.B. No. 2452-80 Amended the bill to include a lapsing provision.
- S.B. No. 2503-80 Amended the bill to change the appropriated amount to \$850,000.
- S.B. No. 2569-80 Amended the bill to stipulate the lapsing date of this appropriation as of June 30, 1981.
- S.B. No. 2768-80 Amended the bill to stipulate the lapsing date of this appropriation as of June 30, 1981.
- S.B. No. 2909-80 Amended the bill to set the appropriated amount to \$300,000 and included a lapsing provision.
- S.B. No. 3015-80 Amended the bill to include a lapsing provision.
- S.B. No. 3044-80 Amended the bill to stipulate that the appropriation is for the fiscal year 1980-81.

S.B. No. 3067-80 Amended the bill to include a lapsing provision.

Your Committee on Transportation is in accord with the intent and purposes of S.B. Nos. 2185-80, 2287-80, 2343-80, 2452-80, 2503-80, 2569-80, 2768-80, 2909-80, 3015-80, 3044-80, and 3067-80, as amended herein, and recommends that they pass Second Reading in the forms attached hereto as S.B. Nos. 2185-80, S.D. 1, 2287-80, S.D. 1, 2343-80, S.D. 1, 2452-80, S.D. 1, 2503-80, S.D. 1, 2569-80, S.D. 1, 2768-80, S.D. 1, 2909-80, S.D. 1, 3015-80, S.D. 1, 3044-80, S.D. 1, and 3067-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 214-80 Transportation on S.B. No. 570

The purpose of this bill is to exempt from the use tax, any aircraft or aircraft related equipment required by law, which is imported into the State for use as a public utility.

Under present law airlines operating between the islands are subject to the use tax on aircraft purchased or imported into the State for use in their business. However, a person who imports aircraft into the State for the purpose of leasing or renting the aircraft to airlines which use the aircraft as a public utility is exempt from the use tax. This bill repeals the exemption for aircraft to be leased or rented and provides for a blanket exemption for aircraft imported into the State for use as a public utility, whether purchased by an airline for use in its business or purchased for leasing or renting to a public utility.

In 1974, oceangoing vehicles operated by a public utility for the transportation of persons and goods within the State were exempted from the use tax by Act 144, Session Laws of Hawaii 1974. This bill would provide equal treatment for airlines operating within the State.

This bill also provides that if a common carrier by water adopts a rate schedule of less than one-half the regular adult fare for students, grade twelve or below, travelling in school groups, the tax shall be three per cent of its gross income each year from the common carrier by water business. This provision will make available the same tax option afforded to airlines available to common carriers by water.

Your Committee has amended the bill by inserting a new Section 4 containing appropriate Ramseyer format language regarding the effect of bracketing and underscoring.

The original section 4 has been redesignated as Section 5 and has been amended by changing the applicable date of the amendments proposed by this bill from taxable years beginning after December 31, 1978 to taxable years beginning after December 31, 1979.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 570, as amended herein, and recommends that it Pass Second Reading in the form attached hereto as S.B. No. 570, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Ushijima and Soares.

SCRep. 215-80 Transportation on S.B. No. 1863-80

The purpose of this bill is to require the department of transportation to plan, coordinate, and implement beautification programs for the highways, harbors, and airports under its jurisdiction.

The Department of Transportation testified that they have no objections to the requirements of this bill. Beautification of state highways, harbors and airports is an ongoing program and they will continue to enhance the landscaping of state transportation facilities.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1863-80 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. 216-80 Transportation on S.B. No. 2223-80

The purpose of this bill is to amend Sections 291-35, 291-36, 291-37 and 291-39, Hawaii Revised Statutes, which relate to vehicle size and weight, so as to clarify the present statutes and to implement its enforcement provisions.

Your Committee finds that this bill is in response to the courts' request to clarify the ambiguity in the statutes in order that it may be properly interpreted by the prosecutors and the courts.

Your Committee heard testimony that the use of portable scales for enforcement, and the application of weight formulas to interior axle weights have been contested in the courts and found to be ambiguous.

Your Committee adopted the recommendations presented and amended the bill as follows:

1. By amending the gross weight, axle, and wheel loads formula of Section 291-35 to clarify the weight limits imposed on various highways.
2. By amending Page 4, line 13 by deleting "any group of two or more consecutive axles on" to clarify the application of the formula.
3. By amending page 7, Section 291-36(j) which relates to set fees for permits for vehicles over the authorized weight limit, by deleting the provision and replacing it with a graduated trip permit fee schedule.
4. By amending page 7, line 21 by changing the word "shall" to "may" in order to give the courts the ability to consider mitigating circumstances in enforcing the penalty provision of Section 291-37.
5. By amending page 9, line 1 by reducing the fine from \$480 to \$460 for violations of those vehicles in the 9,501 to 10,000 pound category.
6. By deleting the redundant provision found between page 9, line 10 and page 10, line 3.
7. By providing the violators with the alternative of mailing in their penalties. Your Committee finds that this recommendation is both beneficial and more efficient for both the violators and the Department of Transportation.
8. By deleting Subsection (b) of Section 291-37 of Section 3 of the bill. Your Committee has decided to retain the present provision of Section 291-37(b), Hawaii Revised Statutes.
9. By amending page 13, line 4 by deleting the phrase "mentioned in section 291-37(b)". Your Committee feels that the Enforcement Officers should cite the operator, and not try to determine the responsible party.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2223-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2223-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 217-80 Transportation on S.B. No. 2347-80

The purpose of this bill is to make an appropriation for the realignment of Hana Highway from the vicinity of Kuau toward Hookipa Park, Maui.

Your Committee adopted the recommendation of the Department of Transportation and amended the purpose of the bill from an appropriation "for land acquisition and design" to an appropriation "for a feasibility study for a minor realignment", since a study would be needed before any acquisition or planning can be done. Your Committee also reduced the amount to be appropriated from \$200,000 to \$25,000.

Your Committee also amended Section 2 of this bill to include a lapsing clause.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2347-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2347-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 218-80 Transportation on S.B. No. 2435-80

The purpose of this bill is to make an appropriation for safety improvements at Honokeana

Cove and Kahana Sunset on Honoapiilani Highway, Lahaina, Maui.

Your Committee adopted the recommendation of the Department of Transportation and increased the sum appropriated from \$50,000 to \$135,000.

Your Committee finds that the improvement to Honoapiilani Highway in the vicinity of Kahana Sunset will correct the problem of cars running off the roadway. The estimated cost of this project is \$60,000.

The improvement to Honoapiilani Highway at Honokeana Cove will relocate the inlet of a box culvert from the edge of the pavement. This project will cost \$65,000.

Your Committee also amended Section 2 of this bill to include a lapsing clause.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2435-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2435-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 219-80 Transportation on S.B. No. 2436-80

The purpose of this bill is to make an appropriation for the construction of drainage improvements of Kaahumanu Avenue in the vicinity of Wakea Avenue, Kahului, Maui.

Your Committee adopted the recommendation of the Department of Transportation by amending the sum appropriated from \$35,000 to \$275,000. A preliminary cost estimate for the drainage improvement is approximately \$275,000.

Your Committee amended Section 2 of this bill to include a lapsing clause.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2436-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2436-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 220-80 Transportation on S.B. No. 2507-80

The purpose of this bill is to make an appropriation to complete construction from H-3 to Kam Highway.

Your Committee amended this bill by adding in \$250,000, the sum appropriated for the purpose of this bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2507-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2507-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 221-80 (Majority) Transportation on S.B. No. 2577-80

The purpose of this bill is to make an appropriation of \$1 million for State matching funds for planning of the Honolulu Area Rapid Transit System (HART).

Your Committee heard testimony from the City and County of Honolulu that an appropriation of \$1 million in State monies will assist the City in financing the design and rightofway acquisition phases of the City bus/rail program. This appropriation, together with the balances remaining in the rapid transit appropriations under Act 197/71 and Act 195/75 and the \$5 million supplementary appropriation under consideration by the City Council will result in a total of \$50 million under the Urban Mass Transit Authority 80/20 assistance program. Your Committee finds that \$50 million should be adequate to cover the entire design phase of an initial 8.4 mile segment including some monies for critical rightofway acquisition.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2577-80 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.
Senators Cobb and Soares did not concur.

SCRep. 222-80 Transportation on S.B. No. 2636-80

The purpose of this bill is to make an appropriation for a study of a second access road to Leeward Community College.

Your Committee amended the bill by limiting the study of the second access road "through the H-1 Freeway or Lehua Avenue, Pearl City".

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2636-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2636-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 223-80 Transportation on S.B. No. 2642-80

The purpose of this bill is to make an appropriation for plans and construction of an interchange on Interstate Route H-2 in the vicinity of the Mililani Memorial Road.

Your Committee has amended the bill by setting the appropriated amount at \$100,000.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2642-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2642-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 224-80 (Majority) Transportation on S.B. No. 2643-80

The purpose of this bill is to make safety improvements at Honolulu International Airport and to designate sites for satellite general aviation airports.

Your Committee finds that the present mix of aircraft at the Honolulu International Airport creates a high potential for aircraft accidents in the air and on the ground. The solution proposed by the State administration, the construction of a new general aviation airport at Poamoho on Oahu to relieve the Honolulu international Airport of some general aviation traffic, will not be operational for at least four years. Also the Senate has not as yet received, from the Department of Transportation, any recommended course of action to make Honolulu International Airport safer by controlling or segregating general aviation activities at Honolulu International Airport, pending the acquisition, construction and utilization of a new general aviation airport.

From the foregoing, it is apparent that a twin problem exists: (1) Pending the acquisition, construction and utilization of a reliever general aviation airport or airports, to make the present mix of aircraft at Honolulu International Airport as safe as possible; and (2) To designate the site or sites of reliever general aviation airport or airports and build it within the shortest possible time to relieve the Honolulu International Airport of most general aviation activity.

This bill proposes to resolve both problems as follows:

First - support the Federal Aviation Administration's recent implementation of an informal runway use program at Honolulu International Airport which has resulted in greater segregation of turbojet and propeller aircraft, maintain one of the runways for general aviation use, and determine how one of the existing runways can be improved and extended for full and exclusive commercial aircraft use.

Second - designate Dillingham Airfield as the first satellite general aviation airport and construct the necessary improvements at Dillingham so that some general aviation activity can be diverted to this location from Honolulu International Airport.

Third - designate Bellows Airfield as the second satellite general aviation airport and construct necessary improvements at Bellows so that more general aviation activity can be diverted to this location from Honolulu International Airport.

Fourth - alternatively, if Bellows Airfield cannot be obtained, designate Ford Island

Auxiliary Landing Field as the second satellite general aviation airport and construct facilities for enlarged general aviation operations and develop improved access to Ford Island.

Your Committee further finds that people in one area of Oahu should not have to bear the total burden of general aviation requirements and all its secondary consequences. This bill proposes to share the burden of general aviation between the northwest (Dillingham) and the southeast (Bellows) or south (Ford Island) quadrants of Oahu. The political impact of any decision as important as siting a general aviation airport must be considered along with the other theoretical considerations. This factor was not considered by the Department of Transportation when it selected Poamoho as the sole site for a new general aviation airport.

Your Committee amended the bill by correcting the first two sentences of Paragraph (b), Section 1, to read as follows:

"(b) In December 1979, the Federal Aviation Administration implemented an informal runway use program to relieve the mix of turbojet and propeller aircraft at Honolulu International Airport. Turbojet aircraft now use Runways 8-Left and 8-Right, and propeller aircraft use Runways 4-Left and 4-Right."

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2643-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2643-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.
Senators George and Soares did not concur.

SCRep. 225-80 (Majority) Transportation on S.B. No. 2789-80

The purpose of this bill is to remove the June 30, 1980 lapsing provision placed on the 1975 Honolulu Mass Transit System appropriation by Act 156, Session Laws of Hawaii 1979, section 6.

Your Committee heard testimony presented by the City and County of Honolulu that the bus/rail program is progressing and the \$3.3 million State appropriation can be committed within a reasonable time. Additionally, the City Council is presently considering a \$5 million supplemental appropriation for the bus/rail program that will more than match the remaining State appropriation. The total \$8.3 million in local funds, with an 80-20 Urban Mass Transit Authority matching split, will result in a total of \$41.5 million which would allow the City to get well into the final design and to acquire critical right-of-way parcels.

Your Committee has also amended this bill to conform to the Ramseyer format and has extended the lapsing date from June 30, 1980 to June 30, 1983, rather than repealing the provision.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2789-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2789-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.
Senator Cobb did not concur.

SCRep. 226-80 Transportation on S.B. No. 2984-80

The purpose of this bill is to reduce the fee for special number plates from \$100 to \$25.

Lt. Governor Jean King submitted testimony that in 1981, new license plates will be issued for all motor vehicles in Hawaii, and that the Motor Vehicle Registration Advisory Committee has recommended a change to our present arrangement of letters and numbers on motor vehicle license plates to a three letterthree number system in 1981.

Your Committee finds that the proposed license plate changes will encourage interest because the three alpha-three number system will have greater choices of numbers. The cost reduction of the special number plates will bring the price of these plates to a more reasonable amount and thus allow the owners to retain or acquire their special number.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2984-80 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. 227-80 Transportation on S.B. No. 3002-80

The purpose of this bill is to make an appropriation for traffic lights on Kapahulu Avenue, Oahu.

Your Committee adopted the recommendation of the Department of Transportation by amending the expending agency from the Department of Transportation to the Department of Transportation Services, City and County of Honolulu.

Your Committee amended Section 2 of the bill to include a lapsing clause.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 3002-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3002-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 228-80 Transportation on S.B. No. 3018-80

The purpose of this bill is to make an appropriation of \$600,000 for the following intersection improvements for the County of Hawaii:

- | | |
|---|-----------|
| 1. Hawaii Belt Road, Ahulua-Pakalana Road intersection, Honokaa, Hawaii County. | \$300,000 |
| Plans and construction for improvements at Hawaii Belt Road, Ahulua-Pakalana Road intersection. | |
| 2. Hawaii Belt Road, Papaaloa residential subdivision access road intersection, Papaaloa, Hawaii County. | 300,000 |
| Plans and construction for improvements at Hawaii Belt Road, Papaaloa residential subdivision access road intersection. | |

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 3018-80 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. 229-80 (Majority) Transportation on S.B. No. 3073-80

The purpose of this bill is to rescind the June 30, 1980 lapsing date for State funding of various federal-aid transportation projects to be implemented by the City and County of Honolulu.

The Department of Transportation Services, City and County of Honolulu, testified that based on Section 11, Article VII of the State Constitution as amended by the Constitutional Convention of 1978, all appropriations where the source of funding is general funds and general obligation bonds with an effective date of November 7, 1978 or prior shall lapse, unless determined by the Legislature of the current legislative session to be necessary to qualify for federal-aid funding.

Your Committee finds that there are three major City transportation projects that would lose currently appropriated State monies based on that constitutional provision. They are:

1. Salt Lake Boulevard between Puuloa Road and Aloha Stadium. The section between Puuloa Road and Ala Lilikoi is currently under construction, but portion from Ala Lilikoi to Aloha Stadium is still in design, and its construction would be delayed. A total of \$1,871,000 in State funds is involved.
2. Moanalua Road between Pali Momi and Aiea Interchange. The design and EIS work for its widening will commence in July, 1980 and construction will come several years later. A total of \$940,000 in State funds would be deleted.

3. The Honolulu Bus/Rail Program. Two separate appropriations are involved, one in 1971 with a current balance of \$637,000 and the other in 1975 with a \$3,300,000 present balance.

Your Committee finds that these projects are all vital to the transportation needs of Oahu, and their implementation should not be postponed or stopped because of a general constitutional provision. Your Committee further finds that these appropriations or any portion of such appropriations are necessary to qualify for federal aid financing and reimbursement and therefore such funds shall not lapse.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 3073-80 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.
Senators Cobb and Soares did not concur.

SCRep. 230-80 Transportation on S.B. No. 2544-80

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

Your Committee is aware that there is a renewed interest in providing ocean-going cruises involving the Hawaiian Islands. The cruise lines offer an alternate mode of interisland passenger transportation, along with Seaflyte, to the interisland airlines. The cruise lines also serve as a source of economic benefit to the State of Hawaii in terms of employment, both on the docks and on the vessels, and as an addition to our tourist industry.

Mr. David McClung, representing Hawaiian Cruise Lines, testified that there is a difference in opinion between the Public Utilities Commission and the Department of Taxation over the definition of public service companies. This bill would resolve the question of whether cruise lines should be exempt from the public service company tax.

The bill, as amended by your Committee, amends Section 239-2, Hawaii Revised Statutes, by deleting reference to the transportation of passengers by water from the definitions of "contract services" and "gross income." However, it is not the intent of your Committee to exempt the public service tax for transportation services of freight by water. Accordingly, the bill, as amended, continues the tax on transportation of freight by water.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2544-80, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2544-80, S.D.1, and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 231-80 Transportation on S.B. No. 2863-80

The purpose of this bill is to amend Section 462A-15, Hawaii Revised Statutes, by deleting the provision which requires the pilot association to maintain liability insurance coverage which protects the State against liability arising out of or caused by any acts or omissions of an association pilot.

The Hawaii Pilots Association and the Board of Pilot Commissioners testified that prior to enactment of the state pilotage law the pilots were employees of the State, and the State was obligated to carry liability insurance to protect itself against liability arising out of or caused by any acts or omissions of their pilots.

Chapter 462A, as passed by the 1978 Legislature, contained a provision permitting the pilots to form an association in order to provide the necessary arrangements and facilities for the rendering of pilotage services, and requiring such association to maintain liability insurance coverage to protect the State. The amount of insurance was to be specified by the Board of Pilot Commissioners.

The Attorney General of the State of Hawaii, in an opinion dated May 27, 1977 held that if the pilots are no longer State employees, the State of Hawaii would not be liable for any damages caused by a pilot except where the proximate cause of the injury was (1) the conformance by the pilot to standards set by the Board of Pilot Commissioners which are clearly inadequate; or (2) the negligent licensing of an unqualified individual by the Board as a certified pilot. In the history of state pilotage in the United States, there has

been no case found where a state or municipality has been successfully sued for the actions of a state licensed pilot.

Because the potential liability of the State is relatively insignificant, your Committee agrees that the liability insurance requirement should be eliminated.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2863-80 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 Ushijima.

SCRep. 232-80 Transportation on S.B. No. 2221-80

The purpose of this bill is to amend Sections 261-12 and 261-21, Hawaii Revised Statutes, to eliminate possible constitutional challenge to the validity of airport rules and regulations.

Your Committee heard testimony from the Department of Transportation that in a recent Circuit Court case involving the Labor Day demonstration at General Lyman Field, charges against those persons arrested for violation of airport rules and regulations prohibiting entry into a restricted area of the airport were dismissed. The Court rules that the airport regulations were defective in that they were made by the Department without proper guidance by existing statutes.

Your Committee finds that this bill will clarify the authority of the Director of Transportation to adopt rules and the penalties for violations.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2221-80 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 233-80 Housing and Hawaiian Homes on S.B. No. 1978-80

The purpose of this bill is to increase the membership of the Hawaiian Homes Commission from eight to nine by dividing the island of Hawaii into East and West districts.

Under the present statute, the County of Hawaii is allowed only one member on the Commission. The effectiveness of this member is constrained by the size of the island. It is difficult for one Commissioner to maintain regular contacts with lessees from the widely dispersed communities of Keaukaha, Panaewa, Waimea, and Kawaihae. There is also the possibility that there will be a homesteading community established on Hawaiian Home lands in the Ka'u district, which would add to the area and number of constituents under the responsibility of the single Commissioner.

The proposed measure will serve to distribute the responsibilities of the Commissioners by district and enable each Commissioner to be more accessible to their constituents.

The ninth member will also remove the possibility of a deadlock.

Favorable testimony was heard from Department of Hawaiian Home Lands.

Your Committee has made technical amendments to the bill which have no substantive effect.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 1978-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1978-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 234-80 Housing and Hawaiian Homes on S.B. No. 2037-80

The purpose of this bill is to make an appropriation from the general revenues of the State for the purpose of new home loans to be used for residences on Hawaiian home lands.

Funds are needed to meet the heavy demands of homesteaders for new loans. The Department of Hawaiian Home Lands testified in favor of this measure and noted that they have submitted a supplementary budget request for fiscal years 1981 to 1983 to provide additional capitalization to the Hawaiian Home General Loan Fund to allow for the construction of

100 new homes throughout the State.

Your Committee has amended the bill to provide an appropriation of \$3,200,000, and has amended the effective date to read July 1, 1980.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2037-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2037-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 235-80 Housing and Hawaiian Homes on S.B. No. 2041-80

The purpose of this bill is to make an appropriation from the general revenues of the State for the purpose of site development for residences on Hawaiian home lands.

Site development for residences is not included in the expenses of home lands and additional appropriations are necessary for the construction of residential lots. The Department of Hawaiian Home Lands testified favorably on this measure and noted that they have submitted a supplementary budget request for three fiscal years 1981 through 1983 for residential site development projects throughout the State.

Your Committee has amended the bill to provide an appropriation of \$2,950,000, and has made it effective July 1, 1980.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2041-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2041-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 236-80 Housing and Hawaiian Homes on S.B. No. 2168-80

The purposes of this bill are to amend Section 209 of the Hawaiian Homes Commission Act, 1920, as amended, in three ways:

- (1) By relaxing the blood requirement from 50 per cent to 25 per cent for surviving spouses and children designated as successors;
- (2) By eliminating the requirement that a lessee must name a designated successor at the time a homestead award is made;
- (3) By restricting the Department of Hawaiian Home Lands, when a deceased lessee has failed to designate a successor upon his death, to designating only the surviving spouse or children as successors.

Testimonies by the Department of Hawaiian Home Lands, Germaine Keliikoa (President, Waianae Valley Homestead Community Association), Eugene Keliipio Kalanui (President, Keaukaha Panaewa Association), and Alvina Kealihaleapoli Pali (Nanakuli Hawaiian Home Lands) emphasized the importance of these measures, especially that which lowers the blood quantum for successors. Family stability and security in the land, and a resultant incentive to conscientiously improve and maintain the homes and property were primary considerations.

The intent of the Hawaiian Homes Commission Act is to return the native Hawaiian to the land in order that the Hawaiian race may be perpetuated. However, under present conditions where many homesteader spouses and children do not meet the minimum blood requirement, the strength which comes from continuity in the land is absent. Lowering the blood requirement will provide a sense of family security based on the knowledge that succeeding generations will be able to benefit from the labor and efforts of the present lessee. This assurance may act as a motivation toward responsible stewardship of the land.

The Department also supported the second and third purposes of the bill as delineated above. It maintained that the designation of an heir was a decision of such magnitude, comparable to the drawing of a will, that it should not be made a condition of receiving a homestead award.

The third measure limits the departmental selection of a successor, in cases where a

lessee dies without designating an heir, to only the surviving spouse or, if there is no surviving spouse, the children. The Department's opinion was that this would alleviate the difficult task which presently confronts the Hawaiian Homes Commission of selecting a successor from a long list of potential heirs ranging from surviving spouses of deceased children to nephews and nieces.

Although your Committee concurs with the intent and purpose of this bill, negative testimony by Sonny A. Kaniho (applicant, Hawaiian Home agricultural land) suggests a need for additional information concerning conflicting needs of non-native Hawaiian successors and those on the Hawaiian Home Lands waiting list. Your Committee respectfully requests the Committee on Ways and Means to look more closely at the concerns and desires of applicants on the waiting list when it considers this bill.

Your Committee has amended this bill to include a revision to the buy back procedures for all improvements on Hawaiian home lands, upon a termination of a lease.

The purpose of this amendment is to alter the existing provisions for the repurchase of improvements on Hawaiian home lands upon the death of a lessee leaving no qualified successor, the cancellation of a lease by the department, or the surrender of a lease by a lessee. The present law allows for the repurchase of improvements by the Department at the prevailing market value, which requires three appraisals.

The proposed amendment is modeled after the buy back provisions applicable to dwelling units purchased from the Hawaii Housing Authority (Section 359G-9.2, Hawaii Revised Statutes). It simplifies the buy back procedures by setting a standard equation for calculating the repurchase price, thereby eliminating the need for three appraisals.

Your Committee has made other technical amendments to the bill which have no substantive effect.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. 2168-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2168-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hara and Cayetano.

SCRep. 237-80 Housing and Hawaiian Homes on S.B. No. 2173-80

The purposes of this bill are to (1) provide general excise tax exemptions to persons and entities who contribute toward the development, construction, or occupancy of government assisted housing; and (2) to provide that for a non-profit organization qualified under Federal housing law, the income earned and obligations issued which are declared to be exempt from Federal taxation shall also be exempt from all State taxation.

More specifically, the bill:

(1) Expands 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) Expands the applicability of qualifying housing (from only multiunit property) to single family, multiple-unit, or mixed use residential property;

(3) Expands the program applicability (from three specifically cited outdated Federal programs) to all State and Federal government assistance programs, to obviate continual statutory amendment in accommodating future federal public law and federal rule amendments;

(4) Provides 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); and

(5) Amends 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.

These provisions 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 deleted Section 1 of the bill which would delete exemptions to specific projects developed under prior Federal programs inasmuch as this may require persons managing those projects to reapply with the Hawaii Housing Authority for certification.

Your Committee has made an amendment to the bill to clarify that rental management income for a project certified by the Authority is qualified for the exemption.

Your Committee has made other amendments to simplify language in the bill.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2173-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2173-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hara and Cayetano.

SCRep. 238-80 Housing and Hawaiian Homes on S.B. No. 2216-80

The purpose of this bill is to allow the interest rate on real property contracts to be raised to 1 1/2 per cent a month (18% annually) until June 30, 1984.

The bill applies to all written contracts signed by the debtor and secured by a mortgage, deed of trust, or other security interest, including an agreement of sale on real property, made for the purpose of financing the acquisition, construction, or the improvement of real property. The definition of real property is as defined under the State Real Property Tax Law, Section 246-1.

Usury laws, which impose a statutory limit on the rate of interest which may be charged by a lender, have been described as archaic. The intent of the law was to ensure that illiterate medieval English peasants would be protected from unscrupulous money lenders.

Section 478-3 of Hawaii's usury law allows a maximum rate of interest of 12 per cent a year to be charged on any written contract. There are exceptions to this Chapter which permit certain lenders to make certain loans at higher than the 12 per cent annual rate. Under Section 478-9, small business investment companies are exempt from the Chapter, and may charge a rate up to the maximum allowed by the federal Small Business Investment Act. Under Chapter 408, all persons who charge a greater rate of interest than allowed under Section 478-3 must be licensed as "industrial loan companies" by the State. Under Section 407-92.5, savings and loan associations are permitted to charge interest at the same rate as industrial loan companies. Under Section 478-8, a loan for a principal amount in excess of \$750,000 at a rate higher than the usury limit can not be enforced as being usurious. Under Section 478-10, certain federally insured mortgage loans, and any alternative mortgage instrument loans approved by the State bank examiner are also exempt from the State usury law. Under Section 476-33, the finance charges on retail installment contracts are prohibited from exceeding the rates established for industrial loan companies. Section 409-3 allows small loan companies licensed under Chapter 409 to make loans above twelve per cent a year, although these companies may not make any loans secured by real estate.

Under today's regulatory environment, it is contended that federal and state statutes and regulations, and the national financial market impose more control on interest rates than usury limits.

The cost of real estate credit nationwide is primarily determined by three factors: (1) the competitive demand for funds; (2) the rate of inflation and of anticipated inflation; and (3) the degree of availability of investment funds. Due to successive years of large

federal deficits, the U.S. Treasury has had to pay ever-increasing rates for the smaller supply of funds available for investment, because the higher costs occasioned by inflation have reduced the supply of savings available for investment and for expanded growth. In 1970, Americans saved 8.3% of their disposal income; by 1974 this had dropped to 7.5%, but by year-end 1979 the savings rate had dropped to 3.3% of disposable income. This is the all-time lowest level of savings in 29 years.

Because of the unique nature of Hawaii's economic and population base, the amount of deposits collected locally by financial institutions is too small to generate the capital necessary to finance our economic growth. Thus, most of the mortgage loans made by Hawaii's lenders are sold in the secondary market to mainland financial institutions and investors to make additional funds available to finance homes and Hawaii's economic growth.

Recently, because of federal policy, the cost of money has increased drastically. During the past several months, the prevailing interest rates on real estate mortgage loans has increased and has exceeded the 12% annual limitation under Hawaii's usury law. Inasmuch as these mainland financial institutions and investors are primarily concerned with yield and safety, if they can get a better yield by purchasing mortgages in a state without a usury limitation below the current market rate, they will not consider allocating funds to purchase mortgages in the thirteen states such as Hawaii where yields will be limited by a usury ceiling below the market rate.

Thus, Hawaii lenders were virtually unable to secure funds until December, 1979, when Congress, recognizing the adverse effect usury has had on housing, determined that a crisis situation existed, and passed emergency legislation to preempt, until March 31, 1980, state usury ceilings to assist states where new commitments to make mortgage loans had almost fully ceased. However, since the federal Act requires that to be exempt from usury ceilings, funds must be disbursed or fully committed to the borrower by the March 31 deadline, testimony before your Committee has indicated that there has been only a trickle of new residential mortgage money flowing into Hawaii. Inasmuch as long term secondary market investors wish to plan their investments with certainty that interest rates will not change to their yield detriment, the temporary nature of the federal preemption can not be expected to stabilize the construction and financial sectors of our State economy. Furthermore, your Committee has been informed that when usury becomes an issue for investment decisions, investors will demand expensive legal opinions from the best law firms, with those costs being passed on to the borrowers.

After considerable testimony and discussion your Committee has decided to act favorably on this bill. The specific aspects of this issue that your Committee has addressed, and the amendments that have been made are as follows:

Classes of loans exempt from usury

Your Committee has amended the bill to be applicable only to loans secured by residential real property. Inasmuch as the federal emergency Act raised usury ceilings only for residential property, and since your Committee is limited in scope to consideration of housing-related issues, the applicability of the Act to non-residential real property has been deleted. Your Committee has received communication from financial institutions such as agricultural production credit companies and non-residential lenders indicating that the state's usury laws are no less a problem for their lending purposes. Your Committee respectfully requests that the Senate Committee on Consumer Protection and Commerce seriously consider expanding the application of this bill beyond residential real property loans.

Loan purposes exempt from usury

The bill as originally drafted specifically states that the only loans exempt are those which are made for the purposes of financing the acquisition, construction, or the improvement of real property. Testimony submitted before your Committee stated that it is uncertain whether the exemptions would be permissible on permanent financing or refinancing as distinguished from the original acquisition or construction financing. Further, loans made for other purposes would be excluded.

Your Committee has amended the bill to include all types of financing of residential real property under the usury exemption. Because the primary intent of the Federal Reserve Board's action is to curb inflation through tight monetary policy, your Committee had intended to limit the applicability of the bill as originally drafted. As indicated earlier in this standing committee report, Hawaii's unique economic base sustains a variety of growth-oriented industries, and, in the absence of an economic model which can forecast the impacts of actions on specific sectors of our economy, your Committee has heuristically assumed that the limitations contained in the original draft of this bill may affect certain sectors of the economy in an unintended adverse way. Furthermore, your Committee

has found that local financial institutions establish their own policies and priorities for funding specific types of loans, and during tight monetary policy periods, limit the availability of credit for certain purposes. For example, many local financial institutions have limited first mortgages to be made only to owner-occupants, and second mortgages only for home improvement purposes. Thus, your Committee has expanded the language to allow local financial institutions to establish their own policies with respect to the type of loans to secure residential property which they will fund.

Maximum rate of interest which may be charged

Your Committee has amended the bill to delete the 18 per cent ceiling. Although visions of horror may accompany this scenario upon first impression, your Committee empirically submits that although the usury limit in Hawaii was set at 12 per cent over forty years ago, interest rates have only approached or exceeded that ceiling twice, and only during periods of tight national monetary policy. Inasmuch as the majority of loans made in Hawaii are sold on the national open market, our local market is very responsive to mainland mortgage market conditions. Additionally, testimony submitted to your Committee indicated that in states without usury restrictions, interest rates significantly different than national rates had not been experienced. With the current prime rate at 16.75 per cent, and with some construction loans based two points above that, a person wishing to construct a residential structure borrowing less than \$750,000 would not be able to secure a construction loan if the 18 per cent ceiling as proposed in the original draft of the bill were maintained.

Your Committee also considered utilizing some financial index to establish a floating usury rate, as other states have done to ensure that this reflects market conditions. The state of Texas, for example, has tied its usury rate to float at 2 per cent above the yield on 10 year U.S. Treasury bonds. Your Committee is of the opinion that the tying of Hawaii's usury rate to some financial indicator is analogous to measuring the circumference of apples with calipers to determine which apple to eat.

Inherent in our system of financial instrument investments is the concept of risk and return. Investors expect greater returns from securities which are subject to greater risks. Although a rule of thumb can be established to measure the average difference between two indices, such as the municipal bond index and the ten year U.S. Treasury bond index (both of which are also averages), the actual price difference between these two financial commodities will fluctuate as the forces impinging on one of these commodities increases or decreases that commodity's price, and as the attractiveness of that commodity's price relative to the other commodity's risk or safety increases or decreases.

Additionally, the establishment of a floating rate would require that the rate be set for some time period. Other states' experiences have indicated that the interest ceilings do not keep up with the rapidly rising rates in the money market where these time periods are set on a quarterly basis.

Your Committee has thus discarded the notion of establishing a usury ceiling and of tying the usury rate to some floating index, since the price or yield of a mortgage in Hawaii must be set at a price relative to the national cost of funds and to competing investments as the national money market dictates.

Lenders exempt from usury; generally

Inasmuch as the exemption from usury has been broadened to include all types of loans secured by residential real property, including second mortgages and other lower priority claims, industrial loan companies and credit unions which make those types of loans may be qualified to be exempt from the usury law.

Industrial loan companies exempt

Your Committee understands that there may be some ambiguity with respect to whether industrial loan companies would be qualified to make any residential mortgage loans exempt from usury after the passage of the usury amendment. Section 408-15(j) allows industrial loan companies to charge a maximum rate of interest of 18 per cent a year which is higher than the present 12 per cent usury ceiling, and Section 408-1 provides that the Chapter is applicable to every company engaging in the industrial loan business which is charging interest at a rate higher than the usury rate under Section 487-3. Thus, if the usury rate is increased to 18 per cent, or the usury ceiling is abolished, it is ambiguous whether companies presently under this Chapter would continue to be regulated under this Chapter or whether those companies would be allowed to conduct business at all.

Your Committee is aware that S.B. No. 2519-80, presently referred to your Committee on Consumer Protection and Commerce, addresses this aspect, and respectfully recommends

that Committee to further clarify the resolution of this dilemma.

State chartered credit unions exempt

In regard to state chartered credit unions, Section 410-15(a) sets a maximum annual interest rate of 12 per cent for all loans to credit union members. Inasmuch as this bill, as amended, states that "any rate of interest shall be deemed unlawful," to clarify that credit unions may make residential mortgage loans at a rate higher than 12 per cent a year, Section 410-15(a) should be amended to specifically exclude loans made under Section 410-15(c) and (h). Your Committee is aware that S.B. No. 2285-80, presently referred to your Committee on Consumer Protection and Commerce, addresses this aspect, and respectfully recommends that Committee to further clarify that point.

Expiration of this Act

The bill as originally drafted allows mortgages to be made above the usury rate until June 30, 1984. Testimony submitted to your Committee indicated that many institutional investors make their commitment decisions years in advance, and some projects are built in phases over many years, and thus, funds are disbursed over a long period of time. The intent of this four year "window" is to provide for a "drop dead" clause to require the Legislature to review the effects of the lifting of the usury ceiling prior to the expiration of the Act. Your Committee has amended the bill to provide one more year before the review to allow more time if necessary to collect data and perform any necessary analysis.

Your Committee received testimony requesting clarification of the treatment of a mortgage made during the life of this Act with an interest rate which, upon the expiration of this Act, may be higher than the usury rate. Your Committee has amended the bill to provide that an interest rate contracted for before the expiration of this Act not be considered in violation of Section 478-3 after the expiration of this Act.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2216-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2216-80, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 239-80 Housing and Hawaiian Homes on S.B. No. 2264-80

The purpose of this bill is to define, for both home buyers and developers, the liabilities of developers in the construction of new homes.

Your Committee finds that the area of the law addressed by this bill merits further consideration and respectfully requests the Senate Committee on Consumer Protection and Commerce to consider studying this matter.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2264-80 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 Cayetano.

SCRep. 240-80 Housing and Hawaiian Homes on S.B. No. 2284-80

The purpose of this bill is to appropriate the sum of \$475,000 to provide for the continuation of educational projects for the benefit of the children of Hawaiian home lessees, as specified in Act 4, SLH 1965, for the fiscal year 1980-1981.

In the past, a portion of the State receipts generated from the leasing of cultivated sugarcane lands and licensing of water rights had flowed into the Hawaiian Home Education Fund. The sums in this Fund have been used to finance the Act 4 Program. Inasmuch as the aggregate deposits to this Fund are statutorily limited to \$5 million, and since the aggregate deposits will reach \$5 million during the next few months, the Act 4 Program will not be viable after the expenditure of the remaining moneys in the Fund. Past legislative attempts to raise this \$5 million ceiling have failed. Moreover, even if the ceiling were raised, funds would not directly flow into the Hawaiian Home Education Fund inasmuch as a constitutional amendment ratified in 1978 established the Native Hawaiian Rehabilitation Fund and provided that that portion of the State receipts generated from the leasing of cultivated sugarcane lands and licensing of waste rights be deposited into this fund instead of the Hawaiian Home Education Fund.

Inasmuch as another constitutional amendment ratified in 1978 requires the Legislature to fund the operation of the Department of Hawaiian Home Lands through general fund appropriations, the continuation of the Act 4 Program can only be continued through general fund appropriations.

Because Act 4 project educational goals are predominantly designed independently by parents and teachers at individual schools, general program evaluation has proved difficult. However, testimony by a multitude of beneficiaries has endorsed the program, especially for projects at Kula Kamali'i preschool and Blanche Pope Elementary School, in stimulating personal, social, and educational development in the students, and in encouraging parent participation as an integral part of the program.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. 2284-80 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 Cayetano.

SCRep. 241-80 Housing and Hawaiian Homes on S.B. No. 2327-80

The purpose of this bill is to amend Section 10-11, Hawaii Revised Statutes, which establishes the annual salary of the administrator of the Office of Hawaiian Affairs at \$30,000. This bill would amend that salary to be not more than \$42,500 a year to be set by the board of trustees, which would be comparable to that of other State department heads.

Testimony was submitted by the Department of Hawaiian Home Lands and Alvina Kealiihaleapoli Park in favor of this bill.

Those who submitted testimony felt that the salary of \$30,000 would not allow the Office of Hawaiian Affairs to compete equally for talent for its administrator. This bill would provide salary parity with other department heads, and in addition, the board of trustees, the appointing body, would have the flexibility of establishing a salary commensurate with the level of administrative expertise to accomplish the tasks assigned by the board, which may change as the organization matures.

Your Committee has amended the bill to utilize language similar to that recommended by the Department of Hawaiian Home Lands, which requires that the salary of the administrator be equal to that provided for department heads and executive officers, and allows for future salary raises of such positions without the need for legislative revision.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2327-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2327-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 242-80 Housing and Hawaiian Homes on S.B. No. 2328-80

The purpose of this bill is to appropriate the sum of \$500,000 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 of 1920, as amended.

The sum of \$500,000 presently in the Department of Hawaiian Home Lands' loan guarantee fund will lapse on June 30, 1980 in accordance with Article VII, Section 11 of the Constitution of the State of Hawaii. Reappropriation is required to enable the Department to continue to guarantee approximately \$12,000,000 of outstanding loans made to homesteaders by other governmental agencies (Farmers Home Administration, Hawaii Housing Authority, and Model Cities).

Favorable testimony was heard from the Department of Hawaiian Home Lands.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2328-80 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 Cayetano.

SCRep. 243-80 Housing and Hawaiian Homes on S.B. No. 2342-80

The purpose of this bill is to appropriate \$1,200,000 for the construction of a residential

subdivision at Paukakalo, Maui.

The Department of Hawaiian Home Lands testified in favor of this measure and noted that they have submitted a supplementary budget request for the fiscal year 1980-1981 for this purpose and in this amount.

Your Committee has amended the bill to correct the spelling of the word "Paukukalo" in the title and body of the bill.

A lapsing provision has been included and the effective date of the Act has been changed to July 1, 1980.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2342-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2342-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 244-80 Housing and Hawaiian Homes on S.B. No. 2353-80

The purpose of this bill is to appropriate \$1,160,000 from the general revenues of the State for the construction of improvements to the Molokai water system on the island of Molokai.

The Department of Hawaiian Home Lands testified in favor of this measure and noted that they have submitted a supplementary budget request for the fiscal year 1980-1981 for this purpose and in this amount.

Your Committee has amended this bill by providing it with a lapsing provision.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2353-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2353-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 245-80 Housing and Hawaiian Homes on S.B. No. 2469-80

The purpose of this bill is to amend the General Excise Tax Law by adding a new section which levies the general excise tax at the rate of one-half of one percent against persons making sales to retirement homes operated by nonprofit organizations (nonprofit lessors).

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2469-80 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 Cayetano.

SCRep. 246-80 Housing and Hawaiian Homes on S.B. No. 2470-80

The purpose of this bill is to amend the General Excise Tax Law by adding a new section which levies the general excise tax at the rate of one-half of one per cent against persons engaging in the business of providing retirement homes operated by nonprofit organizations (nonprofit lessors).

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2470-80 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 Cayetano.

SCRep. 247-80 Housing and Hawaiian Homes on S.B. No. 2490-80

The purpose of this bill is to establish procedures for registration and approval of condominium conversion applications.

Your Committee has received numerous testimonies from the general public, interested business groups, and professional organizations regarding the registration, approval,

and control of rental housing unit conversions to condominium. The testimonies heard and facts presented before the Committee indicate that Hawaii's rental housing market is in the midst of a crisis due to a rapidly depleting rental housing inventory as evidenced by low vacancy rates, the lack of new construction of rental housing, and increasing rental rates.

More than half of Hawaii's families rent their homes, and the maintenance of a substantial rental inventory is critical to the well-being of the total housing market. Between 1970 and 1979, the rental housing stock has shrunk relative to the total housing inventory and growth in the number of households.

This depletion of Hawaii's rental housing inventory through conversions and lack of production is occurring at a time when the State is experiencing the lowest vacancy rate within this decade. The vacancy rate for Honolulu owner-occupied and rental units fell to 1.1 per cent in April 1979 and is considered to effectively constitute a no-vacancy situation.

The primary reason for the decrease in rental housing stock is directly related to the lack of new construction, and on a more limited basis, the conversion of rental housing to condominium ownership. The underlying determinant of limited rental housing production is the uneconomic aspect of holding a large equity position in residential rental units. Decreasing tax benefits, increasing land costs, increasing construction costs, increasing financing costs, increasing labor costs, and demand for constructing units for sale, and better investments for large investors, hamper the production of rental units.

Your Committee is cognizant of the factors which are contributing to the non-production of rental housing, low vacancy rates, and high rental rates. There is also a serious lack of affordable housing for moderate income households that wish to purchase homes. The popularity of conversions is itself an indicator of the moderate income households' recognition of the necessity to fix the cost of shelter in inflationary times by providing renovated, less expensive housing units.

This bill will attempt to alleviate some of the pressure placed on the rental housing market, and assist government efforts to increase total rental housing inventory.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2490-80 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 Cayetano.

SCRep. 248-80 Housing and Hawaiian Homes on S.B. Nos. 2496-80, 2497-80 and 2498-80

The purpose of all three bills is to make amendments to the Landlord-Tenant Code, Chapter 521, Hawaii Revised Statutes.

It is your Committee's understanding that the Committee on Consumer Protection and Commerce will be holding a public hearing on S.B. No. 1171, S.D. 1, which draft is based on an intensive study by the Office of Consumer Protection on Hawaii's Landlord-Tenant Code. Inasmuch as the Committee on Consumer Protection and Commerce will be undertaking a comprehensive review of that draft, your Committee on Housing and Hawaiian Homes is transmitting these three bills to that Committee for inclusion in its review.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. Nos. 2496-80, 2497-80, and 2498-80 and recommends that they pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 249-80 Housing and Hawaiian Homes on S.B. No. 2504-80

The purpose of this bill is to appropriate funds for elderly housing in the Third Senatorial District.

The appropriation of funds for the development and construction of elderly housing in Windward Oahu is warranted inasmuch as the waiting lists of the Hawaii Housing Authority and the City and County of Honolulu indicate a huge demand for such housing throughout Oahu. The State has initiated a program to develop elderly housing in all major geographical regions throughout Oahu and the neighbor islands, but has not had sufficient funds nor the opportunity to develop housing for elderly Windward Oahu residents. This appropriation will initiate such action and begin the process of elderly housing development for the Third Senatorial District.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2504-80 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. 250-80 Housing and Hawaiian Homes on S.B. No. 2555-80

The purpose of this bill is to establish rent control and to limit the number of rental housing units converted to condominiums.

Your Committee has reviewed the current housing situation confronting many of Hawaii's home renters and has found that, because of economic and market forces, many of our residents are faced with the prospect of having to leave their current residences because they are unable to pay increasing rental rates or because their rental homes are being converted for home ownership purposes, primarily to be sold as condominiums.

While your Committee supports the concept of encouraging home ownership opportunity it does not believe that it is in the public's interest to leave the conversion of rental units to condominiums unchecked in light of a critical shortage of affordable rental units.

This measure proposes to provide relief to those residents who are confronted by housing realities made grim because of our national economic problems coupled with Hawaii's historical housing shortage problem. Rent control may be a necessary method to provide relief to residents whose incomes cannot keep pace with rising rental rates. Likewise, the control of rental housing unit conversions to condominiums will preserve our scarce rental housing inventory and hopefully relieve the pressures placed upon many of Hawaii's residents who rent their homes.

Your Committee is concerned that in the long run, rent control will effectively curtail the production of rental housing, and respectfully requests the Committee on Consumer Protection and Commerce to more thoroughly address the issue in this bill.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2555-80 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 Cayetano.

SCRep. 251-80 Housing and Hawaiian Homes on S.B. No. 2557-80

The purpose of this bill is to authorize the addition of \$25 million to the aggregate principal amount of revenue bonds which may be issued by the Hawaii Housing Authority.

The Hawaii Housing Authority has recently successfully marketed and sold a \$100 million revenue bond issue which has resulted in mortgage loans being offered to eligible Hawaii borrowers at an interest rate of 9 1/2%. An additional revenue bond authorization is required to maintain the viability of the program as the 1979 Legislature appropriated \$125 million.

Your Committee has amended the bill to increase the revenue bond authorization by \$100 million instead of \$25 million as originally proposed. The aggregate principal amount of revenue bonds for this program will be raised to \$225 million and should be sufficient for approximately one more year.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2557-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2557-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 252-80 Housing and Hawaiian Homes on S.B. No. 2559-80

The purpose of this bill is to clarify existing laws relating to sale of dwelling units purchased from the Hawaii Housing Authority.

Under Section 359G-8, Hawaii Revised Statutes, the Hawaii Housing Authority, in setting prices for dwelling units for sale to eligible purchasers, need not include certain costs, including any amounts subsidized by the Authority, to increase the selling price of the units. However, the statutory scheme of Chapter 359G provides for recovery of these costs when a purchaser subsequently sells the unit.

Currently, Section 359G-9.2, Hawaii Revised Statutes, among other things, authorizes the Authority to recover subsidies when a unit is sold more than ten years after the date of purchase from the Authority. However, the section is unclear as to the responsibility of the Authority to recover certain costs which may have been expended and chargeable to the unit but may not be included within the word "subsidy." This bill clarifies Section 359G9.2 by authorizing the Authority to recover, in addition to any "subsidy", any other "amount" expended by the Authority and chargeable to the unit being sold by good accounting practice.

It is the understanding of your Committee that the words "subsidy" and "amount" should be distinguished in the following manner. A "subsidy" includes known costs up to the time of sale of the unit which are readily identifiable in a subsidy agreement executed between the purchaser and the Authority. The word "amount" includes any other costs expended by the Authority after the establishment of the sales price but incurred during the development, sale or intervening years after sale through warranty costs or other unforeseen circumstances.

This bill also clarifies that sums excluded from the sales price under the general excise tax exemption allowed in section 359G-15, Hawaii Revised Statutes, shall not be considered a subsidy.

Your Committee has amended the bill for reasons of style and clarity without affecting the substance of the measure.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2559-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2559-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 253-80 Housing and Hawaiian Homes on S.B. No. 2589-80

The purpose of this bill is to clarify and update the provisions in Chapter 360, Hawaii Revised Statutes, relating to the eviction of public housing tenants.

This measure is necessary to expeditiously administer the public housing program of the Hawaii Housing Authority. Current statutory provisions do not adequately provide the Authority with alternative courses of action, nor do they adequately cover the responsibilities and procedures to be followed in hearings regarding evictions.

As a specific example, the statutes fail to provide an alternative course of action when a tenant cannot be served an eviction order because he is absent from the unit. In this situation, the Authority is not authorized to post the eviction order. Instead, an officer is required to return to the tenant's unit, any number of times, until the order is personally served. The amendment designated as Section 360-6, Hawaii Revised Statutes, would resolve this problem by allowing the Authority to post the order in a conspicuous place in the event the tenant cannot be served the order of eviction. Your Committee does not feel this proposal diminishes the rights of the tenants. Rather, it clarifies and eliminates unnecessary and obsolete language, thus augmenting the efforts of the Authority with respect to evictions and increasing the effectiveness of Chapter 360, Part I.

Your Committee has amended the bill to correct typographical errors and to make technical changes which have no substantive effect.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2589-80, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 2589-80, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 254-80 Housing and Hawaiian Homes on S.B. No. 2590-80

The purpose of this bill is to authorize the addition of revenue bonds which may be issued by the Hawaii Housing Authority pursuant to Part II, Chapter 356, Hawaii Revised Statutes.

Your Committee received comprehensive testimony from the Hawaii Housing Authority which contained a progress report on the implementation of the Hula Mae program.

Your Committee has amended the purpose of this bill in consonance with one of the

Authority's recommendations to allow the making of mortgage loans to eligible families who own vacant, developable property.

Your Committee finds that the present statutory definition of an "eligible borrower" prohibits the making of a loan to a person or family who owns any interest in any residential property in the State. Your Committee agrees with the Hawaii Housing Authority that corrective action should be taken to lift this prohibition for "eligible borrowers" who would otherwise qualify for the program by reason of their limited incomes and assets. The prohibition especially affects Neighbor Island and rural Oahu residents who may own a vacant lot but are prevented from constructing a home because their incomes are not sufficient to qualify for a private, conventional mortgage loan.

Your Committee has substantively amended this bill by deleting all material currently in Section 1 and replacing it with an amendment to redefine the term "eligible borrower" to permit the applicant to construct a home on a vacant lot, and further, to permit those who own less than a majority interest in residential property to participate in the program. Your Committee has also made a non-substantive amendment to delete specific references to gender.

It was also reported by the Authority that the statutory provision which is used to establish rules for qualifying applicants by family income (based on 115% of median income as determined by the U.S. Department of Health, Education, and Welfare) may have been interpreted too restrictively. Median family income had increased 3.5% between 1979 and 1980, while the median sales prices of homes (as reported by the Multiple Listing Service) had risen by approximately 30% for this same one year period. This disproportionate increase means that those families with incomes in the lower levels of a given family size are being eliminated from the group of potential home buyers under the program, while increasing in absolute numbers. It is difficult or impossible for those unqualified families to afford and purchase homes because of increasing sales prices coupled with increased conventional market mortgage interest rates.

Your Committee recommends that the Authority review its rules to ensure that its determination and calculation of "adjusted household income" (as delineated in section 356-206) is appropriate. An increase in family income limits through various adjustment factors, such as the adjustment factors similar to those currently utilized under the Federal Housing Administration's section 235 program, may be desirable. Amendments to the Authority's rules should be made as expeditiously as possible if the Authority determines that its present application of "adjusted household income" is too restrictive.

Another concern your Committee has reviewed is the current method the Authority has established, by rule, in determining the asset limits for "eligible borrowers." The Hula Mae Program provides the Authority with a great deal of latitude in determining asset limits; however, your Committee feels that the restrictiveness of the current asset limitations are a detriment to the intent of the program.

Your Committee recommends that the Authority review its rules to ensure that the asset limitations do not affect the viability of the program, and amend these rules as expeditiously as possible should the agency find that the asset limits are too restrictive. Should an amendment to the program rules be undertaken, a more equitable method of determining assets might be to:

- (1) Exclude the amount to be used for the down payment of the home to be purchased from asset calculations.
- (2) Limit "assets" to "liquid assets" or items readily convertible to cash such as bonds and securities. Thus, illiquid retirement benefits, vacation credits, and unvested pension amounts should not be included.
- (3) Calculate assets only on the equity portion of all personal property, and not on the "fair market value" or "replacement value" of such personal property without deducting liabilities such as loans on such property. Under present rules, for example, if the applicant has purchased an \$8,000 car financed by a 100% loan, the Authority interprets this car to be an \$8,000 asset, notwithstanding the \$8,000 liability. This is incongruous in that the payments on the applicant's auto loan will be viewed as a long-term liability by the lending institution, and deducted from the applicant's income for the purposes of loan qualification.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2590-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2590-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 255-80 Housing and Hawaiian Homes on S.B. No. 2604-80

The purpose of this bill is to provide \$55,000 for a grant-in-aid for the small group homes concept.

Your Committee received testimony from the Catholic Social Services, Kokua Council for Senior Citizens, social work interns, Health and Community Services Council of Hawaii, the Hawaii Housing Authority, and various individuals in support of this bill.

Your Committee has amended the bill to provide that the Department of Social Services and Housing be appointed as the expending agency.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2604-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2604-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 256-80 Housing and Hawaiian Homes on S.B. No. 2621-80

The purpose of this bill is to provide the purchaser or intended owner occupant of a condominium unit the opportunity to become the first purchaser of any proposed condominium development. This bill requires that the developer of the project set aside at least fifty per cent of the condominium units for sale to the general public with the requirement that the purchasers be owner occupants.

Your Committee has determined that the purpose of this bill is in consonance with the State's overall goals of providing homeownership opportunities to as many of Hawaii citizen's as possible. The sale of housing units, especially condominium units, to speculators contributes to the high sale prices prevalent in our condominium market today.

By requiring that at least 50% of the units in all new condominium projects be set aside to be sold for owneroccupants, the impact that speculators will have on the market will be diminished. Furthermore, to ensure that the sales procedures are fairly administered, the bill provides that should there be more applicants than units, a lottery is to be conducted to determine the order the potential owneroccupants shall be offered sales contracts. The original contract sales price of the unit shall be left unchanged until such time that there are no remaining names on the list compiled by lottery.

Your Committee has received testimony from the Hawaii Housing Authority recommending that State and county condominium projects be exempt from the requirements prescribed by this bill as it duplicates the current statutory requirements of selling homes to owner-occupants and mandating the lottery method of purchaser selection. Appropriate amendments exempting State and county condominium projects have been made by amending Section 2 of the bill, by inserting a new subsection to accomplish this purpose.

Your Committee has amended the bill to require that a person who wishes to purchase sign an affidavit stating his intent to be an owneroccupant for a ten year period.

Your Committee concurs with the intent of the bill, but respectfully requests the Consumer Protection and Commerce Committee to seriously consider this bill, inasmuch as its requirements may ultimately increase the price of housing units. Additionally, the procedures for implementation may cause delays in the delivery pipeline.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2621-80, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2621-80, S.D.1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senators Hara and Cayetano.

SCRep. 257-80 Housing and Hawaiian Homes on S.B. No. 2679-80

The purpose of this bill is to amend Chapter 205, Hawaii Revised Statutes, to limit the rental of units on a transient vacation use basis to areas zoned for hotel use.

Your Committee is aware that the short-term rental of non-hotel units in areas not zoned for hotel use causes problems such as inconvenience to long-term tenants, shortage of

resident rental units, and related social problems. Your Committee is also aware that such vacation rental uses of units in non-hotel areas create inflationary pressures on prices of units in the buildings, and that this practice is widespread, possibly involving 5,000 to 10,000 units. Your Committee is also aware that many contracts for rental of these units are drafted to circumvent the paying of State general excise taxes, and that this vacation rental practice is at present totally unregulated.

Under the present zoning ordinances, which have traditionally addressed only the specific physical configurations of these housing units in non-hotel areas without addressing actual usage, the practice is not technically in violation of the zoning laws per se.

Your Committee is also aware that two of the major issues to be addressed regarding time-sharing are the purchaser disclosure aspects, and the limiting of time-sharing to specific geographic or zoned areas. Inasmuch as the need to limit time-sharing to specific areas has been recognized as a major issue, the allowance of transient use through vacation rental units in non-hotel zoned areas appears incongruous.

Your Committee respectfully requests the Consumer Protection and Commerce Committee to seriously address this transient vacation rental issue.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2679-80 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. 258-80 Housing and Hawaiian Homes on S.B. No. 2688-80

The purpose of this bill is to amend Section 10 of Act 196, SLH 1979, by appropriating an additional sum of \$91,000 to be expended in fiscal year 1980-1981 for voter education and registration for the Office of Hawaiian Affairs Board of Trustees elections.

Voter education and a strong registration program are recognized necessities for the success of the Office of Hawaiian Affairs elections. A sum of \$65,000 was appropriated for the fiscal year 1980-1981 for this purpose by the 1979 Legislature, but it will cover the cost of only the actual elections (based on an estimated \$1.00 per voter). Additional funds are necessary to carry through a vigorous education and registration program up to the deadline for registration of October 6, which is 30 days before the election. The sum of \$91,000 was submitted by the Association of Clerks and Election Officers of Hawaii as the amount necessary to carry out the program.

Testimony by the Department of Hawaiian Home Lands, by Paul Maeda (Association of Clerks and Election Officers of Hawaii), Robert Miller (Lt. Governor's office), and by Melvin Kalahiki were in favor of this measure.

Your Committee has amended Section 1 of this bill concerning the appropriation for the first year expenses of the Office of Hawaiian Affairs. The sum "\$125,000" on line 4 is replaced with a blank appropriation.

This amendment was considered as part of S.B. No. 3047. Concern was expressed that the original appropriation of \$125,000 would not be adequate to cover the expenses of setting up an office with physical space, staffing, supplies, materials, equipment, and motor vehicles, in addition to operating, supporting and maintaining authorized programs. The Department of Hawaiian Home Lands also recognized this problem, but was not able to place an actual sum in the bill because past spending practices on which to base a sum are obviously unavailable. Your Committee respectfully requests the Committee on Ways and Means to obtain further information and set the appropriation at an adequate amount.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2688-80, as herein amended, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2688-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 259-80 Housing and Hawaiian Homes on S.B. No. 2690-80

The purpose of this bill is to appropriate general funds for the development of congregate services in State housing projects.

Your Committee finds that congregate services, especially for the elderly who have become frail, will defer the possibility of immediate institutionalization and thereby prolong the productive and active span of time an elderly person may enjoy life, and further, preclude expensive care home costs incurred through institutionalization.

Your Committee has amended the bill to designate the Department of Social Services and Housing as the expending agency and to provide a lapsing provision.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2690-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2690-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 260-80 Housing and Hawaiian Homes on S.B. No. 2758-80

The purpose of this bill is to appropriate \$100,000 to Alu Like, Inc. as State matching funds for federal assistance for Native American programs designed to meet the needs of Native Hawaiians in attaining economic and social self-sufficiency under the Native American Programs Act of 1978, Public Law 95-568, as amended, Title VIII.

Alu Like is presently the largest non-profit organization administering Native American programs for Native Hawaiians. It receives a portion of its operating funds under P.L. 95-568, Title VIII, which requires at least 20 per cent non-federal matching funds. For fiscal year 1981, Alu Like expects to provide \$100,000 in cash and in-kind matching, and has requested \$100,000 in State funds for the other half of the non-federal matching.

The organization has provided employment and training programs, developed pilot educational programs which incorporate Hawaiian cultural concepts for the benefit of all students, collected data to assist in identifying Native Hawaiian needs, and through the Native Hawaiian (Alu Like sponsored newspaper), provided a means of regular communication on Hawaiian issues.

Favorable testimony was presented by the Department of Hawaiian Home Lands, Winona Kealamapuana Ellis Rubin, Executive Director of Alu Like, Inc., and Alvina Kealiihaleapoli Park.

Your Committee has amended the bill to designate the Department of Hawaiian Home Lands as the expending agency and to add a lapsing date of June 30, 1981.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2758-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2758-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 261-80 Housing and Hawaiian Homes on S.B. No. 2903-80

The purpose of this bill is to expand the Hula Mae program to provide that funds authorized may be used to finance construction and permanent mortgages secured by rental housing projects, and to authorize the issuance of revenue bonds for that purpose. Presently, funds received from bonds issued under the Hula Mae Program can only be used to finance permanent mortgages of homes sold to qualified purchasers.

During the last three legislative sessions, your Committee has received numerous testimonies from the general public, interested business groups, and professional organizations regarding the lack of rental housing units, indicating that Hawaii's rental housing market is in the midst of a crisis due to a rapidly depleting rental housing inventory as evidenced by low vacancy rates, the lack of new construction of rental housing, and increasing rental rates.

More than half of Hawaii's families rent their homes, and the maintenance of a substantial rental inventory is critical to the well-being of the total housing market. Between 1970 and 1979, the rental housing stock has shrunk relative to the total housing inventory and growth in the number of households.

This depletion of Hawaii's rental housing inventory through conversions and lack of production is occurring at a time when the State is experiencing the lowest vacancy rate

within this decade. The vacancy rate for Honolulu owner-occupied and rental units fell to 1.1 per cent in April 1979 and is considered to effectively constitute a no-vacancy situation.

The primary reason for the decrease in rental housing stock is directly related to the lack of new construction, and on a more limited basis, the conversion of rental housing to condominium ownership. The underlying determinant of limited rental housing production is the uneconomic aspect of holding a large equity position in residential rental units. Decreasing tax benefits, increasing land costs, increasing construction costs, increasing financing costs, increasing labor costs, and demand for constructing units for sale, and better investments for large investors, hamper the production of rental units.

This bill proposes to catalyze developers or owners to produce rental housing without massive government intervention and subsidies. The program will pave the critical financing path between industry producers and existing government rental housing assistance programs, thereby enabling both the private sector developers and the State to effectively utilize available government assisted housing programs.

Your Committee has made amendments for clarity.

The amended bill provides the Authority with the power to make interim and permanent mortgage loans to "eligible developers or owners," including the Authority, who wish to develop rental housing.

The bill also transfers the revenue bond appropriation of \$22.5 million made under Act 138, SLH 1978 which was authorized for rental housing projects to this proposed program and increases the authorization by \$100 million, for a total of \$122.5 million. This appropriation of \$122.5 million will be added to the current authorization of \$125 million for the Hula Mae permanent financing for housing sales program but will be kept separate for the specific purpose of interim and permanent rental housing financing. The amendments to the statutes propose to utilize the basic provisions of the Hula Mae program as they apply to the "mechanical" aspects of the revenue bonds. The bill has also been amended to provide a new definition of "eligible project loans" (for rental housing projects) which is appropriately inserted in the Hula Mae program powers of Section 356-261 and 356-271. Your Committee has decided that the potential of the program's success will be greatly improved if the making of eligible project loans is limited to the "advance commitment" and "eligible loan and eligible project loan funding" programs.

The bill has been amended to provide that rules be adopted by the Authority which clearly describe the administrative process to be employed in the program. Such rules should provide that the revenue bonds issued be properly and adequately secured to insure favorable bond credit ratings and lower interest rates.

Other technical amendments have been made to various sections in Chapter 356 to make them applicable to the rental housing financing program proposed in this bill.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2903-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2903-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cayetano and Soares.

SCRep. 262-80 Housing and Hawaiian Homes on S.B. No. 3057-80

The purpose of this bill is to amend Chapter 10, Hawaii Revised Statutes, in three ways:

- (1) To establish the pro rata portion of the funds derived from the public land trust at 30% or a maximum of \$2,000,000 during each fiscal year (Section 10-3);
- (2) To delete a provision specifying that moneys appropriated by the legislature for the Office of Hawaiian Affairs be payable by the director of finance upon approval by the board of trustees (Section 10-13); and
- (3) To delete a provision for submission of a proposed annual budget for the Office of Hawaiian Affairs to the legislature (Section 10-14).

The model for the proposed pro rata portion of the public land trust fund is found in the Hawaiian Homes Commission Act, 1920, as amended, which establishes a 30% portion of revenues from specific sources. The \$2,000,000 annual ceiling is an estimate based on a calculation of trust receipts of \$5,000,000 per year.

Questions exist concerning the intent and implications of the second and third amendment specified above; since neither favorable nor negative testimony was presented, consideration of these two will be postponed until additional information can be gathered.

Your Committee has amended this bill in the following ways:

- (1) Establishes the amount of the public land trust revenues at 20% or a maximum of \$1,000,000, as supported by testimony from the Department of Hawaiian Home Lands and from Melvin Kalahiki for a similar measure, S.B. 2563-80. The Department stated that the apparent rationale for establishing the pro rata share at twenty per cent is that since the Admission Act requires that the revenues derived from the public land trust be disposed for five purposes, if each of these five purposes are treated equally, the portion transferred to the Office of Hawaiian Affairs would be one-fifth or 20% of the revenues;
- (2) Establishes that the transfer of such funds to Office be made on a quarterly basis; the Department testified that such an amendment is necessary to insure a timely and consistent cash flow;
- (3) Deletes the second and third proposed amendments.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 3057-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3057-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 263-80 Housing and Hawaiian Homes on S.B. No. 3133-80

The purpose of this bill is to provide funds for a feasibility study and planning for senior citizens' housing in the Kahaluu area.

The appropriation of State general funds is necessary to determine the market, site, and development feasibility of senior citizens' housing to be situated in Kahaluu, Oahu. A feasibility study and adequate planning of such a development will ensure that any subsequent appropriation for the design and construction of senior citizens' housing will be properly and expeditiously implemented.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 3133-80 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 Cayetano.

SCRep. 264-80 Higher Education on S.B. No. 1878-80

The purpose of this bill is to provide for changes in eligibility and the amount of the award under the State Higher Education Loan Fund program so as to make those provisions comparable to the provisions of the National Direct Student Loan program on the federal level.

Your Committee heard testimony from the University of Hawaii supporting the intent of the bill and recommending specific statutory language to implement its' purposes. The changes recommended in this bill include modification of the State Higher Education Loan Fund (SHELF) eligibility criteria to include students enrolled at least half-time in a degree program, and restructuring the maximum award amount from the current formula (direct educational expenses plus \$200 per month for room and board) to an aggregate amount based on the student's educational objective. However, the University testified that they were not in a position to estimate whether or not additional funds would be needed for the implementation of the purposes of this bill. The University indicated that one or two years experience with such changes in the SHELF program would allow them to adequately analyze the impact of such changes on the demand for the program.

Your Committee has amended the bill by inserting appropriate changes to Section 304-92, Hawaii Revised Statutes, to conform to the recommendations of the University of Hawaii and deleting the appropriation provided for in the bill as introduced.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1878-80, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1878-80, S.D. 1, and be referred to the Committee on Ways

and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 265-80 Higher Education on S.B. No. 1873-80

The purpose of this bill is to provide for the retention and administration by the University of Hawaii of all administrative and overhead costs included in grants to the University.

Your Committee heard extensive commentary and testimony on this subject during the 1979 Regular Session which resulted in enactment of Act 109, SLH 1979, and which increased the amount of the research and training revolving fund of the University of Hawaii. In the course of public hearings on this subject during the 1980 Legislative Session, the University of Hawaii testified that discussions with the Department of Budget and Finance are upcoming on the method by which agreement on a course of action can be recommended to the Legislature. The University of Hawaii engaged Vice Provost Robert K. Thompson of the University of Washington, to make a study and provide recommendations by which research support may be improved through the use of indirect overhead funds. The recommendations of that report constitute a basis for the discussions with the Department of Budget and Finance.

Since this is an important issue, the University of Hawaii suggested that this bill be moved to the Committee on Ways and Means with no dollar or percent figure. Further discussion can then take place when the outcome of the meeting between the University and the Department of Budget and Finance is known.

Your Committee has amended the bill accordingly by deleting the phrase "all income" and leaving the amount which shall be deposited annually from indirect overhead sources blank. The amount should be decided by the Committee on Ways and Means after the receipt of additional data.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1873-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1873-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 266-80 Higher Education on S.B. No. 1874-80

The purpose of this bill is to make an appropriation for the purpose of studying the feasibility of establishing an educational service center in the Waianae-Nanakuli area that would encompass the educational offerings of the Community Colleges, West Oahu College and other educational components of the University system.

The University of Hawaii testified before your Committee that, at the present time, instruction is being offered in the Waianae-Nanakuli area by making use of existing facilities. The University noted that Leeward Community College, West Oahu College and the Manpower Training Program, in cooperation with Honolulu Community College and the City and County of Honolulu, provide services to residents of the Waianae area through these programs. Further, the University testified that, at present, Leeward Community College has formed a task force of faculty and students to develop a service plan for this area, including the offering of vocational courses and programs, and increased liberal arts offerings.

While the University indicated they did not feel that funds for a feasibility study were necessary for this purpose, your Committee requested the Manoa and Community College Chancellors and the Leeward Community College Provost to meet with the Director of the Office of Human Resources (City and County of Honolulu) for the purpose of coordinating efforts based on the educational plans of the City and County of Honolulu for this area, and report to the Legislature on these discussions.

Based on the outcome of the discussions between the City and County of Honolulu and the University, further discussion is recommended in the Committee on Ways and Means.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1874-80 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. 267-80 Higher Education on S.B. No. 1870-80

The purpose of this bill is to provide for an increase in the membership of the Board of Directors of the Research Corporation of the University of Hawaii to include a graduate student, the Vice President for Academic Affairs and the Vice President for Administration of the University of Hawaii.

Your Committee heard testimony from the Executive Director of the Research Corporation of the University of Hawaii, the President of the University and the President of the Graduate Student Organization. The testimony before your Committee revealed that inasmuch as the Chancellor of the UH-Manoa Campus is essentially in charge of oversight with respect to organized research, he should be placed on the Board of Directors of the Research Corporation to facilitate coordination and cooperation between the two entities on an institutional basis.

Your Committee has amended the bill accordingly to include only one additional member on the Board of Directors of the Research Corporation.

Your Committee is in accord with the intent and purpose of S.B. No. 1870-80, as amended herein, and recommends it pass Second Reading in the form attached hereto as S.B. No. 1870-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 268-80 Higher Education on S.B. No. 1967-80

The purpose of this bill is to change the funding designation from general obligation bond funds to general funds for the Cooke Field improvements at the University of Hawaii, Manoa campus.

Your Committee heard extensive testimony on this capital improvement project item during the 1979 Legislative session. During the course of discussions last year with the University and the Department of Budget and Finance, your Committee had recommended that this particular project be bond funded, rather than cash funded. However, the Department of Budget and Finance noted that, because of the nature of this project, and the amount and type of financing involved, this project should be cash funded. However, this item emerged from conference committee as a general obligation bond item.

The University of Hawaii testified that because of strict spending limitations on the general obligation bond fund imposed by the State of Hawaii, the University has been unable to implement the project in fiscal year 1979-80 as scheduled. A change to general fund financing would enable the University to proceed with the project, provided that sufficient funding is available.

Your Committee would like to call attention to the urgency of this project, since the 1979 appropriation was based on the Legislature's understanding that the track and field at Cooke Field were dangerous and should be replaced as soon as possible.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1967-80 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. 269-80 Higher Education on S.B. No. 2794-80

The purpose of this bill is to establish a revolving fund to handle moneys received from compulsory student activity fees and all other revenues received by chartered student organizations and student activity programs, except those revenues to which other special funds have prior claim.

At the present time moneys received from student activity fees and other revenues are deposited into Agency Fund accounts maintained by the University. A recent report, conducted in response to questions raised by the University auditors concerning the appropriateness of the agency fund designation suggested that the student funds be classified differently.

The University administration and the associated students of the University of Hawaii testified in favor of establishing a revolving fund for student activity fees and revenues. Both suggested an amendment to the bill which would clarify that the University of Hawaii has complete jurisdiction over the revolving fund, as well as complete control over its expenditures, in accordance with the policies of the board of regents.

Your Committee has amended the bill accordingly.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2794-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2794-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 270-80 Higher Education on S.B. No. 3079-80

The purpose of this bill is to implement the provisions of Article X, Section 6 of the State Constitution by conforming the statutes relating to the powers of the Board of Regents.

An amendment to Article X, Section 6 of the State Constitution which was approved by the 1978 Constitutional Convention and subsequently ratified by the electorate, provided that the Board of Regents shall have "exclusive jurisdiction over the internal organization and management of the university." Your Committee heard testimony from the University of Hawaii, the State Comptroller, and the UH-Manoa Faculty Senate on this bill, as well as similar bills related to this particular subject. The University testified that there are many questions which must be resolved regarding the authority, responsibility, and accountability of the University, as well as distinguishing between constitutional authority and the practical resolution of issues. Further, the University noted that they have been discussing specific proposals with the affected agencies but so far has not been able to reach agreement on the amendments to recommend to the Legislature. The University also stated that some important changes can be accomplished during this session based on the discussions with other agencies in State government.

Your Committee expects that further discussions will take place so that definite recommendations will be made when the next hearing is held on this bill.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 3079-80 and recommends that it pass First Reading by title and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 271-80 Higher Education on S.B. No. 3112-80

The purpose of this bill is to expand utilization of the State Higher Education Loan Fund (SHELF) by making funds available to residents of the State of Hawaii attending a university or community college outside the State. The bill recommends the sum of \$10,000,000 be paid into the State higher education loan fund. The University of Hawaii is designated as the expending agency.

At present, SHELF is administered by the University of Hawaii's Board of Regents and is made available to the needy students enrolled on any campus of the University of Hawaii. This bill would enable a resident of Hawaii attending any school, either public or private, to apply for SHELF funds to help finance their education, with the University of Hawaii processing the loan applications and administering the funds. (The practice of using state funds in support of private institutions has been prohibited in the past.)

The University of Hawaii testified that while it favors the intent of the bill to expand educational opportunities to the people of Hawaii, it does not agree that the loan fund should be administered by the University of Hawaii. The University testified it should be administered by a state agency external to the University for the following reasons:

- (1) The current structure of the University's financial aids offices and business offices is not equipped to handle external loans,
- (2) Financial aid determinations are usually processed at the institution to which the student is admitted as the needs vary with each school,
- (3) Students who are denied loans may feel that the University of Hawaii is trying to protect its own students first, and
- (4) It would be difficult to determine continuing eligibility if funds are available to only Hawaii residents. (The office administering the loan fund would have to develop a mechanism for ensuring that students who leave Hawaii do not establish residency elsewhere.)

The University has recommended various guidelines for processing loan applications and collections that would be appropriate if the loan program were established either within the University of Hawaii or another state agency. These recommendations should be discussed further in the Committee on Ways and Means.

Your Committee has amended this bill to add a lapsing clause.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 3112-80, as amended herein, and recommends it pass Second Reading in the form attached hereto as S.B. No. 3112-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 272-80 (Majority) Higher Education on S.B. No. 1965-80

The purpose of this bill is to provide for a student loan fund program for the Western Interstate Commission for Higher Education to replace the reliance on State of Hawaii general funds.

Your Committee heard testimony from the Chairman of the Hawaii WICHE Commissioners on a report to the Higher Education Committees of the House and Senate concerning Section 49 of Act 214, SLH 1979 (General Appropriations Act of 1979), which specified that funding for the WICHE program in fiscal year 1980-81 would be contingent upon meeting the requirements of that section of the State Budget.

With respect to Section 49 and the subsequent report, the Legislature required that the Hawaii WICHE Commissioners report on a proposed student loan program to replace or reduce the reliance on general funds. The Commissioner's report indicated that a number of states in the Western region have considered implementing a pay-back or indenture provision for students participating in the WICHE Student Exchange Program. The report notes that in some states this has been accomplished by the establishment of a loan fund to assist with the students' contribution to the support fee. The Hawaii WICHE Commissioners indicate in their report that they do not recommend the implementation of a loan program, pay-back or indenture provision for Hawaii students. The Hawaii WICHE Commissioners note in their report that a loan program requiring contribution of all or a portion of the support fee would not immediately or even in the near future provide a self-renewing fund which could replace general funds. Your Committee is aware of this aspect. However, under current practices the State of Hawaii will expend funds for the WICHE program in the amount of \$1.8 million for the fiscal biennium 1979-81 and will not receive return of any of those funds either in direct or indirect replacement or even in a reduction in the reliance on general funds.

Your Committee has amended this bill to provide for the creation of a Western Interstate Commission for Higher Education Student Loan Fund which shall be used solely to provide loans to Hawaii residents who are certified to attend graduate or professional schools in accordance with the provisions of the Western Regional Education Compact.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1965-80, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1965-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.
Senator Saiki did not concur.

SCRep. 273-80 Health on S.B. No. 2201-80

The purpose of this bill is to eliminate those aspects of the current law on naming of children which were declared unconstitutional in 1979.

Department of Health testimony stated that the current law dictates that in a legitimate (or legitimated) birth, the child must take the father's name as a family name. According to the judgment in the case of Burch, et al. vs. Jech, et al. (1979), U.S. District Court Judge Samuel King ruled that the parents of a child have a constitutional right to give the child any surname they choose. The Hawaii State Commission on the Status of Women further pointed out that existing provisions still discriminate on the basis of sex in authorizing conferral of a family name on children born in wedlock.

This bill has accordingly (1) reworded Sections 574-2 and 338-21 to enable the parent(s) to give their child any name they desire; (2) repealed Section 574-3 regarding names of illegitimate children; (3) amended Sections 574-4 and 338-21 to name the children in

accordance with the current law, if the parent(s) have not made a determination within three months of the birth; and (4) added a third subsection to 574-5 to include name changes upon legitimation, previously authorized.

Your Committee has amended the bill by further amending Section 574-5 by adding the words "or her" after reference to a person desiring to change "his" name.

It is the intent of your Committee to bring Hawaii's law in the area of names into full compliance with current court decisions.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2201-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2201-80, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Yee.

SCRep. 274-80 (Joint) Health and Ecology, Environment and Recreation on S.B.
No. 2377-80

The purpose of this bill is to appropriate funds for the Department of Health to conduct an environmental monitoring program for radioactivity.

Testimony from the University of Hawaii, Gamma Corporation, Department of Health, ILWU Local 142, and Life of the Land all supported the intent of the bill to ensure an adequate environmental program for the State of Hawaii.

Your Committees recognize the increasing concern over the amount of radioactivity escaping into the waters of the Pearl Harbor area, and the growing dissatisfaction with the radioactivity monitoring programs of the United States Navy and the United States Environmental Protection Agency.

Your Committees have made the following amendments:

(1) The appropriation amount has been decreased from \$45,000 to \$27,000. The 1979 Legislature has already authorized \$18,000 for fiscal year 1980 by a proviso within the Appropriations Act (Act 214) for the Department of Health to conduct an environmental radiation monitoring program in and around Pearl Harbor (Senate Resolution 365).

(2) The requirement for a "certified health physicist" to conduct the program has been amended to read "certified personnel". Your Committees felt the prior language was unnecessarily restrictive.

(3) The parameters of the program have been specified in greater detail due to the public controversy over certain types of radioactive contaminants in the environment, and the fact that analysis of some radionuclides is much harder than others.

It is the intent of your Committees to recommend that the Department of Health continue the monitoring program. Further, your Committees are concerned that an agreement should be made with the United States Navy Command at Pearl Harbor for access and sharing of information and data (including test facilities and equipment), and the periodic monitoring as a team effort to assure an adequate level of safety to both civilians and military employees in the Pearl Harbor area.

Your Committees have made certain grammatical and spelling changes which do not affect the substance of this bill.

Your Committees on Health and Ecology, Environment, and Recreation are in accord with the intent and purpose of S.B. No. 2377-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2377-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senator Cayetano.

SCRep. 275-80 Health on S.B. No. 2887-80

The purpose of this bill is to establish a special fund from the fees charged for marriage licenses for the purpose of grants-in-aid to be expended by the Department of Health for funding spouse and child abuse centers in this State.

Your Committee held a public hearing on this matter and received testimony in support of this bill. The topic of spouse and child abuse, usually resulting from troubled marriages,

has long been a problem for society. Centers for spouses and children have been established to aid these persons in time of crisis. These centers have experienced a yearly increase of clients and have found difficulty in expanding their services due to insufficient funds.

Your Committee finds that the Legislature is in a continual quandary as to how to appropriate sufficient funds for these centers and at the same time exercise fiscal restraint. Therefore, your Committee endorses establishing a special fund to provide sufficient funds to continue operations of spouse and child abuse centers.

Your Committee has amended the bill in the following manner:

Sec. 572-5(a) Inserted the sum of \$14.00, raising the fee for a marriage license by \$6.00.
Inserted the sum of \$10.00 of the marriage license fee which is to be remitted by an agency to the director of finance.

Sec. 572-5(b) Inserted the amount of \$6.00 to be designated as a special fee for deposit into a special fund for grants in-aid to spouse and child abuse centers.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2887-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2887-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Machida and Yee.

SCRep. 276-80 (Majority) (Joint) Health and Intergovernmental Relations on S.B. No. 2655-80

The purpose of this bill is to provide for the establishment of a charter to set forth the structure of the county government for Kalawao County.

Your Committees held a public hearing on this bill and received testimony in support. Testimony included those from Mr. Emmett Cahill, Mr. Bernard Punikaia, Chairperson of Kalaupapa's Patients' Council, Reverend David K. Kaupu, Chairman of Kalaupapa National Historical Park Advisory Commission and others.

Your Committees found that the residents of the County of Kalawao have never been given the right to govern themselves, the same right which is extended to the other citizens of this State. Although Kalawao County has been designated to be a county within this State, it has no powers nor responsibilities for self-government.

Now that Hansen's disease can be arrested and treated through proper medical care, sufferers no longer need to be isolated from the rest of the population. However, many residents of Kalawao County have chosen to permanently live there to carry out their destiny in life. Therefore, it is incumbent upon the Legislature to grant the residents of Kalawao County the same privileges of self-government now enjoyed by the people of this State.

It is the intent of your Committees to enable the residents of Kalawao County the right to choose the structure of government that is most suitable to their needs. If they choose otherwise, they will at least have had the right to do so.

Your Committees have amended this bill by including Kalawao under the definition of county or counties. Other nonsubstantive changes were made due to the inclusion of Kalawao under the term county or counties.

Your Committees on Health and Inter-Governmental Relations are in accord with the intent and purpose of S.B. No. 2655-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2655-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senator O'Connor.
Senators George, Saiki and Yee did not concur.

SCRep. 277-80 (Majority) Health on S.B. No. 2687-80

The purpose of this bill is to allow optometrists who meet certain requirements to use certain classes of topically applied diagnostic drugs.

The bill has the following provisions: (1) requires optometrists who desire to use drugs to pass a course approved by the board of examiners in optometry and an examination on general and ocular pharmacology; (2) provides that only topical anesthetics, mydriatics,

and cycloplegics classes of drugs may be used; (3) requires the board to designate and list, with the advice and consent of a committee consisting of three pharmacologists, the specific diagnostic drugs which may be used; and (4) allows optometrists to dispense drugs.

The issue of appropriate standards for optometrists has been an area of national concern for the past 50-60 years. There is no dispute that ophthalmologists are exclusively responsible for therapy and treatment of all forms of eye disorders and disease, and that their role in medical diagnosis is critical. But since a significant proportion of the population is examined for refractive correction by optometrists, and since this population may be suffering from certain previously undetected disorders and/or diseases, optometrists have, over the years, become increasingly involved in preliminary determination of abnormalities requiring ophthalmological or other medical referral. Due to the difficulty encountered in standard, non-drug-assisted analysis, numerous states have, during the last 10 years, enacted legislation allowing optometrists to use topically applied diagnostic drugs.

A task force was organized and composed of optometrists, ophthalmologists, and public members including a designated chairman. After lengthy deliberation, a task force report was submitted to the Legislature outlining the extent of agreement and narrowing the issues of specific items in dispute. The ophthalmologists identified seven concerns:

- (1) Physician consultation;
- (2) Training course;
- (3) Written examination in above subjects, plus a demonstration of clinical proficiency;
- (4) Referral guidelines;
- (5) Sanctions for optometrists;
- (6) Sanctions for members of the Board of Optometry;
- (7) Optometric liability for medicolegal purposes when failing to appropriately refer.

Your Committee heard testimony from the optometrists who rejected Provisions (1), (4), (6), and (7), with explanations, and part of Provision (5). Testimony indicated that some of the provisions were counterproductive to the concept of an independently licensed profession, thereby de-professionalizing optometry to the level of a technical trade. Ophthalmologists are concerned about preserving quality care in medical diagnosis and treatment of eye disorders and disease.

Your Committee has amended the bill in the following manner:

- (1) Two new sections to Chapter 459, Hawaii Revised Statutes, have been added: medical referral and consultation with physician. Your Committee finds that irrespective of whether drugs are used, medical referral is necessary when a medical condition is involved.
- (2) The composition of the board of examiners in optometry has been amended to include a physician and a pharmacologist.
- (3) Section 459-7 has been amended to add more board approved courses to the list of courses optometrists must pass in order to use diagnostic drugs. This section is further amended by outlining minimum criteria for the examination given by the board.
- (4) Section 459-10 has been amended such that an optometrist not specifically authorized to use drugs for diagnostic purposes is subject to revocation of certificate by the board of examiners in optometry, or for violation of the procedures outlined in the two new sections on medical referral and consultation with physician.
- (5) Optometrists who are allowed to use drugs are no longer included with those professionals able to dispense drugs.

It is the intent of your Committee to promote preventive and early identification and referral of persons with eye-related disorders for the proper professional treatment, while not compromising the delivery of quality care to the general public.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2687-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2687-80, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senator Machida.
Senator Saiki did not concur.

SCRep. 278-80 Health on S.B. No. 2997-80

The purpose of this bill is to bring Hawaii's Controlled Substance Act's schedule I into conformance with federal guidelines.

Your Committee heard testimony in support of this bill from the Investigations and Narcotics Control section of the Department of Health, which is the chief state agency responsible for enforcing this Act. This bill will facilitate the enforcement of controlled substances in this State and will be in line with federal controls.

This bill adds fenethylline, a widely abused amphetamine, and corrects the spelling of dimethoxyamphetamine and thiophene of schedule I drugs. Section 329-14, Hawaii Revised Statutes has been amended accordingly.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2997-80 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 279-80 Health on S.B. No. 2969-80

The purpose of this bill is to guarantee to the people of this State, proper usage and maintenance of all drugs dispensed in this State.

Your Committee is aware that drugs play a crucial part in curing illnesses, and at times may fall into misuse. Proper precaution is needed to maintain necessary records of all drugs dispensed. In addition, pharmaceutical information of a particular drug, when it is taken off the market for health reasons, is especially critical to all patients. Finally, it is also important that the dispenser, who gives a drug to a consumer, must be aware of the drug's composition and use through proper pharmacological education, so that he may perspicaciously aid the patient when called upon.

Your Committee feels that the Board of Pharmacy should be the chief regulator of all dispensers in this State to assure the highest quality of dispensing. Through the Board's expertise and association with national organizations and agencies, proper and current information received from them relating to new drug information will be disseminated to all dispensers. In order to assure that proper education for drug utilization is received, your Committee feels that all dispensers should participate in the Board's efforts in promoting quality pharmaceutical practice.

In conclusion, it is paramount to pharmaceutical practice to obtain the expertise and pragmatic knowledge of drugs by all dispensers. In order to achieve this, the coordination and participation of all dispensers is necessary.

It is not your Committee's intent to further regulate a particular practice, but rather to assure for the general health of our people that the highest standards of handling drugs are met.

Your Committee has amended this bill by adding two new sections to amend Sections 461-2 and 461-5, Hawaii Revised Statutes to provide for licensing of practitioners due to the revocation of Section 461-19. The following are the amendments:

Sec. 461-2: Added to the Board of Pharmacy, two practitioners of medicine, osteopathy, dentistry, podiatry, and veterinary medicine, who are licensed under the laws of this State and licensed as a pharmacist, for a new total of nine members. Changed the requirement that four members shall be from the City and County of Honolulu to six.

Sec. 461-5: Requires that all practitioners of medicine, osteopathy, dentistry, podiatry, and veterinary medicine, who dispense prescriptions to patients, shall be licensed under this Chapter, but shall be exempt from the requirements of graduating from a school, college or department which is recognized by the American Council of Pharmaceutical Education and the one year practical experience in a pharmacy with a registered pharmacist.

Your Committee has also added a purpose section and a Section 5 to allow a practitioner to obtain a pharmacist license within five years from the effective date of this Act, after which time all practitioners shall obtain a license pursuant to Chapter 461.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2969-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2969-80, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senator Saiki.

SCRep. 280-80 Health on S.B. No. 2923-80

The purpose of this bill is to broaden the scope of the practice of podiatry by including surgical treatment of the muscles and tendons of the leg governing the function of the foot, and to delineate active and inactive podiatry licenses. Furthermore, the bill adds an additional standard for the revocation of a license.

Your Committee received testimony from Dr. Marion L. Hanlon, Chairman of the Board of Medical Examiners, who indicated that to allow podiatrists to perform surgery above the foot without requiring supervision as currently being required by the Medical Practice Act would not be in the best interest of the general public.

Your Committee has accordingly amended the bill to allow surgical treatment to muscles and tendons of the leg only as they enter the foot.

Subsections (b) and (c) of Section 2 of the bill have been deleted, since your Committee finds that the current licensing requirements are adequate.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2923-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2923-80, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senator Saiki.

SCRep. 281-80 Health on S.B. No. 2665-80

The purpose of this bill is to establish a community residential treatment system to provide alternatives to institutional settings for mental health patients.

Testimony from the Mental Health Association, Queen's Medical Center, National Association of Social Workers, Inc., Hawaii Psychological Association, Department of Health and other interested organizations/individuals all concur that establishing such a system of treatment programs within the community would provide the necessary emotional support to encourage growth toward independence of its residents. Testimony further cited that one of the major obstacles preventing the emotionally handicapped from returning to full independent and productive lives is the lack of appropriate housing alternatives.

A recent survey conducted by the Mental Health Division of the Department of Health documents a need for these various community-based, residential alternatives to institutionalization. An acute lack of these facilities in the past has resulted in patients frequently remaining hospitalized in an acute care facility longer than necessary. Such extended hospitalization results in unnecessary costs and reflects poor utilization of services.

Your Committee recognizes that a full system of alternatives to institutional settings for mentally ill clients is a positive step in our efforts to promote the rehabilitation of mental health patients in the State. The bill provides for various levels of programs (short term crisis; long term; transitional residential; and semi-supervised, independent, but structured living arrangements), to make available the least restrictive level of service for any client, and also provide for direct referral. Criteria for determining the eligibility of each client, an evaluation mechanism, and the establishment of an advisory committee to screen all system proposals and make recommendations as to the approval is also included. Your Committee has amended Section 2 accordingly.

It is the intent of your Committee to provide guidelines and principles for the establishment of community-residential mental health programs in the State, with coordination provided by the Department of Health, and to include any private, non-profit and/or public organization within the State for consideration for funding under the provisions of this measure.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2665-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2665-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 282-80 Health on S.B. No. 2661-80

The purpose of this bill is to provide funds for vocational education and training to autistic adolescents and adults.

Testimony from the Developmental Disabilities Council, Hawaii Society for Autistic Children, and the Commission on the Handicapped concurs with the intent of the bill to provide pre-vocational and day activities for the developmentally disabled.

Your Committee recognizes that programs for autistic persons can promote a move toward economic and residential independence for these individuals, and that services to the adult autistic population are currently inadequate. Your Committee has amended the bill to include only autistic adults (20 years or older) as the Department of Education has the responsibility for serving handicapped children and youth (ages 3-19 years) under P.L. 94142.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2661-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2661-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 283-80 Health on S.B. Nos. 2657-80, 2917-80, 2983-80, and 3139-80

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 purpose of S.B. Nos. 2657-80, 2917-80, 2983-80, and 3139-80, 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 Machida.

SCRep. 284-80 Health on S.B. No. 2654-80

The purpose of this bill is to provide for a change in the compensation rate to patient employees at Kalaupapa Settlement by making their pay equal to the compensation of civil service workers when performing comparable duties.

Your Committee heard testimony that patient employees are currently being paid at approximately one-half the minimum wage for the duties they perform. Your Committee recognizes that patient employees are productive and capable individuals who are entitled to a compensation rate at least at the minimum wage level. It is the intent of your Committee to address the unjust pay scale for services rendered by leprosy patients.

The bill has been amended by deleting the proposed subsection (b) of Section 326-21, and simplifying the language to state that the Department of Health may employ patients. The bill has been further amended to include other facilities for Hansen's disease patients (including Kalaupapa Settlement) in the equal compensation provisions.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2654-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2654-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 285-80 Health on S.B. Nos. 2446-80 and 2922-80

The purpose of these bills is to provide appropriations for health programs in the State of Hawaii.

Your Committee made the following amendments:

S.B. No. 2446-80 Amended the amount appropriated from \$198,504 to \$168,504 and deleted item (1) Respite Services for East Big Island \$30,000. Amended this bill to comply with Ramseyer rules of bill drafting.

S.B. No. 2922-80 Amended this bill by inserting \$532,000 as the amount to be appropriated for the purpose of this bill.

Your Committee on Health is in accord with the intent and purposes of S.B. Nos. 2446-80

and 2922-80, as amended herein, and recommends that they pass Second Reading in the forms attached hereto as S.B. Nos. 2446-80, S.D. 1, and 2922-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Saiki.

SCRep. 286-80 (Majority) Health on S.B. No. 2392-80

The purpose of this bill is to amend Chapter 328 Part III, Hawaii Revised Statutes, by providing a definition of the term "thawed food" and by requiring specific labeling of the thawed food when it is offered for sale after it has been thawed out. Furthermore, the bill deletes the exemption of labeling previously given 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. However, the bill does exempt from the labeling requirement thawed food processed by grinding, or by dehydrating. Finally, the bill requires labels to be of a size easily seen under customary conditions of purchase.

Your Committee heard testimony from the Department of Health and the Hawaii Food Industry Association concurring with the intent of the bill as written.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2392-80 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.
Senator Yee did not concur.

SCRep. 287-80 (Majority) Health on S.B. No. 2968-80

The purpose of this bill is to give the investigators of the Investigations and Narcotics Control Section of the Department of Health, the same benefits and privileges accorded to a police officer.

Your Committee received testimony in support of this bill from the Department of Health and the Hawaii Government Employees' Association. The Department of Health outlined the duties and activities of the investigators within the Investigation and Narcotics Control Section, that are necessary for controlled substances' enforcement. These duties, activities, and the amount of risk involved to the investigation are similar to those encountered by the Police. These include the apprehension and arrest of persons violating this Act, search and seizure of property, issuance and service of warrants, and collaboration with each county police department and the Federal Drug Enforcement Agency.

Your Committee finds that the job of the investigator from this section of the Department of Health is a unique job within the State and includes special enforcement powers designated by state law. We also find that, due to this uniqueness and the comparative duties of the investigator and the police, these special investigators should be afforded the same privileges and benefits as a police officer.

Your Committee has made nonsubstantive amendments to the bill to conform to the Ramseyer drafting format.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2968-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2968-80, S.D. 1, and be referred to the Committee on Human Resources.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 288-80 (Majority) Tourism on S.B. No. 2689-80

The purpose of this bill is to create a special design district to improve Waikiki as a resort destination area.

Your Committee heard testimony from the City and County of Honolulu and the Department of Planning and Economic Development indicating that the city of Honolulu has already established a Waikiki special design district.

In view of the foregoing, and more importantly, in view of the vital importance of the visitor trade and the pressing need to launch a major and comprehensive program to arrest the decline of Waikiki as a prime resort destination, your Committee finds that

it would be appropriate to follow the Kakaako community redevelopment approach, and designate Waikiki a community development district. This would make available the required resources, as well as ensure coordination and consistency in state efforts to redevelop and otherwise upgrade vital urban areas in a systematic and comprehensive manner.

Accordingly, your Committee has amended the bill by designating the Waikiki area a community development district under the jurisdiction of the Hawaii Community Development Authority. The bill would authorize the Authority to prepare and submit an interim development plan and implementation program for the designated Waikiki area, to be funded by the sums appropriated in this bill. This interim development plan would address immediate and short-term solutions based on existing and current policies, plans and laws of the State and the City and County of Honolulu. This plan would also address such matters as the timely development of streets, utilities, and other aspects of the community's infrastructure needing immediate improvement to meet minimum standards of good design, health, safety and coordinated development.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 2689-80, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2689-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.
Senator Soares did not concur.

SCRep. 289-80 Consumer Protection and Commerce on S.B. No. 1989-80

The purpose of this bill is to amend the corporation statutes. The intent of this bill is to eliminate unnecessary regulation and paperwork for corporations and the Department of Regulatory Agencies.

Your Committee received testimony in favor of the bill from the Department of Regulatory Agencies, and the Hawaii State Bar Association's Ad Hoc Committee. The Honolulu Press Club submitted testimony in opposition to amendments which would "create a screen of secrecy over corporate disclosures...[of] stockholders of corporations...and the amounts of stocks they hold...".

Your Committee has amended the bill to require that the names of the stock subscribers, the number of shares, value, and type of assets be disclosed. It is your Committee's intent that this certified statement be accepted by the Department without requiring the Department's approval of the sufficiency of the statement.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1989-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1989-80, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 290-80 Consumer Protection and Commerce on S.B. No. 1995-80

The purpose of this bill is to make various amendments to Chapter 452 which establishes the Board of Massage.

The bill amends Chapter 452 to make changes in terminology: The words "masseur" and "masseuse" have been deleted and the term "massage therapist" has been substituted. The terms "massage parlors" and "massage salons" have been deleted, and the term "massage establishment" has been substituted.

The bill also requires that massage therapists and massage establishments be "licensed" instead of "certificated."

The bill requires that "out-call massage services" be licensed under this chapter.

The bill adds a provision which requires that the Department of Regulatory Agencies shall employ an executive secretary and clerical help to assist the board. This provision is a housekeeping amendment since the board and other boards and commissions under the Department are assisted in this manner at present.

The bill further provides that a person convicted of a felony or a misdemeanor involving moral turpitude may be denied a license.

The bill deletes provisions which required the board to elect a president, treasurer,

and secretary, and that the secretary be paid a salary. The bill specifies that a chairman shall be elected.

The bill increases and separates the application, examination, license, and renewal fees.

The bill provides penalties for owners of massage establishments and out-call massage services who knowingly employ unlicensed persons to perform massage services.

Your Committee received testimony in favor of this administration bill (0-10(80)) from the Department of Regulatory Agencies and Richard Melton.

Your Committee has made numerous amendments to clarify the bill, without substantive change. Rather than repealing Chapter 452 in its entirety and replacing it with a new Chapter 452, the bill, as amended, makes appropriate deletions and additions to the existing chapter.

The definition of "out-call massage service" has been amended to add that a service which practices massage at a non-fixed location as designated by the service be deemed an "out-call massage service" to clarify that not only services which perform massage at places designated by the client be included under regulation.

Your Committee has deleted the provision that the board have its own seal, inasmuch as the bill deletes the reference that licenses issued be attested by its seal.

Since the bill requires that three members of the board have at least three years practical experience as licensed massage therapists, a provision has been added to provide that the requirement be waived for three years after the effective date of this Act.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1995-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1995-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 291-80 (Majority) Consumer Protection and Commerce on S.B. No. 3108-80

The purpose of this bill is to allow the Office of Consumer Protection to compensate witnesses summoned by the Office to testify.

The Office of Consumer Protection testified that there are instances when they must rely upon selfemployed individuals who are knowledgeable in the technology, customs, and practices of a business under investigation. The office further testified that without compensation for their time in cooperating with the office, these individuals would suffer financial loss.

The bill provides that the director adopt rules in accordance with Chapter 91 regarding the amount of compensation paid to, and the purposes for which these individuals may be compensated.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 3108-80 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.
Senator Carroll did not concur.

SCRep. 292-80 (Majority) Consumer Protection and Commerce on S.B. No. 2365-80

The purpose of this bill is to require any newspaper operating under a joint newspaper operating arrangement to submit an annual report of its financial condition to the Attorney General of the State. The report would be a public record and show the assets and liabilities of the newspaper, expenses and taxes paid, including compensation paid to each editor and publisher, gross earnings and profits, losses recovered since last reported, payments made by stockholders, and all amounts carried to surplus, undivided profits, or dividends paid.

Part II of Chapter 480, Hawaii Revised Statutes, commonly called the Newspaper Preservation Act, allows a "failing newspaper" to enter into a joint operating arrangement with another newspaper. Such arrangements, which among other things, allow price fixing for advertising and circulation rates, are granted an exemption from the antitrust laws.

Your Committee notes that when the law was being considered by the legislature, both major daily newspapers strongly favored enactment and offered to open its financial records to the legislature in order to justify their positions that the law was necessary to "save" the Honolulu Advertiser, which claimed to be a "failing newspaper" prior to entering into a joint operating arrangement with the Honolulu StarBulletin. However, since enactment of the Newspaper Preservation Act, both major newspapers have strongly opposed any efforts to obtain information relating to their financial condition.

Testimony received by your Committee indicates, and your Committee finds, that advertising and circulation rates have increased at an alarming and steep rate since enactment of the Newspaper Preservation Act in 1972. Your Committee received testimony that advertising costs for retailers have increased greatly between the years 1972 and 1980. These costs, of necessity, are passed on to the public in the form of higher prices and contribute to the inflationary spiral.

Moreover, there is a good reason to believe that the two major newspapers, during this same period, have enjoyed substantial profits. The newspapers have increased their advertising rates on twelve occasions since 1972, greatly increased advertising lineage by increasing the number of columns in the classified pages from eight to ten columns while reducing the number of columns in the nonrevenue pages by the use of larger type. These measures have been augmented by the savings realized by the joint operation, including the use of modern equipment, computerization and reduction of staff. A financial disclosure will enable the legislature to determine whether the special privileges granted to newspapers in 1972 are justified. Included in the privileges granted is immunity from inquiries and investigation by the State Attorney General of possible trade monopoly abuse or antitrust violations, a privilege granted no other private enterprise in Hawaii.

Your Committee finds that the special privileges allowed newspapers under the Newspaper Preservation Act, including price fixing for circulation and advertising rates, which but for the antitrust exemption granted, would be per se violations of the antitrust laws, can only be justified if the beneficiaries of the law do not abuse their special position.

Under the present law, the newspapers enjoy special considerations not granted to the other competing forms of media and other private enterprises and there is no mechanism for checking any abuses which might occur.

Your Committee finds that the provisions of this bill will give the public some measure of protection against overreaching by opening a part of the financial records of the newspapers granted special privileges to public scrutiny. As is so often pointed out by the newspapers themselves, an informed public is often the best protection against oppressive and unfair practices.

Your Committee has amended the bill by adding a statement of purpose as Section 1 of the bill and renumbering the other sections accordingly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2365-80 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2365-80, S.D.1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators O'Connor, Ushijima, Saiki and Yee.
Senator Carroll did not concur.

SCRep. 293-80 Agriculture on S.B. No. 2950-80

The purpose of this bill is to amend section 155-8, Hawaii Revised Statutes, to change the interest rate required to be charged by the Department of Agriculture under the Agricultural Loan Program on Class A, B, C, E and F loans.

The present interest rate which is charged on Class A loans (farm ownership and improvement loans) and on Class B loans (soil and water conservation loans) is the rate charged for similar loans by the Federal Land Bank Association of Hawaii. The present rate which is charged on Class C loans (farm operating loans) is the rate charged for similar loans by the Hawaii Production Credit Association of Hawaii. The present rate which is charged on Class E loans (loans to cooperatives and corporations) is two per cent less than the rate charged for similar type loans by the San Francisco Bank for Cooperatives. The present rate which is charged on Class F loans (new and young farmer loans) is two per cent less than the rate charged by the appropriate farm credit bank.

Your Committee received testimony from the Department of Agriculture and the Hawaii Farm Bureau Federation in support of this bill. The Department recommended that the

rates for Class A, B, C, and E loans be set at two per cent below the rates for similar loans made by the Farmers Home Administration, and that other technical changes be made.

Your Committee has adopted the amendments proposed by the Department, and has amended the bill accordingly.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2950-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2950-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki, Mizuguchi, Young, Ajifu and Anderson.

SCRep. 294-80 (Joint) Agriculture and Higher Education on S.B. No. 2953-80

The purpose of this bill is to make an appropriation to provide for the placement of a full-time qualified vegetable research scientist at the Kula branch station of the College of Tropical Agriculture and Human Resources. Although this scientist would be based at the Kula branch station, that person would be available to address Statewide problems as necessary.

Your Committees received testimony in favor of the intent of this bill from the College of Tropical Agriculture and the Hawaii Farm Bureau Federation.

Your Committees have amended the bill to provide \$20,000 for the purposes of this bill, to provide a position count (1.0), and to change the effective date of the Act to July 1, 1980.

Your Committees on Agriculture and Higher Education are in accord with the intent and purpose of S.B. No. 2953-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2953-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Cayetano, Kawasaki, Mizuguchi, Young, Anderson and Saiki.

SCRep. 295-80 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 not to exceed 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 not to exceed one month's salary computed 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 on Human Resources is in accord with the intent and purpose of S.B. No. 744, S.D. 2 and recommends that it be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 296-80 Human Resources on S.B. No. 1999-80

The purpose of this bill is to amend the general assistance (GA) law to limit general assistance to persons whose disabilities are expected to continue beyond a thirty day period.

The present general assistance provision relating to disabled persons between the ages of eighteen and fifty-five does not require a durational period of disability in order to qualify for general assistance. Your Committee finds that this absence of a statutory requirement for a durational disability period has resulted in abuses of the general assistance program by persons with temporary disabilities which are medically incapacitating for less than thirty days. This bill will ensure that only disabled persons whose disability is expected to last beyond thirty days, may qualify for general assistance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1999-80 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 Abercrombie and Anderson.

SCRep. 297-80 Human Resources on S.B. No. 2100-80

The purpose of this bill is to provide \$75,000 to the Hilo Association to Help Retarded Citizens for developing alternative living arrangements to the handicapped for direct service skills training.

Your Committee finds that disabled persons can live independently with adequate training. Currently the majority of these individuals are living at home with aged parents or in other restrictive environments. The financial support requested will provide pre-training for individuals desiring to become more independent and live in one of the proposed HUD (Housing and Urban Development) dwellings. Pre-training refers to basic daily living skills such as grooming, shopping, sexual awareness, money management, and social development. Training needs will be individually evaluated and gradually lessened as the person gains competence. Completion of the program takes from three to eighteen months, and upon graduation of one student, another will be enrolled.

Your Committee further finds that once established, this program will serve as a model and provide expertise to other State programs.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2100-80 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. 298-80 Human Resources on S.B. No. 2102-80

The purpose of this bill is to provide \$80,000 to continue the operation of the Hilo Interim Home for the 1980-81 fiscal year.

Your Committee finds that the Hilo Interim Home provides counseling and placement services on a 24-hour basis to troubled youngsters in the Big Island Community. The Interim Home offers shelter, food, supervision, counseling, recreation, independent living skills, transportation, liaison with schools, family counseling, foster parent training, follow-up services as well as long-term job placement alternatives. The Interim Home serves as an alternative to the County Correctional Center.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2102-80 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. 299-80 Human Resources on S.B. No. 2283-80

The purpose of this bill is to appropriate \$35,000 to the Susannah Wesley Community Center for the purpose of hiring necessary staff and operations for their immigrant services program.

Your Committee finds that there is a need to provide assistance to immigrants to adjust and assimilate into our community. Susannah Wesley Community Center has established such services in the form of outreach work, short-term counseling, translations and clarifications of immigrant laws, technical assistance for health services, pre-job orientation, and housing and educational information.

Your Committee has amended this bill to provide that the expending agency be changed from the Department of Social Services and Housing to the State Immigration Services Center, Office of The Governor to provide for better coordination of such services.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2283-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2283-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 300-80 Human Resources on S.B. No. 2295-80

The purpose of this bill is to permit the Board of Trustees of the Employees' Retirement System to purchase gold bullion, silver bullion, or platinum for investment purposes.

Your Committee finds that currently, the Board of Trustees may invest in real estate loans, government obligations, corporate obligations, stocks, other obligations and securities. The Board of Trustees has established that their primary investment objectives are preservation of principal and the avoidance of significant market value losses.

According to the Administrator of the Employees' Retirement System, the trustees wish to earn a stable seven to eight per cent investment yield on the book value of investments.

Your Committee further finds that as of June 30, 1979, the retirement system's total assets amounting to \$1.2 billion were invested as follows: 17 per cent in common stocks, with the balance of the assets invested in fixed corporate obligations, government securities, mortgages, and short-term investments. The fund is projected to be \$3 billion by 1990.

This bill permits the Board of Trustees to purchase gold or silver bullion, or platinum. Investments in these precious metal commodities will not exceed ten per cent of the total book value of all the investments of the retirement system.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2295-80, 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 Abercrombie and Anderson.

SCRep. 301-80 Human Resources on S.B. No. 2302-80

The purpose of this bill is to establish a temporary commission to study and review Hawaii's workers' compensation law and to prepare a report of findings and recommendations in consonance with the basic objectives of workers' compensation law, with a special emphasis on ways of reducing or stabilizing costs while maintaining benefits at existing levels, or ideally, providing increased benefits at reduced employer costs.

The commission will submit a preliminary report to the governor and the legislature prior to the 1981 legislative session, and a final report, within 10 days after the convening of the 1982 legislative session. This bill provides that the commission shall cease to exist ninety days after the submission of its final report.

Your Committee finds that there are several problem areas requiring in-depth review and analysis:

- (1) The medical profession is not pleased with being regulated by a medical fee schedule.

- (2) Employers constantly express displeasure at increases in workers' compensation premiums.
- (3) Insurance companies allege that underwriting workers' compensation insurance results in overall losses.
- (4) Industrially injured workers are dissatisfied with the compensation schedule and rate.
- (5) The marked increase in the amount of litigation in the area of workers' compensation.
- (6) The increasing drain on the special compensation fund.

Your Committee further finds that the results of the commission's study may alleviate the problems mentioned above and hopefully provide reasonable and rational solutions.

Your Committee has made various amendments to this bill. Section 1 has been amended to delete references to Florida's workers' compensation laws to ensure that the Commission will not limit its study only to that State's laws. Section 2 of the bill has been amended by adding the Chairman of the Workers' Compensation Appeals Board as a member of the Commission; the working experience and wealth of information this individual can provide to the Commission will be an invaluable contribution to the Commission's study. Other technical, non-substantive amendments have been made to this bill.

The appropriated amount for the operations of the Commission contained in Section 8 of this bill has been left blank. Your Committee respectfully requests the Senate Ways and Means Committee to address the appropriate amount for the Commission's operations.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2302-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2302-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and Anderson.

SCRep. 302-80 Human Resources on S.B. No. 2323-80

The purpose of this bill is to amend the public assistance law to allow the Director of Social Services to determine the amounts of maximum shelter allowance for recipients of public assistance who reside in residential treatment facilities.

Your Committee finds that the method for determining the amount of public assistance payments for recipients in residential treatment facilities is inequitable. Basically, these facilities provide shelter and treatment to alcohol or drug abusers, mentally ill, and socially/emotionally distressed individuals. Recipients in these facilities are receiving amounts of public assistance according to two very different criteria: (1) Some receive up to the maximum shelter allowance of \$175 plus the basic needs allowance of \$122 per month, as provided by law, for single recipients in non-domiciliary shelter; and (2) Some receive a flat monthly amount of \$191 to meet both shelter and basic needs. Thus, inequities exist because recipients residing in some facilities may receive up to \$106 more per month than recipients residing in other similar facilities.

Your Committee further finds that the amendment would improve the public assistance program by: (1) Providing a uniform criteria for determining the amounts of maximum shelter allowance for recipients in residential treatment facilities; and (2) Providing the Director the opportunity to determine adequate amounts of shelter allowance for recipients in residential treatment facilities.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2323-80 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. 303-80 Human Resources on S.B. No. 2326-80

The purpose of this bill is to appropriate \$100,000 out of the State general fund for a Displaced Homemaker Program.

This bill adds a new section to the Hawaii Revised Statutes that provides for a state-funded displaced homemaker program to provide counseling, employment assistance, job training,

and other supportive services designed to improve the employability and the self-sufficiency of these individuals.

The appropriation of \$100,000 would be used to provide these services to displaced homemakers.

Your Committee finds that a displaced homemaker is generally an individual who has worked without pay as a homemaker for family members for a substantial number of years, is not gainfully employed, has had or would have difficulty finding employment, and who has either depended on the income of a family member and has lost that income, or has depended on government assistance as the parent of dependent children but is no longer eligible for that assistance.

Your Committee further finds that in 1977, a bill relating to Displaced Homemakers was introduced and the legislature decided to defer the bill in order to conduct a study. The study found that over 15,000 women could be categorized as being within the target group of the proposed program. As a result of the study, the 1978 and 1979 legislature appropriated funds for a displaced homemaker program. Although funds for a program was appropriated, the expending agency did not implement the program.

A displaced homemaker program is being administered by the Young Women's Christian Association (YWCA). CETA funds are used to serve a maximum of twenty women at one time. The present situation of this program is that funds will be running out shortly. Since CETA funds are used, the program must abide to stringent income restrictions of the CETA program. Your Committee feels that a displaced homemaker program funded by the State, as authorized by this bill, would not be operating under any such restrictions.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2326-80 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. 304-80 (Joint) Human Resources and Health on S.B. No. 2391-80

The purpose of this bill is to appropriate \$469,177 out of the general revenues of the State for grants-in-aid to the following:

Catholic Social Service	
Group Work Program	\$ 39,391
Paraprofessional Program	42,742
Child and Family Service	
Hale Lokahi	13,901
Kapiolani-Children's Medical Center	
Hawaii Family Stress Center (Statewide)	215,290
Family Crisis Shelter (Hilo)	44,853
Kokua Kalihi Valley	
Shelter for Abused Spouses and Children	15,000
The Shelter (Kauai)	15,000
Family Services, Inc. (Kalihi)	
Hana Like	82,000
TOTAL	\$469,177

Your Committee finds that continuing attention and resources must be directed to the needs of abused and neglected children and spouses. These agencies provide temporary emergency housing, crisis intervention counseling, information, and referral services on a twenty-four hour basis.

The appropriation of \$469,177 will allow these agencies to continue to provide and implement programs for the abused and neglected children and their families and insure the continued existence of shelters for abused spouses and children.

Your Committee has made the following amendments:

- (1) The total grant-in-aid to Hana Like has been changed from \$83,000 to 81,012. The \$83,000 figure on this bill is erroneous.
- (2) The total grant-in-aid to "The Shelter" (Kauai) has been changed from \$15,000 to \$20,000.
- (3) The total appropriation of \$469,177 is amended to the sum of \$472,189.

Your Committees on Human Resources and Health are in accord with the intent and purpose of S.B. No. 2391-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2391-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees.

SCRep. 305-80 Human Resources on S.B. No. 2439-80

The purpose of this bill is to amend the workers' compensation law to extend the immunity from civil liability now provided employers and fellow employees of injured workers to labor organizations representing employees.

Your Committee finds that Section 386-5 presently provides that the rights and remedies granted by the workers' compensation law exclude all other employer liability to an injured employee or his dependents in cases of work injury. The law's third-party liability section also immunizes the injured employee's fellow employees from suits, except where the injury is caused by a fellow employee's wilful and wanton misconduct.

This bill provides the labor organization representing the injured employee with immunity from third-party suits based on the union's alleged failure to discuss, negotiate, or enforce health and safety provisions in collective bargaining agreements.

Your Committee further finds that employee safety and health have traditionally been matters of great concern. Recent developments in tort law have now made labor organizations reluctant to actively pursue safety matters through collective bargaining because third-party actions alleging union neglect in negotiating or enforcing health and safety provisions in collective bargaining agreements have become increasingly common. Such suits are filed against unions because the law protects an injured workers' employer and fellow employees from negligent actions, but does not immunize the labor organization to which the employees belong.

Your Committee feels that it would be fair to extend this same immunity to unions so that they will be encouraged to pursue employee health and safety protection through collective bargaining as well as under the law. Your Committee feels that this would serve the best interests of all workers and would be consistent with the intent of the workers' compensation law.

The bill does not impose any additional duties on the department of labor and industrial relations as the provisions of the bill are self-executing in the same manner that the present immunity provisions related to employers and fellow employees need no administration by the department.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2439-80 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 and Anderson.

SCRep. 306-80 Human Resources on S.B. No. 2440-80

The purpose of this bill is to provide a limitation period for the filing of a "fair representation" suit by an employee against that employee's labor organization and to determine when such a cause of action accrues. The bill proposes a sixty-day limitation period and also sets forth when a cause of action accrues under given circumstances.

Your Committee finds that since the U.S. Supreme Court's decision in Vaca v. Sipes in 1967, unions, as well as employers, have been subject to numerous suits based on what has become known as the "fair representation" doctrine. These suits are premised on allegations that a union has engaged in conduct toward a bargaining unit member that is "arbitrary, discriminatory or in bad faith" or that a union has been negligent in representing a member. While most of these suits have been unsuccessful, labor organizations and employers nevertheless have been compelled to expend substantial resources in defending

themselves. Employers are beset with the foregoing problem because suits almost invariably involve back pay and reinstatement in employment as the relief sought.

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

This bill settles most of the foregoing questions and provides all parties concerned -- employers, unions, and employees -- with a certainty as to when a claim should be asserted and will also enable the disputes to be expeditiously determined.

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

This measure prescribes a limitation period for actions based upon alleged breaches of the duty of "fair representation". These actions are pursued through civil suits brought directly in the courts by individuals without intervention by the Department of Labor and Industrial Relations or other government agencies.

Since claims of unlawful discrimination under other provisions of Chapter 378 must now be filed within ninety days after accrual, your Committee feels that a "fair representation" claim should also be subject to a similar limitation period. Thus, this bill has been amended to provide a ninety-day limitation period rather than the sixty-day period originally proposed.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2440-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2440-80, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Abercrombie and Anderson.

SCRep. 307-80 Human Resources on S.B. No. 2445-80

The purpose of this bill is to provide \$106,689 to continue work and day activity programs for severely disabled adults at Lanakila Rehabilitation Center for the fiscal year 1980-1981.

Your Committee finds that the work activity programs are designed to help severely disabled adults achieve economic independence through gainful employment. Individualized habitation plans are developed based on a behavioral evaluation system to enable each person to achieve maximum level of self-sufficiency. A well structured program of activities which include daily living skills, personal and social adjustment, community awareness, and pre-vocational training provides opportunities for independence.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2445-80 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. 308-80 Human Resources on S.B. No. 2536-80

The purpose of this bill is to: (1) add a new section to the social service statute that will provide for a resident alien program to assist aged, indigent resident aliens in returning to their homelands; and (2) appropriate \$100,000 out of the State general fund for the implementation and operation of this program.

Your Committee finds that BalikBahay, a non-profit volunteer organization dedicated to locating persons who have lost contact with families in their homelands and to provide assistance in returning persons to their homeland, found that over the past five years, 300 elderly persons have expressed the desire to contact their families in their homelands. Of these 300 persons, BalikBahay has provided funds for 50 of these persons to return to their homelands. The majority of the 300 persons are aged, indigent resident aliens of Filipino extraction.

Your Committee further finds that this bill will enable aged, indigent resident aliens

receiving public assistance to return to their homelands, where, with Social Security benefits, pensions, and assistance from relatives and charitable organizations, they would be able to live out their remaining years in a land with a lower cost of living. Their limited incomes would be more than sufficient for these persons to live in their homelands in greater comfort and dignity. This bill would be cost-effective to the State in that all forms of public assistance to these persons would cease.

The proposed appropriation of \$100,000 is to cover the transportation and administrative costs. The Department of Social Services and Housing role is to formulate rules and regulations and to allocate sufficient funds for transportation of eligible persons to their homelands. The resident alien program shall not be limited to one specific ethnic group, but will service all persons deemed eligible, regardless of ethnicity. Currently, though, the major group desiring to return to their homelands are eligible persons of Filipino extraction.

Your Committee has amended this bill to include aged, indigent naturalized citizens. These persons are found to be as deserving of the services proposed for resident aliens in this bill. Definitions of "naturalized" and "citizen" have been included in the definition section of this bill and the title of the proposed program has been amended to read "Resident Alien and Naturalized Citizen Program".

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2536-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2536-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 309-80 Human Resources on S.B. No. 2537-80

The purpose of this bill is to establish a temporary commission to study the present and projected fiscal stability of the Hawaii public employees' retirement system. The commission will be reporting its findings and recommendations to the governor and the legislature prior to January 1, 1981.

Your Committee finds that since the inception of the Hawaii public employees' retirement system in 1926, there has never been a comprehensive review of the fiscal soundness of the system. Such a study would provide an invaluable aid in evaluating the numerous proposals concerning the system which are considered by the legislature each year.

Your Committee has amended this bill by revamping the composition of the commission. It has decreased the number of members of the general public appointed by the governor from four to two and has added two members of the public unions to be appointed by the governor. The purpose of these amendments is to permit participation by the public unions by providing for their representation on the commission. Other technical and non-substantive changes have been made.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2537-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2537-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 310-80 Human Resources on S.B. No. 2616-80

The purpose of this bill is to amend Chapter 92 of the Hawaii Revised Statutes by charging officers and employees who knowingly sign false statements and misrepresentations in public records, or who knowingly fail to disclose a material fact, with a misdemeanor.

This bill, if enacted, will make the penalties for false statements and misrepresentations in public records consistent with the penalties for false statements under other chapters of the Hawaii Revised Statutes.

Your Committee finds that the legislative intent of Chapter 92 requires public confidence in the reliability and truthfulness of signed public records.

Your Committee further finds that the signature of the public officer or employee, taken in context with the substance of the public record, must be such that a reasonable person would conclude that the signature was for the purpose of attesting to the truth or reliability of the record. It is not the intent of your Committee to prohibit a public officer or employee from signing a document with a notation such as: "I do not concur," or similar language

which would lead a reasonable person to conclude that the signature was made in order to refute or deny the truth of the reliability of the record.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. 2616-80 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Anderson.

SCRep. 311-80 Human Resources on S.B. No. 2618-80

The purpose of this bill is to amend Section 76-52 of the Civil Service Law by charging officers and employers who knowingly make false reports in order to obtain payments with a misdemeanor if the payment is less than \$200, and with a class C felony if payment is \$200 or more.

The bill, if enacted, will make the penalties provided under this law consistent with the penalties of theft under the Hawaii Penal Code.

Your Committee finds this level of punishment is desirable, both for retribution and for its deterrent effect. Those who obtain payments from state funds under false pretenses diminish the fiscal resources of the state and undermine public confidence in government.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. 2618-80 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators O'Connor and Soares.

SCRep. 312-80 Human Resources on S.B. No. 2623-80

The purpose of this bill is to appropriate moneys out of the State general fund for furnishings and equipment for the Kahaluu Multi-Purpose Center.

Your Committee finds that the Kahaluu Multi-Purpose Center presently operates out of a building that has been condemned. City and County funds are available for construction of a new facility, and bids for construction are currently being considered. However, funds are required for the purchase of furnishings and equipment for the new facility.

Your Committee has amended this bill by entering an appropriation figure of \$10,000 for the purchase of furnishings and equipment.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2623-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2623-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 313-80 Human Resources on S.B. No. 2664-80

The purpose of this bill is to appropriate \$343,000 out of the State general fund for a grant-in-aid to the Easter Seal Society for Crippled Children and Adults in Hilo. These funds will be used for the construction of a new Easter Seals facility to provide services for handicapped children and adults.

Your Committee finds that the Hilo Easter Seal Society, operating under a contract with the Department of Health, provides services to handicapped children and adults.

The Hilo Easter Seal Society presently occupies an old leased building, but this building does not meet the codes of the Commission for the Accreditation of Rehabilitation facilities. The building is also too small for the needs of the agency. As a result, the agency also operates out of another office at a different location.

Your Committee finds that this bill provides for the first phase of construction of a new Hilo Easter Seals facility. Other funding sources are the federal Department of Housing and Urban Development (HUD) block grant funds, and other foundation grants received from the State last year for plans for the new facility.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2664-80 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. 314-80 Human Resources on S.B. No. 2786-80

The purpose of this bill is to appropriate \$15,000 out of the State general fund for the purchase of a passenger van for use by the Kaneohe Community Senior Citizens Council.

Your Committee finds that the Council is a non-profit community organization dedicated to assisting senior citizens in meeting their recreational, health and other needs. The Kaneohe Senior Citizen Center is tremendously popular with the elderly in Kaneohe, and the delivery of senior citizen services in Kaneohe has improved dramatically.

Your Committee finds that the Center has been utilizing the public bus system and the Handi-Van services for transportation of elderly residents to the Center and to attend special events. The exclusive use of a van by the Center would provide for a convenient and flexible mode of transportation for the senior citizens who use the Center. Volunteers are prepared to operate the vehicle, thus precluding the need to hire a driver for the van.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2786-80 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. 315-80 Human Resources on S.B. No. 2793-80

The purpose of this bill is to appropriate moneys out of the State general fund to provide transportation services for mobility impaired persons.

Your Committee finds that this bill would appropriate funds to provide transportation services for mobility impaired persons. The Protection Advocacy Agency provides Handi-Van transportation services on Oahu, Mondays through Fridays until 4 p.m. to handicapped persons living within the Kaneohe to Honolulu area. The service has been funded by the City and County of Honolulu but the City and County have no additional moneys to allocate.

Your Committee further finds that the purpose of Handi-Van's request for funds is to expand their services and to provide daily transportation services to all areas of the island.

Your Committee has amended this bill by inserting \$900,000 and to clarify the purpose of this bill.

The funds will be allocated as follows: \$200,000 for additional vans and to cover operating and maintenance costs; \$250,000 for additional personnel, operating and supply costs; and \$450,000 to offset fares (the riders pay fifty cents a ride and the State funds would pay \$3.75 per ride to offset the costs of maintenance, personnel, and operating costs).

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2793-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2793-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 316-80 Human Resources on S.B. No. 2797-80

The purpose of this bill is to raise the per diem allowances for legislators and state officials.

The proposed increases are as follows:

- (a) Allowance for non-Oahu legislator during session: raised from \$20 to \$40.
- (b) Allowance for expenses while traveling on official legislative business during a session within the State: Oahu legislator -- raised from \$30 to \$40; outer island legislator -- raised from \$20 to \$40.
- (c) Allowance for expenses while on official legislative business away from the island of residence during periods of recess and interim official legislative business: raised from \$30 to \$40.
- (d) Allowance for expenses while traveling on official legislative business without the

State: decreased from \$45 to \$30, with the State to pick up lodging and travel expenses.

- (e) Traveling expenses of State officials: raised from \$40 to \$60 for travel abroad; raised from \$30 to \$50 for interisland travel. Upon application and approval of the governor, the above rates can be increased up to \$70 per day.

Your Committee finds that inflation and the rising costs of food and lodging have rendered the existing per diem allowances wholly inadequate. This bill would alleviate the above problem by adjusting the per diem allowances upward to a more realistic level.

Your Committee further finds that the proposed increases conform to the increases in the per diem allowance negotiated for included employees in the recently ratified collective bargaining contracts.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2797-80 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. 317-80 Human Resources on S.B. No. 2800-80

The purpose of this bill is to eliminate potential discrepancies in compensation between employees subject to collective bargaining and those excluded from collective bargaining under the civil service law and the department of education who are employed on a comparable basis; to provide that certain supervisory employees in excluded positions be paid at least five per cent more than the highest paid employee under the excluded supervisory employee; and to permit the establishment of separate compensation plans or pay schedules for excluded civil service and department of education employees.

Currently, Hawaii law limits salaries of its civil service, department of education, and University of Hawaii employees, whether subject to or excluded from collective bargaining to ninety-five per cent of the salary of the first deputy or first assistant to the department head. Collective bargaining agreements, however, appear to take precedence over the statutory limitations. Therefore, an employee subject to collective bargaining could conceivably be paid more than a worker performing identical work, but who is excluded from collective bargaining. In order to give department heads discretion to adjust an excluded employee's salary to a level equal to persons performing comparable work, it is necessary to remove all ceiling limitations.

Your Committee has determined that the bill in its current form would provide only short-term solutions, since it merely raises an excluded employee's salary ceiling to ninety-five per cent of the salary of the department head for white and blue collar workers and excluded employees of the department of education. The bill does nothing for excluded employees of the University of Hawaii.

Your Committee has amended the bill to eliminate the ceiling of ninety-five per cent of the first deputy or assistant's salary which is currently placed on civil service, department of education, and University of Hawaii employees. Your Committee has also repealed section 78-18, Hawaii Revised Statutes, which requires that first deputy or assistant's salaries should be less than that of the department head and other employees' salary less than that of the first deputy or assistant.

Your Committee has also amended the bill to permit the salary of an excluded employee in a supervisory position to be adjusted to no more than five per cent more than the salary of the highest paid employee under the supervision of the excluded supervisory employee.

Your Committee has also excluded the provision permitting the establishment of separate pay schedules and compensation plans for civil service and department of education employees inasmuch as the subject is addressed in Senate Bills 2972 and 2977.

Your Committee on Human Resources is in accord with the intent and purpose of Senate Bill No. 2800-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2800-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and Anderson.

SCRep. 318-80 Human Resources on S.B. No. 2803-80

The purpose of this bill is to appropriate \$192,000 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. In addition, the rising costs of fuel and labor necessitate increased funding in order to maintain the existing level of transportation services.

Your Committee further finds that funds required to maintain existing transportation services to these disadvantaged persons exceeds the proposed appropriation. Therefore, your Committee has amended this bill to provide \$222,200 to enable the neighbor island county offices of economic opportunity to continue transportation services.

Your Committee recommends that a total of \$222,200 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: \$110,200 to Hawaii County Economic Opportunity, \$82,000 to Maui Economic Opportunity, and \$30,000 to Kauai Economic Opportunity.

Your Committee has also amended this bill to provide that any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business of 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. 2803-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2803-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 319-80 Human Resources on S.B. No. 2807-80

The purpose of this bill is to appropriate \$285,069 out of the State general fund to support the Community Action Agencies of 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 by coordinating services for the poor to attain skills, knowledge, and opportunities for self-help in improving the quality of their life. Funding for these agencies is provided by the federal, state, and local governments. Federal funding levels have basically remained the same despite inflationary trends in the economy.

Your Committee finds that the funds requested by these agencies will be used to continue certain programs and services because as a result of inflation and an increasing poverty population, federal moneys are being rapidly exhausted. To continue at the present level of service, these agencies need State aid as provided in this bill.

This bill's appropriation will be allocated as follows:

Hawaii County Economic Opportunity: \$47,325, for clerical and fiscal support personnel, supplies, and operating costs to assist in supporting the programs operated by the agency.

Honolulu Community Action Programs: \$131,000, to continue its solar energy program. These funds would enable the agency to serve an additional 80 households beyond the 60 households already served. Federal funds used to operate the program are being exhausted. The solar energy program will be terminated when funds run out.

Kauai Economic Opportunity: \$55,331, for Day Care and Afterschool Programs; federal funds for these programs are being cut back, if this occurs, these programs will end. The loss of these funds would end the services provided to 95 children.

Maui Economic Opportunity: \$51,413, to retain five present personnel positions; if these positions are terminated, a reduction of 3,500 outreach and referral activities would occur.

Your Committee finds that these agencies provide vital services which enhance the

quality of life of the poor and strongly feels that their services should continue.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2807-80 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. 320-80 Human Resources on S.B. No. 2808-80

The purpose of this bill is to amend various sections of chapter 581, Hawaii Revised Statutes, Office of Children and Youth (OCY), to update several provisions dealing with the operations and functions of the OCY.

The OCY was established under Act 207, SLH 1976. Your Committee finds that since this agency's inception, several of its operational and functional responsibilities have become outdated, unrealistic, or unenforceable. This bill amends the OCY statute as follows:

(1) Section 1 relieves the OCY director from sole responsibility for the coordination of programs and services in behalf of children and youth in the State. Your Committee feels that the OCY has no line authority to solely coordinate statewide programs, and that the agencies which deal with the OCY are best served when the OCY functions as an enabling and facilitating arm of State government to promote the coordination of these programs as provided in this bill.

This section also clarifies the OCY's responsibility to assess the policies and practices of other agencies impacting on children and youth by allowing the director to select which assessments are to be conducted, thereby recognizing OCY's limited resources and consequent inability to assess the activities of all these other agencies.

Your Committee further finds that the OCY has engaged hundreds of selected volunteers for useful and necessary tasks, and this section allows the director to reimburse OCY volunteers for expenses incurred in the conduct of OCY business.

(2) Your Committee further finds that due to the limited resources of the OCY, the research which it conducts can only be done on a selected basis. Section 2 of this bill makes the OCY's conduct of research optional instead of mandatory; the OCY may, however, develop and pilot programs when no other public or private agency is able to develop programs to fill a particular gap or critical need area.

Additionally, this bill brings the monitoring and coordinating function of OCY to a less extensive and more manageable level in recognition of the limited resources of OCY; and redefines and clarifies the OCY relationship to the county jurisdictions in carrying out OCY monitoring and coordinating responsibilities under this chapter.

Your Committee further finds that the OCY has already received \$70,000 in federal funds to maintain a data and information system, and this section enables the OCY to maintain this system as part of its general duties. Additionally, your Committee finds that certain county jurisdictions do not have local "county" committees on children and youth. This section of the bill deletes the word "county" on page 6, line 2. Your Committee feels that the word "local" preceding "county" on the same page and line is sufficient to accomplish this section's intent.

(3) Section 3 of this bill increases the number of OCY advisory council members from nineteen to twenty-one by adding one ex-officio member (the chairperson of the University board of regents) and one regular member (at-large). Your Committee finds that lower education is represented on the Council with the ex-officio membership of the chairperson of the board of education, and the ex-officio membership of a University representative as provided in this bill is desirable to accommodate the concerns of the large segment of youth at the University. The addition of one at-large member is to maintain the proportion of ex-officio members to regular members. Your Committee further finds that currently, four members of the advisory council shall be under the age of twenty-six upon appointment to this body. This bill raises the age limit to thirty to provide the council with increased flexibility whereby young adults under the age of twenty-six at the time of initial appointment to the advisory council may be reappointed to a second four-year term.

(4) Your Committee further finds that current statutes do not provide a procedure for designating a substitute for regular members who are unable to attend meetings of the

(5) Act 187, SLH 1976 transferred the functions of the now defunct youth affairs section

of the office of information to the OCY. Among these functions was the direct-duty service of conducting youth internship programs. Your Committee finds that this youth internship function has never been funded, has never been implemented, and is duplicative of other educational training duties conducted by other State agencies. Section 5 of this bill deletes this function from the OCY statute.

After due consideration, your Committee has amended this bill by bracketing the phrase "Monitor and coordinate" on page 5, line 3, and by adding the following sentence in line 3 and line 4 of the same page:

"Conduct selected monitoring and promote the coordination of".

Additionally, your Committee has added the following sentence to the end of page 5, paragraph (5):

"The county departments and agencies shall make available information which the office deems necessary for the effective discharge of its duties under this chapter."

Your Committee feels that these amendments shall bring this monitoring and coordinating function of the OCY to a less extensive and more manageable level in recognition of the limited resources of the OCY. Your Committee further finds that the OCY, as an office of the executive branch, should not monitor or coordinate the operations of county departments. This Act redefines and clarifies the OCY relationship to the county jurisdictions in carrying out OCY monitoring and coordinating responsibilities under this chapter.

Your Committee has made other technical, nonsubstantive amendments to this bill.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2808-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2808-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and Anderson.

SCRep. 321-80 Human Resources on S.B. No. 2851-80

The purpose of this bill is to appropriate \$10,000 out of the State general fund to provide a grant-in-aid for a human services center in Hawaii Kai.

Your Committee finds that the Hawaii Kai Communities Council is a volunteer organization comprised of psychologists, social workers, and residents of the Hawaii Kai area. The goals of the Human Services Center are the prevention of mental illness, referral and crisis intervention services for the Hawaii Kai area.

It is noted that the Hawaii Kai area, due in part to its rapid growth, has been experiencing a number of sociological problems, but that it does not have the support services needed to deal with these problems.

Your Committee finds that this bill will allow the Hawaii Kai Council to hire a worker to primarily provide adolescent services to the youth in Hawaii Kai. The worker would also provide counseling and referral services and would be supervised by the professional members of the Hawaii Kai Council.

In essence, the Human Services Center would be an office from which the worker could establish a base for communications. The worker would primarily be working in the field and establishing contacts with persons in the community. The securing of office space is not a problem for the Council. The Council has been contemplating an offer by Kokohead School for a room to be used as an office.

Your Committee finds that the Hawaii Kai area needs the services provided by the Hawaii Kai Council. The Human Services Center would be able to deal with some of the social problems the Hawaii Kai area is experiencing, as presently there are no services of this nature available in the area.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2851-80 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. 322-80 Human Resources on S.B. No. 2906-80

The purpose of this bill is to provide \$250,000 for the construction of a community center in Kula, Maui.

Your Committee finds that there is a pressing need for a meeting place for the civic and athletic clubs in Kula because there is no such facility at present. The proposed community center will be centrally located and will be the gathering place for some 30 clubs in Kula.

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

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2906-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2906-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 323-80 Human Resources on S.B. No. 2907-80

The purpose of this bill is to provide \$250,000 for the expansion of the community center and playing field at Pukalani, Maui.

Your Committee finds that the population of Pukalani has increased more than eight-fold over the past 15 years, and the present facility can not accommodate the needs of the community. Pukalani Association has more than 200 members and there are more than 15 civic and athletic clubs using a single meeting place measuring approximately 30 feet by 40 feet. There is also a large population of children, including four baseball teams and eight soccer teams using a field measuring about 100 yards by 70 yards.

Your Committee further finds that the building itself is a fire hazard as well as a health hazard.

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

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2907-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2907-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 324-80 Human Resources on S.B. No. 2914-80

The purpose of this bill is to amend the workers' compensation law to provide greater rehabilitation opportunities to an injured worker by requiring the employer to provide for these rehabilitation services as of January 1, 1981, to an employee who suffers work-related permanent disability. This bill establishes under the department of labor and industrial relations a rehabilitation unit that shall (1) review and approve rehabilitation plans developed by qualified rehabilitation agents; (2) adopt rules and regulations to facilitate the identification and referral of industrially injured employees to rehabilitation services; (3) certify public and private rehabilitation services in accordance with minimum standards to be established by this unit; and (4) coordinate and enforce the implementation of rehabilitation plans.

Furthermore, this bill provides \$80,000 for five professional and five clerical employees, and \$15,000 for equipment and other operational costs for this rehabilitation unit.

Your Committee finds that this measure requires public and private providers to consult with and obtain the consent of the disabled employee in formulating a rehabilitation plan; these providers shall meet minimum standards set by the department of labor and industrial relations. Consultation with the employee's physician is also required before the employee commences physical or vocational rehabilitation.

Under this Act, rehabilitative services shall commence January 1, 1981. According to the department of labor and industrial relations, this will give the department time to work on administrative tasks including the promulgation of rules and regulations before employers are required to provide benefits.

Your Committee has amended this bill to more clearly state its intent to establish the rehabilitation unit under the department of labor and industrial relations, and to indicate

that the duties of this unit are provided in Section 386-25, as amended herein.

Your Committee has also amended this bill by deleting reference to temporary total disability benefit payments once an injured employee enrolls in a rehabilitation plan or program. Your Committee feels that the combination of temporary total disability benefits and vocational rehabilitation wages could exceed the average weekly wages the injured employee was earning before the disability.

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

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2914-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2914-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and Anderson.

SCRep. 325-80 Human Resources on S.B. No. 2972-80

The purpose of this bill is to amend the State's Compensation Law and Collective Bargaining Law to authorize a reduction in the number of steps within the existing salary ranges for white collar and blue collar public employees.

Under the current state Compensation Law, blue collar public employees are subject to a five-step salary structure (each succeeding step in the salary structure signifies a higher compensation rate than the previous step), and white collar public employees are subject to a ten-step salary structure. The number of steps in both instances is fixed by statute and this number can not be changed by negotiation between the public employer and the bargaining unit; these steps were established before the enactment of the State's public employee Collective Bargaining Law.

Upon passage of the Collective Bargaining Law in 1970, salary rates for public employees became negotiable, and salary increases for public employees were effected with each negotiated contract. The costs of these negotiated pay increases in addition to statutory incremental step advancements granted to public employees eventually became an enormous financial burden to the State. Therefore, effective July 1, 1976, the legislature prohibited the granting of step advancements to public employees in any fiscal year that a negotiated increase in the salary schedule of any bargaining unit is effected.

Your Committee finds that the combination of the foregoing influences -- the prohibition of step advancements in any fiscal year that a pay increase is effected, yet pay increases being regularly negotiated and effected under collective bargaining -- has rendered the original concept of incremental step advancement functionally obsolete. Your Committee agrees with the provisions of this Act:

(1) This bill deletes the obsolete pay rates set forth in current salary schedules for blue collar and white collar public employees. These pay rates are obsolete because they were established before enactment of the Collective Bargaining Law, and these rates have been changed through the negotiation and renegotiation of public employee contracts which supersede statutes.

(2) This measure amends the Compensation Law to reflect the current practice of establishing pay rates for public employees. Under this bill, public employees subject to the Collective Bargaining Law ("included" employees), shall negotiate pay rates; in the case of public employees who are not subject to the Collective Bargaining Law ("excluded" employees), pay rates shall be adjusted under chapter 89C, which permits the chief executives of each civil service jurisdiction to adjust, among other things, the compensation rates of excluded employees.

(3) Notwithstanding item (1) and (2) above, this bill retains the grid characteristics of the salary structure for blue collar and white collar employees by setting parameters for a five-step, fifteen-grade, blue collar salary structure; and a ten-step, thirty-one-range, white collar salary structure, thereby preserving legislative purview of public employee compensation.

(4) With the deletion of obsolete pay rates; the establishment of statutory parameters for setting compensation rates of blue collar and white collar public employees; and the retention of the grid characteristics of the compensation schedules, this bill further provides that a "model conversion plan" to reduce the number of steps in the public employee Compensation Law shall be subject to negotiations between the public employer and the exclusive representatives of the appropriate bargaining units at the latter's option (in

the case of excluded employees, the conversion shall be subject to chapter 89C). If the exclusive representative exercises the option to negotiate a model conversion plan, the plan must be agreed to before December 31, 1980. This affords the parties to negotiations sufficient time to conduct the next round of negotiations on wages during 1981. If a model conversion plan is not agreed to by the foregoing date, negotiations shall be based on the existing five-step and ten-step ranges, as the case may be.

Your Committee further finds that any model conversion plan agreed to between the employers and the exclusive representative shall provide, among other things:

- (1) that the objective of the plan is to reduce the number of steps within each salary range to a specific number;
- (2) that the agreement shall not be terminated until the reduction to the specified number of steps is achieved; nor shall the agreement be modified except by written mutual agreement of the parties;
- (3) that effective July 1, 1981, at least one step shall be deleted each fiscal year;
- (4) that all negotiations on wages, to be effective July 1, 1981 and subsequently, shall be based exclusively on the model conversion plan;
- (5) that all employees shall be paid in accordance with the rates negotiated for the steps on the revised salary schedule within their applicable salary ranges;
- (6) that the agreement shall not preclude the payment of a bonus or conversion differential if it is not to be considered as an adjustment to an employee's basic pay rate.

This bill further provides that a conversion in the number of steps for excluded employees shall be subject to chapter 89C (relating to adjustments for excluded employees). After due deliberation, your Committee has amended subsection (e) on page 24 to provide that if a model conversion plan is not developed for included employees in a collective bargaining unit, no conversion plan shall be developed for excluded employees who are under the same compensation plan as the employees included in that collective bargaining unit. Other technical, non-substantive amendments have been made to this bill.

Your Committee notes that this bill also amends other pertinent provisions of the Collective Bargaining Law and Compensation Law to conform to the intent and purpose of this Act.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2972-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as S.B. No. 2972-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and Anderson.

SCRep. 326-80 Human Resources on S.B. No. 2977-80

The purpose of this bill is to authorize the chief executives of the State and counties and the chief justice of the supreme court to develop an appropriate pay structure for excluded managerial positions covered under chapter 77 (Compensation Law) in accordance with chapter 89C (relating to employees excluded from collective bargaining).

Presently, all public employees covered under chapter 77 are subject to the pay structures therein. For employees covered by collective bargaining ("included" employees), the pay rates in those structures are established through negotiations. For employees not covered by collective bargaining ("excluded" employees), the pay rates in those structures are established by the chief executives of the State and counties and the chief justice of the supreme court under chapter 89C.

Your Committee finds that for salary-setting purposes, excluded employees are divided into two groups: (1) non-managerial employees whose work is closely related to, and in some cases, identical to, that of included employees; and (2) managerial employees whose work is different in its essential nature from that of excluded non-managerial employees and included employees. Your Committee believes that managerial employees are unique by virtue of their responsibility to recommend and implement policies, and conduct programs; therefore, these employees warrant salary schedules with different pay structure characteristics. Your Committee further finds that the establishment of such a pay structure will enhance career management service. This bill permits the chief executives of the State and counties and the chief justice of the supreme court to establish pay structures, including the number of salary ranges and the number of steps

in each range, for excluded managerial employees, in accordance with chapter 89C.

Your Committee further finds that excluded nonmanagerial employees should continue to be subject to the same pay structure as their included counterparts. This bill continues this relationship by providing that the same pay structure shall apply to both excluded nonmanagerial employees, and included employees. Additionally, this bill deletes the obsolete pay rates set forth in current salary schedules for white collar public employees. These pay rates are obsolete because they were established before enactment of the Collective Bargaining Law, and these rates have been changed through the negotiation and renegotiation of public employee contracts which supersede statutes. Furthermore, the deletion of these obsolete white collar pay rates is necessary to accomplish the intent and purpose of this Act.

After due deliberation, your Committee has amended this bill to eliminate the entire section 2 which deletes obsolete pay rates for blue collar public employees. Your Committee finds that the provisions of section 2 of this bill more properly belong in S.B. No. 2972-80 which provides for a complete conversion plan of the salary structures for blue collar and white collar public employees. Your Committee has made other technical, nonsubstantive amendments to this bill.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2977-80, as amended herein, and recommends that it pass Second Reading, in the form attached hereto, as S.B. No. 2977-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and Anderson.

SCRep. 327-80 Human Resources on S.B. No. 2978-80

The purpose of this bill is to amend the civil service law to permit the declaration of a class of work to be in a shortage category in order to facilitate recruitment.

Your Committee finds that the current statutes provide that the Governor may declare an entire class to be in a shortage category where the minimum salary of all new hires is adjusted to the lowest step within the salary range which is deemed to be fair and reasonable to recruit from the labor market. (For example, the adjusted minimum salary for Medical Technologist III is currently at step E instead of step B which is the normal entry level pay rate.) In addition, the pay rate of all incumbents in a shortage category class who are compensated at a rate less than the shortage category rate is adjusted to the shortage category rate. However, for classes of work in which there are a large number of positions on the various islands in the State, the cost implications may be huge. According to the Department of Personnel Services, at times, a shortage category declaration of the entire class may not be cost-effective because identical conditions do not exist on each island and the shortage may be limited to a specific institution or certain geographical areas. This measure remedies such situations by allowing more specific shortage declarations, e.g., a group of positions in a class on the island of Molokai.

Your Committee further finds that this bill will aid in the retention of employees in the shortage area, and provides that if incumbents of positions declared to be in a shortage category move to another class or other positions, their compensation will be adjusted to the pay rate in effect for the class or position to which they move.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2978-80 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. 328-80 Human Resources on S.B. No. 2992-80

The purpose of this bill is to appropriate \$500,000 out of the State general fund for supplemental payments to residents of adult family boarding and care homes who require higher than Level III care.

Your Committee finds that the Department of Social Services and Housing (DSSH), Department of Health (DOH), and the United Group Home Operators (UGHO) have been deliberating several months on the subject of this bill, although there are differing attitudes toward the criteria used to identify levels of care (either I, II, III, or higher) for residents of adult family boarding and care homes. It has been recognized by the three agencies that the criteria for care higher than Level III includes persons

who are incontinent (lacking fecal or urinal controls), persons confined to wheel-chairs, and persons requiring non-oral medication administered to them (most commonly insulin).

The three agencies agree that payments to these residents, in addition to the Supplementary Security Income that they already receive, should be increased.

Your Committee further finds that care higher than Level III should be determined by medical professional staff of one physician and two nurses, clerical support staff, and operating costs. This certification of the level of care a person requires will be under the auspices of the DOH. The remaining appropriation of \$400,000 will be used for payments to those persons certified as requiring care higher than Level III. The projected number of persons requiring this supplemental payment is 100, at a monthly cost of \$330 per person.

Your Committee has amended this bill by changing the expending agency from the Department of Social Services and Housing to the Department of Health. Since the certification will be done by the DOH, it would be more economical in terms of expediting records and the tracking and monitoring of these persons if the DOH certified and expended the funds on behalf of them.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2992-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2992-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 329-80 Government Operations and Efficiency on S.B. No. 2513-80

The purpose of this bill is to clarify Section 91-4.2, Hawaii Revised Statutes, to require the Revisor of Statutes to prescribe a format for the filing, indexing, and storage of rules by all State agencies, in the Office of the Lieutenant Governor.

Currently, there is duplication of different processes that require State agencies to follow when filing, indexing, and storing their rules. This bill would enable Chapter 91, the Administrative Procedures Act, to supersede all other processes.

Your Committee on Government Operations and Efficiency is in accord with the intent and purpose of S.B. No. 2153-80 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 330-80 Ways and Means on S.B. No. 2413-80

Your Committee has considered said bill and has amended it by proposing amendments to various sections of the Hawaii Revised Statutes which presently mandate the department of health to contract with any county applying to operate emergency medical ambulance services within their respective counties and also mandate the department of health to contract with a professional medical organization for advanced life training, technical assistance, data collection and evaluation.

Presently, the department of health must contract with the counties if they apply to operate emergency ambulance services within their respective counties, and the department of health has no discretion to contract for such services with other contractors even if they may provide more cost-effective services.

Similarly, the department of health must contract with a professional medical organization for advanced life training, technical assistance, data collection and evaluation, even if other organizations or institutions may have expertise in these areas. The Hawaii Medical Association is the only state-wide professional medical association and thus the department is forced to contract with the Hawaii Medical Association, despite the possibility that other qualified groups may be able to provide more cost-effective services.

The purpose of the bill as amended is to provide the department of health more flexibility in contracting for emergency ambulance services and for advanced life training, technical assistance, data collection and evaluation by allowing the department of health to contract with other organizations or institutions with expertise in providing such services.

This bill will not preclude the department of health to contract with the counties for emergency ambulance services and the Hawaii Medical Association for advanced life training, technical assistance, data collection and evaluation, but will give the department of health the option to contract with other organizations or institutions with expertise in providing emergency medical services.

Your Committee finds that these changes are necessary to enable the department of health, which administers and maintains the state comprehensive medical services system, to base its contractual decisions on sound economic bases rather than by statutory mandate.

Your Committee also finds that the present procedures in contracting for emergency medical services are restrictive and contrary to the policy of promoting the effective and coordinated delivery of emergency medical services to the people to this state.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2413-80, as amended herein, and recommends that it pass First Reading by title, in the form attached hereto as S.B. No. 2413-80, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senator Yee.

SCRep. 331-80 Ways and Means on S.B. No. 2449-80

Your Committee has considered said bill and has amended it by proposing amendments to Section 103-8, Hawaii Revised Statutes, regarding art in state buildings.

The purpose of the bill as amended is to decrease the percentage amount of appropriations for the original construction of state buildings which is to be earmarked for the acquisition of works of art by the State. This bill as amended would also delete present statutory authorization which allows use of capital improvement funds for operating purposes.

Your Committee has found that since the enactment of the Art in State Buildings Act in 1967, over \$7.0 million has been appropriated to the art in state buildings program in accordance with Section 103-8, H.R.S. Of this amount only \$3.7 million has been allotted and only \$2.6 million has been expended.

The amount of funds which have been earmarked for the art in state buildings program under Section 103-8, H.R.S. has been far in excess of need. This result stems from the arbitrary commitment by the State to a one per cent of appropriations figure and the fact that capital improvement costs have skyrocketed faster than other costs. Your Committee has been informed that capital improvement costs are presently increasing at an annual rate of close to 24%.

Under the state debt ceiling imposed by the State Constitution, the legislature no longer has the "luxury" of making C.I.P. appropriations in excess of actual need. As a result, closer scrutiny of bond funded projects is now necessitated. Furthermore, because the amount of bonds which the legislature can now authorize under the debt ceiling in any year is strictly limited, it is incumbent upon the legislature to make appropriations which will require bond funding in a prudent fashion. The requirements of Section 103-8, H.R.S., affect bond funds and therefore it is necessary to adjust the percentage earmarked for art in state buildings to more closely correspond to the actual need.

While ideally it would be preferable to require specific appropriations for art acquisitions, your Committee believes that the present program is meritorious and the earmarking of a percentage of C.I.P. appropriations does signify the commitment of the State to artistic endeavors and public appreciation of art.

This bill also removes present authorization to use bond funds for operating purposes. Your Committee proposes to delete this authorization since it is the belief of your Committee that use of bond funds for operating purposes represents unsound fiscal practice. However, language has been added to allow the continued use of these funds for restoration of art work which results in enhancement of this artistic value.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2449-80, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2449-80, S.D. 1, and be recommitted jointly to the Committee on Ways and Means and to the Committee on Education for further consideration.

Signed by all members of the Committee except Senator Yee.

SCRep. 332-80 Health on S.B. No. 2202-80

The purpose of this bill is to include radiation therapy technologists in the licensing procedures for persons engaged in radiologic technology.

Your Committee received testimony in support of this bill addressing the need to require criteria to assure that adequate training has been received by radiation therapy technologists. This will provide safeguards for the protection of the health and welfare of the people of this State.

We have made the following amendments to Section 1:

- (1) Corrected line 1 to read, "Section 1. Chapter 466J-0, Hawaii Revised Statutes, is amended to read: " to properly designate the chapter to be amended as it is presently designated in the Hawaii Revised Statutes.
- (2) Amended section 466J-1(1) by inserting to the definition of "approved school for radiologic technologists" the phrase "and approved training program for radiation therapy technologists" and inserted after the phrase "means a school" the phrase "or training program".
- (3) Deleted "or therapeutic" from the definition of "radiologic technologist", from section 466J-1(4).
- (4) Amended section 466J-6(a) by retaining the present provisions for persons **exempt** by deleting the added provisions for physicians licensed by the board of medical examiners, licensed doctors of chiropractic naturopathy, and osteopathy. Also changed the word "students" to "persons" who operate x-ray machines under the supervision of a licensed technologist or a qualified person pursuant to this chapter.
- (5) Corrected section 466J-10 to read as it is appropriately stated in the Hawaii Revised Statutes.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2202-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2202-80, S.D. 1, and be referred to the Committee on Consumer Protection.

Signed by all members of the Committee except Senators Saiki and Yee.

SCRep. 333-80 Health on S.B. No. 3052-80

The purpose of this bill is to strengthen surveillance of non-scheduled drugs by state authorities. This will help in preventing abuse of these drugs by a prescriber or a customer, by limiting prescription refills and providing penalties for commission of prohibited acts. Current law does not restrict the number of times a prescription may be refilled.

Your Committee received testimony from the Department of Health in favor of this bill. Testimony was also received from the Hawaii Medical Association in regards to the proposed requirements for prescription refills. They felt that the provision that all prescriptions shall not be filled or refilled more than two times within three months unless renewed by a practitioner, meant that a patient had to have a physical visit with a practitioner in order to renew a prescription. Your Committee specifically finds that physical visits for renewal of prescriptions is not required by this bill. However, your Committee expects that all patients will continue to receive periodic and timely examinations.

Your Committee also found that the requirement of recording of prescriptions containing any poison or substance deleterious to human life pursuant to section 330-5 is not complete as those requirements for non-scheduled drugs in section 328-16. Currently, the department of health requires the same information to be kept for poisonous drug prescriptions which is required for non-scheduled drugs. Your Committee finds that the law should be changed to conform to current practices. Three new sections have been added.

Your Committee, upon closer analysis of the bill, found that the provisions stated in Section 2 of the bill would be more appropriate if inserted in section 328-16 rather than Chapter 330. Your Committee has amended the bill accordingly.

The following amendments have been added:

- Sec. 328-1: Added poisonous prescriptions to the definition of "drug" and a new definition for "poisonous prescription."
- Sec. 328-16: Requires that prescriptions for all drugs Sec. 328-16 and Sec. 328-17 be refilled more than two times within three months. Also specifies prohibited acts relating to these mentioned drugs. Corrected spelling of "marijuana" to conform to state law and added that violations of subsection (c) and (d) will constitute a misdemeanor for each offense.
- Sec. 330-5: Repealed to conform with current practices by the Department of Health of including poisonous drugs under Chapter 328, Part I.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 3052-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3052-80, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senators Saiki and Yee.

SCRep. 334-80 Transportation on S.B. No. 2593-80

The purpose of this bill is to establish an agency called Van Go Hawaii to develop, promote, manage and operate van pool and car pool programs within the State.

The Department of Transportation submitted testimony stating that the van pool project is a partially federally funded demonstration project to encourage state highway agencies to expend funds apportioned under Sections 104(b)(1) and (b) of Title 32, United States Code, to increase the use of car pools in urban areas.

The Department of Transportation had been expending these funds in coordination with the Department of Planning and Economic Development (State Energy Office) and the City by establishing the VAN GO HAWAII program. A consultant firm was employed to develop and administer the program.

In early 1979, Senate Resolution No. 437 directed the Department of Transportation to assume management of the program on July 20, 1979. Pursuant to the Resolution, the Department of Transportation took control of the program, but in doing so has encountered some problems. This bill will alleviate those problems by creating an agency which will have the power and authority to efficiently and effectively promote van pool and car pool programs.

Your Committee has adopted the recommendation of the Department of Transportation and amended the bill by adding a section creating a revolving fund into which moneys collected from riders in the Van Go Hawaii program will be deposited and from which expenditures will be made to meet operational expenses.

Your Committee has further amended the bill by:

- (1) Inserting "car pool" in conjunction with "van pool" wherever pertinent. The purpose of this amendment is to include car pools with van pools as programs under Van Go Hawaii.
- (2) Providing that the non-government members of the Board of Van Go Hawaii be appointed by the Governor as provided in Section 26-34, Hawaii Revised Statutes.
- (3) Making changes for the purposes of style and clarity which have no substantive effort.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2593-80, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2593-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 335-80 (Majority) Transportation on S.B. No. 2763-80

The purpose of this bill is (1) to grant to each county the exclusive authority to construct, operate, and finance mass transit systems; (2) to grant to each county the discretionary authority to levy an excise tax for the construction and development of mass transit systems; and (3) to require that the mass transit systems proposed to be constructed and developed,

and the excise tax to be levied on such system be approved in a referendum of the voters of the county proposing such construction and development.

Your Committee finds that in 1967, the Oahu Transportation Study recommended that a rapid transit system be adopted in lieu of developing the makai freeway segment between Middle Street and Kapiolani Interchange. Rapid transit service, either exclusive or semi-exclusive right-of-way, will provide a higher level of service in Honolulu. If designed correctly, such service would be a viable alternative to the automobile, thereby relieving major highway congestion in Honolulu.

Your Committee also finds that the development and maintenance of a mass transit system should be a county responsibility. County transportation needs would be best served by delegating exclusive authority to construct, operate, and finance mass transit systems to each county. Your Committee has amended the bill by adding a new chapter to be appropriately designated and giving the counties authority to levy taxes for the purpose of this bill.

Your Committee adopted the following recommendations of the City and County of Honolulu:

- (1) Set the excise tax rate at one-fourth percent assuming that the State excise tax remains all inclusive. The one-fourth percent rate has been recommended by Ernst & Whinney as being sufficient to cover the annual debt service for the 20 percent local share of the implementation cost for a bus/rail system of 8 to 14 miles in length.
- (2) The length of time for which such a tax would be levied should be expanded from that period within which revenues equal to the State share of a federally funded improvement should be lengthened to allow the entire local share (20 percent in the case of UMTA funded projects) of the project cost to be funded.
- (3) The deletion of a referendum on the proposed optional excise tax increase for the counties. Because of the very complexity of the total public transportation issue, the elected representatives of the State Legislature and County Councils are better informed than the general public on the intricacies of mass transit proposals and are therefore in a more suitable position to pass judgement on major new public transportation projects.

Your Committee finds that the Department of Taxation will entail additional administrative cost as a result of this bill and has provided that each county which levies additional tax shall pay to Director of Taxation an amount equal to 1 per cent of the total amount collected.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2763-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2763-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Cobb did not concur.

SCRep. 336-80 Transportation on S.B. No. 2784-80

The purpose of this bill is to permit reasonable access to motor vehicle registration records contained in the statewide traffic records system while maintaining safeguards to ensure that any information obtained will not be used to invade the privacy of individuals.

Currently, Section 286-17, Hawaii Revised Statutes, allows access to the information contained in the statewide traffic records system under limited circumstances. This bill expands access to motor vehicle registration information to those persons who request such information and who will not use names and addresses of individuals for commercial solicitation.

Upon consideration of this measure, your Committee has amended the bill to clarify the circumstances under which the information shall be released and the procedures to be followed in making the information available.

Under the provisions of the bill, as amended, the Director of Transportation will release information in the statewide traffic records system to (1) any person, in response to a request from a state governmental agency, and (2) to a person determined by the director to have legitimate reasons to obtain the information for verification of vehicle ownership or for research or statistical purposes.

Any person in the second category must file an affidavit with the Director of Transportation stating the reasons for obtaining the information and assuring the director that the information will only be used for the reason stated.

If a person who qualifies to receive information requests the entire file of the motor vehicle registration information contained in the statewide traffic records system, the Director will furnish the information only upon entering into an agreement to provide the information for a fee as set by the Director. In order to safeguard the privacy of individuals, it is mandatory that the person requesting the information agree to protect the individual identities contained in the information and not use the names for compiling a mailing list for commercial purposes. A surety bond in the amount of \$25,000 must be posted to assure compliance with the agreement.

Your Committee agrees that the provisions of this bill allow reasonable access to information contained in the statewide traffic records system while protecting the privacy rights of individuals whose names appear in the records.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2784-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2784-80, S.D.1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 337-80 Transportation on S.B. No. 3102-80

The purpose of this bill is to provide financial assistance to businesses which are substantially affected economically by a major State highway project by providing for an exemption from general excise taxes on the gross income of the business or by providing a State funded loan.

Your Committee heard testimony from the Department of Transportation on the problems businesses face whenever major state highway construction projects are in progress. The problems during construction range from environmental discomfort, access to premises and loss of income. Your Committee finds that the Department has taken an active role in attempting to minimize the first two problems by intensive planning and scheduling, and coordinating the construction work with the businesses and the contractor. However, there are no means presently available where businesses affected by such construction can obtain financial assistance to reduce the impact of their economic loss.

Your Committee heard testimony from the Nimitz business people citing cases where members of their organizations have suffered economic losses which they have little or no control over and were forced to relocate their businesses elsewhere. Others have remained with the problem and suffered tremendous losses and consequently have placed their businesses on the brink of collapse.

Your Committee has amended this bill as follows:

- (1) Specified that the loan proceeds shall be used to assist the applicant in the existing business located in the immediate vicinity of the major state highway project only. It is the intent of the Committee that the loan proceeds will not be used to establish other businesses in other locations.
- (2) Amended the maximum amount of the loan made to one business to \$100,000, at the 7 1/2 simple interest rate per year, and included that "no loan shall be made for a term exceeding twenty years". The title of this section has been amended accordingly.
- (3) Amended the bill to clearly define major state highway projects and establish the geographical boundaries of the area under consideration.
- (4) Amended the general excise tax exemption qualification section of the bill to state that "the business shall have been in the same location or immediate vicinity as established by this section for a period of not less than one year immediately prior to the commencement of the major state highway project."
- (5) Amended the definition of "substantially affects" to mean the loss of not less than ten per cent of the gross income of a business in a six consecutive month period during a major state highway project for the same period in the preceding year.
- (6) Amended the determination section of the bill to state that the Director of Transportation

shall determine after six months after the commencement of the major state highway project whether the businesses in the immediate vicinity are affected; and to determine whether the businesses in the immediate vicinity are substantially affected, the director shall examine the financial records and conduct traffic counts prior to and after commencement of the major state highway project.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 3102-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3102-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 338-80 Transportation on S.B. No. 3244-80

The purpose of this bill is to broaden the power of the Department of Transportation over harbors and maritime operations by allowing the Department: (1) With the approval of the Governor, and without public bidding, to lease to another for its exclusive use a special facility consisting of buildings, structures, or facilities for harbors and maritime operations; and (2) With the approval of the Governor, to issue special facility revenue bonds up to a specified principal amount to finance the construction, acquisition, remodeling, furnishing, and equipping of the special facility, or to accept an assignment of that undertaking.

S.B. No. 3144-80, introduced as a short form bill, has been amended by your Committee to produce a bill in long form, containing detailed and definitive substantive provisions to enable meaningful public hearings on its purpose and the means by which that purpose will be accomplished. The bill, as so amended, closely follows in almost every respect the provisions of Sections 261-51 to 261-55, Hawaii Revised Statutes, relating to airports special facility projects.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 3144-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3144-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 339-80 (Joint) 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 in support of the bill 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; Mr. John B. Connell, Construction Industry Legislative Organization; Mr. Robert M. Fox, Historic Hawaii Foundation; Mr. Elroy Chun of Building Industry Association of Hawaii; and Mr. William G. Van Allen of the Chamber of Commerce 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.

Mr. Tyrone T. Kusao, Director of the City Department of Land Utilization testified in opposition to the bill.

Your joint Committee has considered the 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 point of clarification raised by the City and County and by DPED. 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 Senator Abercrombie.

SCRep. 340-80 Intergovernmental Relations on S.B. No. 2027-80

The purpose of this bill is to raise the compensation for the chairman and each member of the liquor commission.

This bill amends section 281-11, Hawaii Revised Statutes, by raising the compensation for the chairman to \$50.00 from \$35.00 and \$35.00 from \$25.00 for each member. It also raises the maximum compensation per month to \$500.00 from \$350.00 and \$350.00 from \$250.00 for the chairman and members respectively.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2027-80 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 341-80 Intergovernmental Relations on S.B. No. 2184-80

The purpose of this bill is to require a specific deadline by which the state director of finance must pay over the tax revenue balance owed to the counties.

This bill amends section 248-5, Hawaii Revised Statutes, by requiring the state director of finance, before the 15th day of each month, to compute and pay to the director of finance of each county, the balance of property taxes required by law to be paid over to the respective counties.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2184-80 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 342-80 Intergovernmental Relations on S.B. No. 2190-80

The purpose of this bill is to increase the penalty imposed on any county motor vehicle weight tax which is determined to be delinquent from ten per cent to fifty per cent of the tax due.

This bill amends section 249-10, Hawaii Revised Statutes, by replacing the ten per cent delinquency penalty with fifty per cent and further provides that in no case shall the penalty be less than ten dollars.

Your Committee amended this bill by deleting the proposed fifty per cent increase and inserting twenty-five per cent. Your Committee agreed that a twentyfive per cent penalty would be sufficient. The second sentence of the Ramseyer direction to the revisor of statutes was omitted since it is covered by statute.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2190-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2190-80, S.D. 1, and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 343-80 Intergovernmental Relations on S.B. No. 2193-80

The purpose of this bill is to amend section 286-52, Hawaii Revised Statutes, by raising the penalty for late registration of transferred motor vehicles to \$10.00 from \$2.00.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2193-80 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 344-80 Intergovernmental Relations on S.B. No. 2219-80

The purpose of the bill is to provide for the orderly transfer of these functions, powers, and duties, including the transfer of personnel, records, and equipment to the counties.

Your Committee held a public hearing on this bill on February 15, 1980, and pursuant to testimony by interested and affected parties has amended it in a number of ways.

Section 2 has been amended to make explicit the authority of counties to place liens on properties with delinquent taxes, to issue subpoenas to enforce real property tax laws, to pursue enforcement through the court system, and to continue to set tax rates by resolution.

Section 3 has been amended to allow discretion in the transfer of employees who do not work full time on real property taxation.

Section 5 has been amended to specify that appeals filed before the transfer date of July 1, 1981 shall remain under the jurisdiction of state boards of review, while the responsibility for collecting all delinquent taxes shall be vested in the counties.

Other technical nonsubstantive amendments have been made.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2219-80, as amended herein, and recommends its passage on Second Reading in the form attached hereto as S.B. No. 2219-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 345-80 Intergovernmental Relations on S.B. No. 2249-80

The purpose of this bill is to make several technical word changes to conform to current language, and to insert normal wear and tear as an additional condition of uniform replacement. The bill also includes the replacement of reserve officers' uniforms pursuant to guidelines as promulgated by the respective chiefs of police.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2249-80 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 346-80 Intergovernmental Relations on S.B. Nos. 2299-80, 2364-80, 2523-80, 2622-80, 2653-80, 2804-80, 2816-80, 2835-80, 2840-80, 2918-80, 3017-80, 3028-80, 3029-80, and 3042-80

The purpose of these bills is to appropriate moneys to capital improvement projects in the first, seventh and eighth senatorial districts.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. Nos. 2299-80, 2364-80, 2523-80, 2622-80, 2653-80, 2804-80, 2816-80, 2835-80, 2840-80, 2918-80, 3017-80, 3028-80, 3029-80 and 3042-80 and recommends that they pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 347-80 (Joint) Transportation and Intergovernmental Relations on S.B. No. 2420-80

The purpose of this bill is to provide a tax exemption for motor vehicles owned by handicapped persons.

This bill amends Chapter 249, Hawaii Revised Statutes, by adding a new section 249-6:1, which accords handicapped persons a tax exemption on motor vehicles which have been specifically constructed or modified to enable their use by handicapped persons. The exemption does not extend to vehicles used solely for commercial purposes nor to more than one vehicle owned or used by any handicapped person.

The bill further provides that the County Director of Finance shall require a statement from the applicant's physician regarding impairment of normal mobility or other such evidence as may be necessary and prescribe such forms, guidelines and requirements consistent with this section.

Your Committees on Transportation and Intergovernmental Relations are in accord with the intent and purpose of S.B. 2420-80 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committees except Senator Abercrombie.

SCRep. 348-80 Intergovernmental Relations on S.B. No. 2451-80

The purpose of this bill is to insure that properties currently utilized by the State for school sites will be transferred or returned to the counties when usage is no longer required, or that the obligation of the counties to bond payments shall be assumed by the State in the event of State retention of such properties.

Under Act 97, Session Laws of Hawaii 1965, school properties were transferred to the State from the counties, but the bonded debt payments on these properties remained and obligation of the counties.

This bill seeks to remedy this situation by either returning unused property to the counties or relieving the counties of the debt payments through assumption of the debt by the State.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2451-80 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 349-80 Intergovernmental Relations on S.B. No. 2454-80

The purpose of this bill is to establish a review system for Conservation District Use Application which would allow the counties the right of first review and recommendation on these applications.

The state through its Board of Land and Natural Resources would retain the final decision making, but a denial by the county zoning agency would require a unanimous vote of approval by the Board of Land and Natural Resources.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2454-80 and recommends that it pass Second Reading and be referred to your Committee on Economic Development.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 350-80 Intergovernmental Relations on S.B. No. 2457-80

The purpose of this bill is to eliminate much of the cost and time involved in processing and collecting dog license fees and nominal delinquent penalty fees.

Under current law a dog owner pays \$2 a year for a dog license plus a 20 cents delinquency penalty if the fee is not paid before March 11 of each year. Any delinquent license fee which is mailed to the department without the penalty fee is automatically rejected and returned, causing additional costs and efforts by the department.

This bill proposes to amend section 143-3, Hawaii Revised Statutes, by replacing the annual license fee requirement with a triennial fee and eliminating the 20 cents penalty fee. The license fee is raised to \$6 thus a triennial license fee of \$6 with no penalty for delinquent fees.

After discussion and deliberation, your Committee amended the triennial license fee to read biennial and replaced the \$6 fee with \$4 to remain in conformance with the annual fee of \$2. Your Committee felt that due to the average life expectancy of dogs in general, a biennial license fee would adequately serve. The second sentence of the Ramseyer direction to the revisor of statutes was omitted since it is covered by statute.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2457-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2457-80, S.D. 1, and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 351-80 Intergovernmental Relations on S.B. No. 2747-80

The purpose of this bill is to appropriate money to the Air National Guard to enable it to send its color guard with the Royal Hawaiian Band to Europe.

Your Committee on Intergovernmental Relations is in accord with the purpose and intent of S.B. No. 2747-80 and recommends that it pass Second Reading and be referred to your

Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 352-80 Intergovernmental Relations on S.B. No. 2748-80

The purpose of this bill is to appropriate funds from the General revenues of the State of Hawaii for the Royal Hawaiian Band on its trip to Europe.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2748-80 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 353-80 Intergovernmental Relations on S.B. No. 2791-80

The purpose of this bill to amend section 445-9, Hawaii Revised Statutes, by changing the penalty for failure to adhere to licensee close out transfer, or assignment procedure to read not to exceed \$100 instead of \$100.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2791-80 and recommends that it pass Second Reading and be referred to your Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 354-80 Intergovernmental Relations on S.B. No. 2912-80

The purpose of this bill is to delete the eight percent interest ceiling payable on bonds in section 47-7(a).

This bill would ensure the availability of an adequate amount of interim housing funds for the counties by deleting the ceiling on interest payable. With the present monetary situation, the counties will have easier access to available moneys.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2912-80 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 355-80 Intergovernmental Relations on S.B. No. 3097-80

The purpose of this bill is to provide a means by which an individual may be assured at a specific point in time that having met all existing requirements, his right to develop a property in a certain manner is vested.

This bill amends Chapter 46, Hawaii Revised Statutes, by adding new sections pursuant to the purpose and intent of the bill. This bill would authorize any county to enter into binding development agreements with persons having a legal or equitable interest in real property for the development of such property pursuant to the applicable laws and regulations in effect at the time the agreement is entered into. Such an agreement would supersede any change in such laws or regulations adopted by the county or the state after an agreement is executed. Provisions for the establishment of procedures for the consideration of applications for development arguments, including a public hearing and a review of performance with its terms are also included.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3097-80 and recommends that it pass Second Reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 356-80 Intergovernmental Relations on S.B. No. 3099-80

The purpose of this bill is to grant arrest power to officers of the U.S. Customs Service or Immigration and Naturalization Service.

Frequently, U.S. Customs officers and U.S. Immigration Inspectors find themselves in potentially dangerous situations, principally at airports and waterfronts, where they

are compelled to exercise authority over individuals who must be controlled, especially for the well-being and protection of other travelers and citizens. On the basis of their status as federal officers, Customs officers and Immigration Inspectors have limited arrest authority only in cases of specific violations of Customs laws, immigration laws, and related laws. In such cases as disorderly conduct or assault at airports, a Customs officer or Immigration Inspector has no arrest authority even though he himself may be physically assaulted, as occurs quite frequently.

To handle such a situation, a Customs officer or Immigration Inspector can only exercise his prerogative of making a citizen's arrest, with the resultant total personal liability which such an arrest entails. The only alternative to taking direct action during such a crisis is for the Customs officers or Immigration Inspector to try to locate a police officer and request him to exercise control or to make the arrest.

Your Committee believes that this bill will serve to make the airports and waterfronts of the State of Hawaii safer and will provide more protection for Hawaii's citizens and the traveling public.

Your Committees on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3099-80, and recommends that 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. 357-80 Intergovernmental Relations on S.B. No. 3137-80

The purpose of this bill is to replace the current formula for State grants-in-aid to the counties by repealing the grants-in-aid system established under section 248-6, Hawaii Revised Statutes.

This bill calls for a new formula to be established by statute and applied to the tax-sharing grants system which was in effect prior to enactment of Act 114, Session Laws of Hawaii 1973, where total grants shall be a fixed percentage of all or part of the general excise tax collections or the general excise tax base.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3137-80 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 358-80 Intergovernmental Relations on H.B. No. 452

The purpose of this bill is to regulate and monitor the installation and use of burglar and holdup alarm systems.

This bill establishes a procedure whereby any person engaged in business relating to the selling, leasing or maintaining of burglar alarms is required to obtain a permit from and present evidence of financial responsibility to the Chief of Police. Further, more than four false alarms originating from an alarm system will result in an assessment of \$200 for each subsequent false alarm to be levied against the person who sold, maintained, leased, repaired or altered said system.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 452, H.D. 1, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 452, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 359-80 (Majority) Education on S.B. No. 1603

The purpose of this bill is to appropriate funds for the interior renovation of the former police station at 141 Kalakaua Street, Hilo, Hawaii for an art and cultural center.

Your Committee has amended this bill by adding the sum of \$1.00 in line 2 until such a time as a more definite cost figure can be determined.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1603, as amended herein, and recommends that it pass Second Reading in the form attached

hereto as S.B. No. 1603, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Ushijima, Anderson and Ajifu.
Senator Kawasaki did not concur.

SCRep. 360-80 Education on S.B. No. 1931-80

The purpose of S.B. No. 1931-80 is to provide an appropriation for establishing the half-time position of student activities coordinator to each intermediate school.

Your Committee believes that student activities are totally consistent with the goals of our educational system. Student activities provide meaningful, first-hand experiences in the development of leadership and citizenship skills of our students. A part-time activities coordinator in every public intermediate school will be able to provide uninterrupted, optimum services in developing the student activities program and making it an integral part of the total educational experience of each student.

Your Committee has amended this bill by inserting the sum of \$1.00 in line 2 until such time as a more definite cost figure can be determined.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1931-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1931-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Ushijima, Anderson and Ajifu.

SCRep. 361-80 Education on S.B. No. 1934-80

The purpose of this bill is to establish a Hawaii statewide qualifying examination for high school graduation. Your Committee has amended this bill by adding a section on definitions, by adding a section on standards of competency, by requiring students who do not meet minimum competency standards to participate in remedial coursework, and by specifying that graduation which depends on attaining a passing score on the basic competency test shall first be applied to the class graduating in 1983. Your Committee also amended the bill by making it effective upon approval.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1934-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1934-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Ushijima, Anderson and Ajifu.

SCRep. 362-80 Education on S.B. No. 1942-80

The purpose of this bill is to place the public library system under the direct authority and supervision of the Board of Education rather than under the Superintendent of Education. Administrative problems which have occurred under the present organization may be alleviated through this new structure.

Your Committee received testimony from the Board of Education, from the Hawaii Library Association, and from several public librarians supporting the purpose of this bill.

Your Committee has amended the bill to remove the school libraries and librarians from the public library system. The school libraries will remain under the direction of the Superintendent of Education.

Your Committee is in accord with the intent and purpose of S.B. No. 1942-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1942-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cobb.

SCRep. 363-80 Education on S.B. No. 1948-80

The purpose of this bill is to appropriate funds for the expansion of facilities of the Manoa Public Library.

Your Committee has amended the bill by adding the sum of \$1.00 to the bill so that the

determination of the exact sum may be considered in the proper committee. Your Committee has also added a lapsing provision to the bill.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1948-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1948-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki, Ushijima, Ajifu, Anderson and Saiki.

SCRep. 364-80 Education on S.B. No. 2325-80

The purpose of this bill is to provide funds for the continuation of Project Holomua for the fiscal year 1980-81.

Project Holomua contributes greatly to the career decision-making and preparation of our youngsters, and also mathematics skills.

Your Committee has amended this bill to indicate a lapsing date of 1981.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2325-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2325-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Kuroda, Ushijima, Ajifu and Anderson.

SCRep. 365-80 (Majority) Education on S.G. No. 2693-80

The purpose of this bill is to accomplish the following:

(a) Expand the powers and duties of the State Foundation on Culture and the Arts to include responsibility for research and studies in ethnohistory and the humanities, placing these materials in archives and libraries so they will be accessible to the public, and maintaining a register of such materials. This bill provides that this new activity will be conducted in cooperation with the University of Hawaii ethnic studies program.

(b) Amend the present powers of the Foundation to allow the chairman to administer funds which are allocated to the Foundation by grant, gift, or bequest, to hold such funds, and to sell, exchange, or otherwise dispose of property which the Foundation has been given, or bequeathed.

(c) Give the Foundation the responsibility for encouraging the ethnohistorical and cultural activities of the various ethnic groups of Hawaii.

(d) Require the Foundation to include in its annual report the total number and amount of gifts received, its payroll disbursements, its contracts, and the year's progress and accomplishments.

(e) Repeal the portion of Chapter 6, Hawaii Revised Statutes, relating to the Hawaii Foundation for History and the Humanities.

(f) Transfer the Historic Places Review Board to the Department of Land and Natural Resources, giving the Governor the power to appoint the members of the Board.

Your Committee is in general accord with these purposes. Your Committee is concerned, however, that one of the reasons the Legislature is continually asked to remedy problems in the fields of culture and the arts is that the Foundation has not given sufficient attention to an overall program plan for culture and the arts in Hawaii. This results in numerous requests for changes in the statutes, and in requests from community groups for program funds. This can result in random, sporadic program funding with little or no continuity of activities from year to year. If the Foundation had a long-range plan, developed in cooperation with concerned and affected government and private agencies and community groups, a comprehensive, meaningful budget could be developed for legislative review. Your Committee has therefore amended this bill to require the Foundation to develop a six-year program plan and budget, beginning with an interim plan and budget for fiscal 1980-1981.

In order that these plans and budgets be developed with some expertise as well as sensitivity, giving full consideration to the means by which a culture and arts program can involve the broadest possible participation of all groups in Hawaii, your Committee has

amended the subsection relating to the selection and employment of the Foundation director, requiring the director be qualified in the administration of programs in culture and the arts and familiar with the peoples and cultures of Hawaii.

Your Committee has also amended this bill to allow the Foundation to sell, exchange, or otherwise dispose of property which it has acquired, as well as property it has been given or bequeathed.

Your Committee found was much concern among community groups that the mention of a cooperative program with the University of Hawaii ethnic studies program precludes any other similar programs being supported by the Foundation. Your Committee has therefore amended the bill to provide that the Foundation can cooperate with other organizations in research, studies, and investigations in the field of ethnohistory and the humanities.

Your Committee has also amended the bill by adding a section to remove the reference to the Hawaii Foundation for History and the Humanities in Section 58-5, Hawaii Revised Statutes.

Finally, your Committee has made minor grammatical and punctuation changes.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2693-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2693-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Ushijima, Ajifu and Anderson.
Senator Kawasaki did not concur.

SCRep. 366-80 (Majority) Education on S.B. No. 2694-80

The purpose of the bill is to appropriate funds to the Ensemble Players Guild for its various programs.

Your Committee has amended this bill by inserting the sum of \$10,000.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2694-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2694-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Kuroda, Ushijima and Anderson.
Senator Kawasaki did not concur.

SCRep. 367-80 Education on S.B. No. 2696-80

The purpose of this bill is to appropriate funds for lay readers to assist Radford High School English teachers. Your Committee has amended this bill by adding the sum of \$25,500 so that this program at Radford High School may continue to aid students in their writing skills.

Your Committee on Education feels that the lay readers are an integral part of Radford High School's English program.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2696-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2696-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Ushijima, Ajifu and Anderson.

SCRep. 368-80 Education on S.B. No. 2698-80

The purpose of this bill is to appropriate funds for the electronic data processing system for the Department of Education.

The Department of Education has requested the sum of \$27,624 for its electronic data processing system for the 1980-81 fiscal year.

A memorandum submitted by the Superintendent of Education indicates that the Data Processing Branch, Office of the Superintendent, has had to rely on federal funds to develop and maintain computer systems.

In fiscal year 1980-81, the Branch will lose four of its programmer positions because federal funds have not been increased to handle inflationary costs such as the recently negotiated pay raises. Without these positions development efforts will be seriously curtailed in the present Student and Budget Systems.

The rapid growth in programs for students with limited English proficiency and handicapped students, have generated increased demands for data for students and programs. Current Civil Rights Legislation require the reporting of this data. Failure to comply with the reporting of pupil data in the above areas may jeopardize all federal funds (approximately \$30 million) which the Department now receives as well as its eligibility status to apply for ESEA federal funds.

Your Committee adopted the recommendation of the Department of Education by amending Section 1 of the bill by inserting the sum of \$61,433 so that the Data Processing Branch, Office of the Superintendent, may comply with federal mandates requiring the reporting of student and program data on programs for students with limited English proficiency and handicapped students.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2698-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2698-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Kuroda, Ushijima, Ajifu and Anderson.

SCRep. 369-80 Education on S.B. No. 2701-80

The purpose of this bill is to appropriate funds to the Department of Hawaiian Home Lands to contract with the Department of Education for pre-school and elementary school programs for the children of persons who live on Hawaiian home lands. Presently, funds for these programs are provided for through the provisions of section 213(b)(7) of the Hawaiian Homes Commission Act of 1920. Section 213 was amended by Act 4, SLH 1965, thus giving these programs their popular name of "Act 4 programs."

The Department of Education testified that in the absence of additional funding, these Act 4 programs will be terminated. The Department further testified that the pre-school programs could not be funded by any federal funds.

Your Committee has amended the bill by inserting the sum of \$406,600 in line 2.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2701-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2701-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 370-80 Education on S.B. No. 2702-80

The purpose of this bill is to provide funds for additional school bus aides for handicapped children. Your Committee has amended the bill by adding the sum of \$1.00 so that the determination of the exact sum may be considered in the proper committee.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2702-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2702-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Ushijima, Ajifu and Anderson.

SCRep. 371-80 Education on S.B. No. 2719-80

The purpose of this short form bill is to improve the Hawaii education system. The Hawaii Constitution, as amended in 1968, provided that the executive officer of the public school system (the Superintendent of Education) should also serve as the secretary to the Board of Education. The 1978 Hawaii Constitutional Convention removed this function from the duties of the Superintendent. This bill, as amended, would require the Board of Education to appoint its secretary. The Board of Education is in favor of this amendment.

Your Committee is in accord with the intent and purpose of S.B. No. 2719-80, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2719-80, S.D. 1, and be recommitted to the Committee on Education for further consideration.

Signed by all members of the Committee except Senators Abercrombie, Ushijima, Ajifu and Anderson.

SCRep. 372-80 Education on S.B. No. 2726-80

The purpose of this bill is to improve instructional development in the Department of Education.

Your Committee has amended this bill to implement the provisions of Article X of the Hawaii State Constitution, requiring the State to promote the study of Hawaiian culture, history, and language. Your Committee has also added an appropriation to carry out the purpose of this bill. The amount of the appropriation was left blank in order that further discussion of the exact sums can be considered in the next Committee.

Testimony was received from the Board of Education strongly supporting this measure.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2726-80, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2726-80, S.D. 1, and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senators Cobb and Kawasaki.

SCRep. 373-80 Education on S.B. No. 2731-80

The purpose of this bill is to enhance the regular instruction program in the Department of Education.

Testimony presented to your Committee indicated the serious shortage of textbooks in our public schools. As textbooks are an integral part of the learning process, this shortage greatly hampers the educational development of our youngsters.

Therefore, your Committee is amending section 1 of this bill to appropriate the sum of \$1.00 so that the determination of the exact sum may be considered in the proper committee.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2731-80, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2731-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Ushijima, Ajifu and Anderson.

SCRep. 374-80 Education on S.B. No. 2776-80

The purpose of this bill is to appropriate funds out of the general revenues of the State of Hawaii to provide a school counselor for Heeia Elementary School, Oahu.

Your Committee has amended this bill by adding the sum of \$1.00 to said bill so that the determination of the exact sum may be considered in the proper committee.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2776-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2776-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Kawasaki, Ushijima, Ajifu and Anderson.

SCRep. 375-80 Education on S.B. No. 2778-80

The purpose of this bill is to provide an appropriation for establishing the full-time position of a student activities coordinator in each high school.

Your Committee believes that student activities are totally consistent with the goals of our educational system. Student activities provide meaningful, first-hand experiences in the development of leadership and citizenship skills of our students. In the 1979-80 school year, a part-time activities coordinator position was established in each public high school. This bill supplements that appropriation to better provide uninterrupted, optimum services in developing the student activities program and making it an integral part of the total educational experience of each student.

Your Committee on Education has amended this bill by inserting the sum of \$1.00 in line 2 until such time as a more definite cost figure can be determined.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2778-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2778-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Ushijima, Ajifu and Anderson.

SCRep. 376-80 (Majority) Education on S.B. No. 2780-80

The purpose of this bill is to exempt from attendance any pupil who, together with the pupil's parents, by reason of bona fide religious training or belief, is conscientiously opposed to attendance at school.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2780-80, 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, Kuroda, Ushijima and Anderson.
Senator Kawasaki did not concur.

SCRep. 377-80 Education on S.B. No. 2695-80

The purpose of this bill is to appropriate funds for the Pacific and Asian Affairs Council and its various programs.

Your Committee has amended this bill by inserting the sum of \$50,000.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2695-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2695-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Kuroda, Ushijima, Ajifu and Anderson.

SCRep. 378-80 (Majority) Education on S.B. No. 2975-80

The purpose of this bill is: 1) to eliminate the maximum amount of not more than five percent increase due to contractors when extending school bus contracts; 2) to amend the school bus contracts to require the State to compensate the contractor for those days a school is temporarily closed due to collective bargaining disputes or other unexpected disruptions; 3) to create an advisory committee to review and assist in the planning and implementation of school bus contracts; and, 4) to appropriate \$300,000 to carry out payments of fixed costs for existing contracts and quarterly meetings for the advisory committee.

Your Committee on Education is in accord with the intent and purpose of the elimination of the maximum amount of not more than a five percent increase in the school bus contracts. The five percent maximum increase is restrictive and repressive under the current economic conditions.

Your Committee on Education amends the bill by deleting the payment of fixed costs when the schools are temporarily closed and deleting the appropriation of \$300,000 to carry out such payments. Rather than doing this, the Committee on Education feels that renegotiation between the Department and the contractor would be in order and that more time be allotted to determine the just and fair increase or decrease to meet operational costs.

Your Committee on Education is in accord with the intent and purpose of the establishment of an advisory committee to review and assist the planning and implementation of the school bus contracts. Your Committee on Education amends the bill to include representatives from the Departments of Education, Transportation, Accounting and General Services, and bus contractors representing both carriers of regular and special education students from each island. The Comptroller or his designated representative shall chair this advisory committee.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2975-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2975-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Ushijima,

Ajifu and Anderson.
Senator Kawasaki did not concur.

SCRep. 379-80 Education on S.B. No. 3032-80

The purpose of this bill is to provide funds to implement an electronics education and training program in the Department of Education. Such funds would allow the Department of Education to develop and implement the necessary electronics curriculum to meet the basic education and training needs of students interested in the field of electronics.

Your Committee amended this bill by inserting the sum of \$1.00 in line 12 until such time as a more definite cost figure can be determined.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3032-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3032-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Ushijima, Ajifu and Anderson.

SCRep. 380-80 Education on S.B. No. 3080-80

The purpose of this bill is to lift the restrictions that only classroom teachers may apply to participate in job sharing and that only 5 percent of the eligible staff at a single school may apply to participate.

According to the Department of Education, the removal of these restrictions will allow a Department effort to fill the 100 job sharing positions provided for in Act 150.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3080-80 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 Abercrombie, Kuroda, Ushijima and Anderson.

SCRep. 381-80 Education on S.B. No. 3119-80

The purpose of this bill is to amend Section 36-27 of the Hawaii Revised Statutes to exempt certain funds of special programs from administrative overhead costs.

According to the Department of Education, the Governor's budget for the next biennium does not allow for the coverage of administrative costs. Without this exemption, special funds would be available for these costs, thus necessitating an increase in costs to students.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3119-80 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 Abercrombie, Kawasaki, Kuroda, Ushijima and Anderson.

SCRep. 382-80 (Joint) Economic Development and Consumer Protection and Commerce
on S.B. No. 1893-80

The purposes of this bill are to require the sellers of solar energy devices to disclose what portion of the price charged for such devices are attributable to items unrelated to the device itself, and to restrict the solar tax credit to that portion of the price directly related to the installation and operation of the solar energy device.

The intent of this bill is to inform the consumer of the true cost of a solar energy device and the extent to which the total purchase price has been inflated due to the costs of incentives to promote the sale of the device.

Your Committees, while in accord with the intent of the disclosure requirements, have amended the bill to provide for the proper enforcement of this amendment under the Office of Consumer Protection instead of under the Energy Resources Coordinator, by changing "Chapter 196" on line 1 of page 1 to "Chapter 481B; changing "Sec. 196- " on line 4 of page 1 to "Sec. 481B- "; and making failure to disclose the required information an unfair or deceptive trade practice.

Additionally, the bill has been amended to include that rebates to consumers be included in the cost of items unrelated to the operation of the solar energy device. These items would not be eligible for inclusion in the cost for purposes of the tax credit.

In reviewing the section of this bill dealing with allowances under the solar tax credit section, your Committees foresee a need to change the tax form dealing with the solar energy tax credit, and recommend that this concern be considered in the Committee on Ways and Means.

Your Committees on Economic Development and Consumer Protection and Commerce are in accord with the intent and purpose of S.B. No. 1893-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1893-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Mizuguchi, Ushijima, Yamasaki, Carroll, George, Saiki and Yee.

SCRep. 383-80 Public Utilities on S.B. No. 2376-80

The purpose of this bill is to provide authorization for the Department of Budget and Finance to issue special purpose revenue bonds for an energy project to assist an electric or gas utility in the local furnishing of electric energy or gas.

Prior to the 1980 legislative session, your Committee heard testimony from the utility companies and various other sources on this bill. Among the related subjects discussed to provide background information, were the rate making process, the factors in the rate making process, fuel prices, and the fuel adjustment clause.

Of greatest concern to the Committee was the fact that consumers have been paying more and more for electricity no matter how much they individually conserve. Apparently up to this time the PUC has been satisfied that the increases are needed to meet the rising costs of the utilities. Consumers have so far paid higher rates without undue complaining.

It is in this light that your Committee considers this bill which would allow utilities to issue tax free bonds at a lower than market rate. Some of the testimony presented suggested that with greater and somewhat easier credit, the utilities would lose incentive to find ways to curb costs which they could pass on to the consumer and tend to build more facilities than actually needed.

Your Committee heard testimony from the public, Hawaiian Electric Company, and the PUC and PUD supporting this bill on February 22, 1980. Support was based on the idea that savings would accrue to consumers because the interest utilities would pay on tax-exempt special purpose revenue bonds is considerably less than interest on first mortgage bonds. Since interest cost on debt is included in rates to consumers, the ratepayer would therefore realize these savings.

This is the second part of legislation which resulted from an amendment passed in the 1978 Constitutional Convention. The first part is general enabling legislation which allows for the establishment of special purpose revenue bonds as state law. This, the second part allows for the issuance of bonds for a prescribed dollar figure.

In the discussion on the requested dollar amounts for the bond, less than one per cent of the funds being requested were to be used for alternate energy projects. Somewhat less than ten per cent were to be used for new fossil fuel generating plants on Maui. A large part of the funds were for work on existing facility, either maintenance, repair, expansion and remodeling. Of the existing facilities all are fossil fuel burning.

With the current state of oil prices and the certainty of continued escalation, it is imperative for a state which is over 95 per cent dependent on fossil fuel to develop alternate energy sources. We cannot afford to let any opportunity to provide incentives for utility companies to decrease their dependence on fossil fuel slip away.

Accordingly, your Committee amended this bill to prohibit the use of bonds for new fossil fuel generating plants except for new plants on Maui. Bond financing for work on existing facilities will be allowed because the existing facilities are fossil fuel and to convert to alternate energy sources would be too costly. Furthermore, the technology has not reached the stage where dependence on alternate energy sources is feasible. If repair and maintenance, remodeling and improvement work were to be financed by other means, customers serviced by existing facilities may not realize as much of a savings through the rates by the lower than market interest rates of the special purpose revenue bonds.

Because the island of Maui has been developing so rapidly its energy requirements have barely been able to catch up. Since a new generation plant is needed immediately a fossil fuel plant must be built. Presently, alternate energy technology has not yet developed to be feasible or useful.

This amendment retains the benefits to the consumer of the interest savings as reflected in the rates, while being in line with federal and state energy policy. Furthermore the development of alternate energy sources in Hawaii keeps in Hawaii dollars which are currently going to OPEC countries.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. No. 2376-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2376-80, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 384-80 Tourism on S.B. No. 2525-80

The purpose of this bill is to improve the laws relating to solicitation of funds from the public.

While some statutes regulating public solicitation have been challenged and held unconstitutional under the Fourteenth Amendment to the United State Constitution, courts have upheld public places to safeguard the peace, good order and comfort of the community. Specifically, courts have upheld regulatory statutes which set specific times for solicitation, limit the number of solicitors in a specific area, designate areas for solicitation, prohibit solicitation in already congested areas (International Society for Krishna Consciousness of Western Pacific, Inc., v. Griffin, 440F. Supp. 414, D. Ohio, 1977 and Lieberman v. Schesventer, 447 F. Supp. 1355, D. Fla., 1978) and require a permit. The provisions of this bill as amended, provide for such reasonable regulations that have passed court tests (Poulos v. New Hampshire, 343 U.S. 395, 1953).

The bill as originally introduced in short form provided for amendments to Section 467B-11, Hawaii Revised Statutes, to achieve the purpose of the bill. In amending the bill to insert the substantial provisions, your Committee has determined that it would be preferable to add a new section to the statutes.

Your Committee intends that the regulations should be tailored to particular circumstances and to that end, the bill provides the corporation counsel and county attorney of each county with authority to adopt rules regulating solicitation within their respective counties.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 2525-80, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2525-80, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Cobb, Soares and Yee.

SCRep. 385-80 (Joint) Education and Health on S.B. No. 711

The purpose of this bill is to clarify the need to distinguish early childhood training and development under health auspices primarily, and school age learning under education. It further defines the need for the Departments of Health and Education to administratively work together in support of a common goal, that all exceptional children residing in the State be provided with instruction, special facilities, and special services for education, therapy, and training to enable them to live normal constructive lives.

Your Committees on Education and Health believe that the following amendments are in order: that the Department of Health shall be responsible for and shall provide required services for exceptional children age zero to five, and the Department of Education for exceptional children aged six to twenty; provided that the Department of Health shall assist the Department of Education in health matters for the six to twenty age group, and the Department of Education shall assist the Department of Health in education matters for the three to five age group.

In addition, where one or more exceptional children are found for whom such services the Department of Health is the responsible agency, the director of health shall provide appropriate special instruction, special facilities, and special services according to the specifications in the Hawaii Revised Statutes, Section 301-24, in a manner most expedient and economical.

Your Committees agree that governmental cooperation is essential if suitable programming is to be provided to exceptional children.

Your Committees on Education and Health are in accord with the intent and purpose of S.B. No. 711, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 711, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Chong, Cobb, Ushijima and Yee.

SCRep. 386-80 (Joint/Majority) Transportation and Education on S.B. No. 1930-80

The purpose of this bill is to amend the Hawaii Revised Statutes by adding a new section to be appropriately designated, which vests final authority over the school bus transportation program with the Department of Education.

It is of utmost importance that overall responsibility and authority over the school bus transportation program rest with a single department. Far too often, responsibility becomes dispersed in the State's bureaucratic labyrinth of departments and agencies. Placing final responsibility and authority over the school bus transportation program with the Department of Education, is to enhance the accountability of the State to parents. Furthermore, the purpose of the bill is to ensure that the care of our youngsters is placed in the hands of a department whose expertise and perspective focuses on our children.

Finally, your Committees would like to emphasize line 10 which clearly states that all other departments shall assist the Department of Education in its efforts by performing duties and functions assigned to them by the department or as provided by law.

Your Committees on Transportation and Education are in accord with the intent and purpose of S.B. 1930-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Abercrombie and Ushijima. Senator George did not concur.

SCRep. 387-80 (Joint) Health and Education on S.B. No. 1983-80

The purpose of this bill is to amend the Hawaii Revised Statutes. The amendment will remedy the ambiguity of the Hawaii Revised Statutes Section 298-43 with regards to tuberculosis clearance for school entry.

According to testimony presented by the Department of Health the rule, as stated in the bill, has been implemented smoothly during the past two years.

Your Committees on Health and Education are in accord with the intent and purpose of S.B. 1983-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Abercrombie, Kuroda and Anderson.

SCRep. 388-80 Education on S.B. No. 1425

The purpose of this bill is to appropriate funds for the Hawaii Science and Engineering Fair.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1425, 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 Abercrombie, Kuroda, Ushijima and Anderson.

SCRep. 389-80 Education on S.B. No. 1911-80

The purpose of this bill is to amend Section 299-1(b), Hawaii Revised Statutes, to require energy conservation information as part of the driver education curriculum.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1911-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, Kuroda, Ushijima and Anderson.

SCRep. 390-80 Education on S.B. No. 1913-80

The purpose of this bill is to amend the Hawaii Revised Statutes. The purpose of the amendment is to mandate the Board of Education to require all public schools to emphasize and encourage with the present curriculum, energy and resource conservation instruction beginning in the primary grades.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1913-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, Kawasaki and Anderson.

SCRep. 391-80 Education on S.B. No. 1929-80

The purpose of this bill is to appropriate funds for the purchase and installation of computer terminals and printers in school complexes to be used, in addition to other purposes, for the computerized storage of student information.

Your Committee feels it is of utmost importance that we develop the electronic data processing system of the Department of Education to the fullest extent of our financial ability.

The Department of Education is the largest department in the State of Hawaii. It is responsible for the education of some 170,000 students in 224 public schools and five special schools which are geographically scattered over many islands. Nationwide, the Hawaii Department of Education is the ninth largest school system. The lack of a fully developed computer system can only be detrimental to the whole education system.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1929-80 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 Abercrombie, Ushijima and Ajifu.

SCRep. 392-80 Education on S.B. No. 1932-80

The purpose of this bill is to appropriate funds for the repair, renovation or replacement of asbestos ceilings and walls in public schools.

An investigation conducted by the Department of Health in 1979 revealed that 1.3 million square feet of school buildings (66 schools) contain friable asbestos. The survey results show that an unacceptable risk to health exists due to the presence of these materials.

The Department of Accounting and General Services needs construction funding by May 1, 1980 in order to schedule a major portion of the improvements during the summer of 1980.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1932-80 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 Abercrombie, Kuroda, Ushijima, Ajifu and Anderson.

SCRep. 393-80 Education on S.B. No. 1941-80

The purpose of this bill is to appropriate funds for the repair and maintenance of the public schools.

Your Committee has amended section 1 of the bill by adding the sum of \$25,000,000 so that the repairing and maintaining of public schools may be carried out.

Your Committee has amended section 2 of the bill by extending the lapse time of the funds into the general fund from June 30, 1981 to June 30, 1982.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1941-80, as amended herein, and recommends that it pass Second Reading in the form attached

hereto as S.B. No. 1941-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Kawasaki and Anderson.

SCRep. 394-80 Education on S.B. No. 2236-80

The purpose of this bill is to appropriate funds to bring to Hawaii an exhibition of Korean art which has been touring the mainland United States, receiving excellent reviews for its artistic and cultural merit.

Your Committee is not able at this time to determine the actual cost of bringing this exhibit to Hawaii, and has consequently left the appropriation amount blank.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2236-80 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. 395-80 Education on S.B. No. 2588-80

The purpose of this bill is create a committee to be recognized as "The 1984 Hawaii Statehood Silver Jubilee Committee". The committee shall handle all of the State's arrangements for the celebration of the 25th birthday of the State of Hawaii.

The committee shall plan an overall program for commemorating the 25th anniversary of the admission of Hawaii into the Union as a State of the United States of America. Donations of money, personal property or personal services may be accepted by the committee. State funds are appropriated out of the general revenue to effectuate the initial planning for the 1981 celebration.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2588-80 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 Abercrombie, Kuroda, Ushijima and Anderson.

SCRep. 396-80 Education on S.B. No. 2617-80

The purpose of this bill is to appropriate funds for completing and appropriately placing the statue of Queen Liliuokalani. Your Committee has amended this bill by adding \$25,000 for the purposes of the bill, by adding a section naming the expending agency, and by making some grammatical changes.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2617-80 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2617-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 397-80 Education on S.B. No. 2644-80

The purpose of this bill is for the state to provide funding for the transportation of interscholastic athletic teams in the public schools.

Testimony submitted by the Department of Education shows that with the increase of competitive sports for boys and girls, the costs for the transportation of interscholastic athletic teams have more than doubled.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2644-80 and recommends that it pass Second Reading and be passed on to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and Kawasaki.

SCRep. 398-80 Education on S.B. No. 2645-80

The purpose of this bill is for the state to provide full funding for the salaries of coaches of interscholastic sports in the Department of Education.

The key to the continued functioning of the interscholastic athletic program is the dedicated coaches who are paid according to a fee structure established by the Department of Education. The state funds constitute only about half of these salaries. The remainder of the salaries is left to the schools. This leads to inequities in the compensation of coaches from school to school depending upon the availability of school trust funds.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2645-80 and recommends that it pass Second Reading and be passed on to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 399-80 Education on S.B. No. 2700-80

The purpose of this bill is to appropriate funds to the United Okinawan Association and its various programs.

Your Committee has amended this bill by adding the sum of \$50,000.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2700-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2700-80, 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, Anderson and Saiki.

SCRep. 400-80 Education on S.B. No. 2703-80

The purpose of this bill is to appropriate funds for summer school for handicapped children.

Your Committee has amended this bill by adding the sum of \$162,776.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2703-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2703-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Ushijima, Ajifu and Anderson.

SCRep. 401-80 Education on S.B. No. 2704-80

The purpose of this bill is to appropriate funds for a second vice-principal position in all high schools with enrollments exceeding 1,500 students.

Testimonies given at hearing overwhelmingly supports S.B. No. 2704-80 as a means to help relieve the increasing responsibilities on High School Administrators.

Your Committee has amended this bill by adding the sum of \$182,115.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2704-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2704-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 402-80 (Majority) Education on S.B. No. 2712-80

The purpose of this bill is to appropriate funds to the Hawaii Multi-Cultural Center for its various programs.

Your Committee has amended this bill by adding the sum of \$50,000.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2712-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2712-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Ushijima, Ajifu and Anderson.
Senator Kawasaki did not concur.

SCRep. 403-80 Education on S.B. No. 2718-80

The purpose of this bill is to appropriate funds for the Filipino 75th Anniversary Commission and its various programs.

Your Committee has amended this bill by adding the sum of \$30,000.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2718-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2718-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and Ushijima, Ajifu and Anderson.

SCRep. 404-80 (Majority) Education on S.B. No. 2730-80

The purpose of this bill is to improve the programs of the Department of Education.

Your Committee has amended this bill in order to implement the provisions of Article X of the Hawaii State Constitution pertaining to the Hawaiian education program in the public school system. The amendment will allow the Department of Education to employ persons who are knowledgeable in Hawaiian culture, history, and language as teachers, even if they may not have fulfilled certification requirements for teachers.

Your Committee received testimony from the Department of Education supporting this amendment.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2730-80, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2730-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Kuroda, Ushijima and Anderson.
Senator Kawasaki did not concur.

SCRep. 405-80 Education on S.B. No. 2739-80

The purpose of this bill is to amend Section 237-23 of the Hawaii Revised Statutes to exempt certain activities from general excise taxation.

Your Committee has adopted the recommendation of the Department of Education by amending section 1 of the bill by replacing "parent-teacher associations" in line 19 of page 2 with "school affiliated parent organizations."

This amendment, according to the Department of Education, will make eligible other parent organizations for the general excise tax exemption.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2739-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2739-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Ushijima, Ajifu and Anderson.

SCRep. 406-80 Education on S.B. No. 2779-80

The purpose of this bill is to appropriate funds for EDN 107 Exceptional Child Program, education of the handicapped, private agency classes for FY 1980-81.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2779-80 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 Abercrombie.

SCRep. 407-80 Education on S.B. No. 2965-80

The purpose of this bill is to entitle the Department of Education of any party aggrieved by the final decision rendered by the hearing officer of the Department of Education to judicial review by instituting proceedings in the circuit court of the circuit in which the child resides.

The testimony submitted by the Protection and Advocacy Agency of Hawaii, the Legal Aid Society of Hawaii, and parents of handicapped children indicated strong opposition to the bill on the grounds of undue time, costs, and aggravation being inflicted on the parents of handicapped children, and unnecessary costs to the taxpayers due to these appeals.

Your Committee on Education feels that it is in the best interests of all parties concerned to amend S.B. No. 2965-80 so that Chapter 296, HRS, will be amended by adding a new section to provide for mediation-arbitration of appeals to administrative decisions of the hearing officer of the Department of Education. The intent of this amendment is not to replace the hearings, but to provide for appeals to the decisions made by the hearing officer if a party is not in agreement with the decision.

Your Committee on Education feels that this amendment will save the taxpayers large sums of money and will save the parents of handicapped children unnecessary money, time, and aggravation.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2965-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2965-80, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Abercrombie, Kawasaki, Anderson and Saiki.

SCRep. 408-80 (Majority) Education on S.B. No. 2995-80

The purpose of this bill is to empower the Department of Education to charge fees for the use of public school facilities, equipment, and grounds and that all moneys collected be deposited into a special fund and expended by the Department as put forth in the Department's rules and regulations.

The Department is now required to deposit these moneys into the State Treasury as General Fund realizations. This bill will enable the Department to expend the moneys collected from the users of facilities for: replenishment of janitorial supplies; repairs, maintenance, and replacement of equipment and facilities; and overtime custodial services.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2995-80 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 Abercrombie.
Senator Ajifu did not concur.

SCRep. 409-80 Education on S.B. No. 3027-80

The purpose of this bill is to provide an appropriation for establishing the full-time position of executive secretary for the Big Island Interscholastic Federation on the Island of Hawaii.

Your Committee has amended the bill by inserting the sum of \$1.00 in line 2 until such a time as a more definite cost figure can be determined.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3027-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3027-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 410-80 Education on S.B. No. 3083-80

The purpose of this bill is to provide funds, for fiscal year 1980-81, for a variety of projects aimed at improving foreign language instruction in Hawaii.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3083-80 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 Abercrombie, Kuroda, Ushijima and Anderson.

SCRep. 411-80 (Majority) Education on S.B. No. 3041-80

The purpose of this bill is to provide funds for a minimum education foundation program in each school and the hiring of necessary staff including teachers, counselors, and librarians to implement the program; provided that each school shall have at least one full-time librarian.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3041-80 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 Abercrombie, Kuroda, Ushijima and Anderson.
Senator Kawasaki did not concur.

SCRep. 412-80 Education on S.B. No. 3091-80

The purpose of this bill is to appropriate funds to the Ballet Folklorico Latino Classical Hispanic Folk Dance Company to help meet the needs of other under privileged children.

Your Committee has amended this bill by adding the sum of \$22,250.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3091-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3091-80, 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, Anderson and Saiki.

SCRep. 413-80 Education on S.B. No. 3103-80

The purpose of this bill is to make state funds available for the Bernice P. Bishop Museum.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3103-80 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 Abercrombie, Kuroda, Ushijima and Anderson.

SCRep. 414-80 (Majority) Education on S.B. Nos. 3023-80 and 2648-80

The purpose of these bills is to appropriate funds for various cultural projects.

Your Committee on Education is in accord with the intent and purpose of S.B. Nos. 3023-80 and 2648-80, and recommends that they pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Ushijima, Ajifu and Anderson.
Senator Kawasaki did not concur.

SCRep. 415-80 Education on S.B. Nos. 1949-80, 1950-80, 2038-80, 2281-80, 2394-80, 2482-80, 2485-80, 2549-80, and 3118-80

The purpose of these bills is to appropriate funds for various cultural and artistic programs and projects.

Your Committee on Education is in accord with the intent and purpose of S.B. Nos. 1949-80, 1950-80, 2038-80, 2281-80, 2394-80, 2482-80, 2485-80, 2549-80, 3118-80 and recommends that they pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki, Ajifu, Anderson and Saiki.

SCRep. 416-80 (Majority) Education on S.B. Nos. 2697-80, 2707-80, 2708-80, 2713-80, 2715-80, 2717-80, 2774-80, 2775-80, 2911-80, and 3090-80

The purpose of these bills is to authorize the appropriation of funds for various educational and cultural programs.

Your Committee has amended these bills by inserting the sum of \$49,575 to S.B. No. 2713-80 for adult education, the sum of \$817,950 to S.B. No. 2775-80 to provide library clerks in all school libraries, and the sum of \$1.00 to the remaining bills so that the exact amount can be determined in the appropriate committee. A spelling error in S.B. No. 3090-80 was also corrected.

Your Committee is in accord with the intent and purpose of S.B. Nos. 2697-80, 2707-80, 2708-80, 2713-80, 2715-80, 2717-80, 2774-80, 2775-80, 2911-80, and 3090-80, as amended herein, and recommends that they pass Second Reading in the form attached hereto as S.B. Nos. 2697-80, S.D. 1, 2707-80, S.D. 1, 2708-80, S.D. 1, 2713-80, S.D. 1, 2715-80, S.D. 1, 2717-80, S.D. 1, 2774-80, S.D. 1, 2775-80, S.D. 1, 2911-80, S.D. 1, and 3090-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Ushijima, Ajifu and Anderson.

Senator Kawasaki did not concur.

SCRep. 417-80 Education on S.B. Nos. 2606-80, 2639-80, 2684-80, 2817-80, 2818-80, 2819-80, 2820-80, 2821-80, 2822-80, 2823-80, 2824-80, 2825-80, 2826-80, 2827-80, 2829-80, 2830-80, 2831-80, 2832-80, 2845-80, 2846-80, 2848-80, 2964-80, 3025-80, 3030-80, 3031-80, 3034-80, 3036-80, 3037-80, 3038-80, 3040-80, 3116-80, 3121-80, 3122-80, and 3136-80

The purpose of these bills is to appropriate funds as well as authorize the issuance of general obligation bonds for various school facilities and projects.

Your Committee on Education is in accord with the intent and purposes of S.B. Nos. 2606-80, 2639-80, 2684-80, 2817-80, 2818-80, 2819-80, 2820-80, 2821-80, 2822-80, 2823-80, 2824-80, 2825-80, 2826-80, 2827-80, 2829-80, 2830-80, 2831-80, 2832-80, 2845-80, 2846-80, 2848-80, 2964-80, 3025-80, 3030-80, 3031-80, 3034-80, 3036-80, 3037-80, 3038-80, 3040-80, 3116-80, 3121-80, 3122-80, 3136-80, and recommends that they pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Kuroda, Ushijima and Anderson.

SCRep. 418-80 Ecology, Environment and Recreation on S.B. No. 1560

The purpose of this bill is to amend the sections of Hawaii Revised Statutes having to do with parks, aquatic and forest recreation.

Your Committee finds that improvements are needed at Waahila Ridge State Park, Oahu, and has amended the bill to provide an appropriation of \$71,000 for the planning and construction of a cottage and appurtenances to be used by a designated employee responsible for Waahila Ridge Park.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1560, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1560, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 419-80 Ecology, Environment and Recreation on S.B. No. 1968-80

The purpose of this bill is to appropriate funds out of the general revenues of the State for the development of Ke'ehi Lagoon Park.

Your Committee finds that this project will enhance the recreational resources of the State.

Your Committee has amended the bill to insert the appropriation sum of \$171,000 and has specified the projects that are to be developed.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1968-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1968-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 420-80 Ecology, Environment and Recreation on S.B. No. 1976-80

The purpose of this bill is to appropriate \$200,000 out of the general revenues of the State of Hawaii, for completing the restoration and preservation of Hulihee Palace, Kailua-Kona, Hawaii.

Your Committee has adopted the recommendation of the Department of Land and Natural Resources to change the expending agency to its Department.

Your Committee has also inserted the fiscal year of 1980-1981 on line 3 and 1981 on line 10 to specify the lapsing date of June 30, 1981 for any unexpended or unencumbered balance of the appropriation.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1976-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1976-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 421-80 Ecology, Environment and Recreation on S.B. No. 2074-80

The purpose of this bill is to appropriate \$15,000 each year for fiscal years 1980-81 and 1981-82, for the maintenance of the Ala Wai Canal, Oahu.

Your Committee finds that funding of the project is necessary for the removal of floating debris and other hazards on the canal waters.

Your Committee has made the following amendments:

(1) appropriated \$30,000 for fiscal year 1980-81;

(2) deleted the appropriation for fiscal year 1981-82;

(3) provided for the lapsing date of June 30, 1981 for any unexpended or unencumbered balance of the appropriation.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2074-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2074-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 422-80 Ecology, Environment and Recreation on S.B. No. 2198-80

The purpose of this bill is to amend Section 150A-5, Hawaii Revised Statutes, to provide for a penalty of \$1,000 or imprisonment for not more than one year or both for any person who violates Section 150A-6(3) or who intentionally harbors any snake or prohibited animal seized under Section 150A-7(b). This bill also provides no penalty for those persons who voluntarily surrenders any prohibited items under Chapter 150A.

Your Committee finds that these provisions are needed to protect the safety and ecological interests of this State.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2198-80 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. 423-80 Ecology, Environment and Recreation on S.B. No. 2339-80

The purpose of this bill is to appropriate \$30,000 from the general revenues of this State for improvements to the Mala Pier Facility.

Your Committee received testimony from the Department of Transportation recommending the change of the word "design" to "plans" in relating to the criteria of improvements. Your Committee has reflected this change in Section 1 of the bill. We have also amended Section 1 to conform to the Ramseyer format. In addition, Section 2 of the bill has been amended to include a lapsing provision.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2339-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2339-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 424-80 Ecology, Environment and Recreation to S.B. No. 2340-80

The purpose of this bill is to appropriate \$1,050,000 out of the general revenues of this State for land acquisition and design of Makena La Perouse State Park, Maui.

The Department of Land and Natural Resources testified and described Puu Olai, as the "gateway" to extensive coastal and inland areas between Makena and La Perouse. This portion of land would be acquired so that significant resources would be preserved. These resources include recreational areas for swimming, picnicking, fishing, and boating; geological areas; and cultural and historical interests.

Your Committee approves of the incremental base method of acquisition and expresses its hope that this practice receives continual support by the Legislature.

Your Committee adopted the recommendation by the Department of Land and Natural Resources to change the source of funding to the general obligation bond fund. We have amended Section 1 of this bill to reflect this change.

We have also amended Section 2 to provide a lapsing clause for any unexpended or unencumbered balance of the appropriation, as of the close of business on June 30, 1982.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2340-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2340-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 425-80 Ecology, Environment and Recreation on S.B. No. 2602-80

The purpose of this bill is to direct the Board of Land and Natural Resources to negotiate a lease with the United States National Park Service in order to create a national park on the public lands of the County of Kalawao.

Your Committee has amended Section 1 of the bill by deleting the sentence "The lease shall not become effective unless approved by the Kalaupapa patients' council." We find that the Kalaupapa Patients' Council is not a legal entity and should not be directly involved in such proceedings. However, your Committee recognizes that consultation with the patients' council has been held in the past and should continue in the future in all matters relating to proposed plans for Kalawao County.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2602-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2602-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 426-80 Ecology, Environment and Recreation on S.B. No. 2710-80

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii funds to provide a grant-in-aid to the Friends of Waipahu Garden Park for their various programs.

Your Committee has amended this bill by inserting the amount of \$45,000 in Section 1.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2710-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2710-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 427-80 Ecology, Environment and Recreation on S.B. No. 2920-80

The purpose of this bill is to appropriate \$300,000 for land acquisition, planning, research, and incremental development of the North Kohala archaeological and historic sites, Lapakahi North Kohala State Park Complex, Hawaii.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2920-80 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. 428-80 Ecology, Environment and Recreation on S.B. No. 3001-80

The purpose of this bill is to provide for the planning and engineering costs of a capital improvement project at Palolo Stream.

Your Committee amended Section 1 of the bill to include only those funds specified for the planning and engineering cost. The amount appropriated is \$175,000. Your Committee has also added a lapsing provision to the bill.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 3001-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3001-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 429-80 Ecology, Environment and Recreation on S.B. Nos. 2341-80 and 2828-80

The purpose of these bills is to appropriate funds for the above-mentioned projects.

Your Committee finds that funding of the projects would enhance the recreational and historical resources of this State.

We have made the following non-substantive changes to these bills.

S.B. No. 2341-80 Section 1 was corrected to conform to the Ramseyer format.
Section 2 was corrected to include a lapsing provision and to conform to the Ramseyer format.

S.B. No. 2828-80 Section 2 was corrected to include a lapsing provision.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. Nos. 2341-80 and 2828-80, as amended herein, and recommends that they pass Second Reading in the forms attached hereto as S.B. Nos. 2341-80, S.D. 1, and 2828-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 430-80 Ecology, Environment and Recreation on S.B. Nos. 3033-80 and 3086-80

The purpose of these bills is to appropriate funds for the above-mentioned projects.

Your Committee finds that funding of these projects is necessary to provide for the 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. 3033-80 and 3086-80 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. 431-80 Judiciary on S.B. No. 1419

The purpose of this bill is to amend section 28-11, Hawaii Revised Statutes, to grant investigators in the department of the attorney general the benefits and privileges of a police officer or of a deputy sheriff.

Your Committee is in accord with the report of the Committee on Human Resources. The investigators in the attorney general's office have substantially the same duties and

responsibilities as their counterparts in the county prosecutor's offices, but they do not have the same benefits.

Investigators in the attorney general's office oftentimes submit themselves to dangerous situations in the course of fulfilling their duties. Such investigators are called upon to investigate arson, bomb threats, group demonstrations and work with inmates and informers at the prison facilities to help keep the State corrections system properly functioning.

In light of the similarities in the kinds of duties performed by the investigators and those of police officers, your Committee believes equal benefits should be provided for equal work.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1419, 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. 432-80 Judiciary on S.B. No. 1829-80

The purpose of this bill is to revise and update the law of this State with regard to business corporations. This bill is patterned after the Model Business Corporation Act and, if enacted, will affect both domestic and foreign corporations doing business in this State.

An informal group composed of practicing corporate lawyers, a University of Hawaii School of Law professor and his law students, the director of the department of regulatory agencies and members of your Committee on Judiciary and of the House Committee on Consumer Protection have labored many hours over the proposed changes to Hawaii's present corporation's law.

Your Committee believes that this bill, as amended, not only modernizes, but substantially improves upon present corporate law in this State.

Briefly, your Committee has made the following major changes to S.B. 1829-80:

Service (section -14)

Service of process, section -14, has been amended to conform to section 416-131, Hawaii Revised Statutes. This change was made to expand upon the number of people dealing with the corporation who may be served. Under the Model Act only the registered agent of the corporation could be served or the director of regulatory agencies if no registered agent can be found. The changes to this bill allow for service to be made upon any officer or director of the corporation or any person found to be in charge of the property of the corporation. If no authorized person for service of process can be found, the director of regulatory agencies as in the Model Act shall serve as agent for the corporation for purposes of service.

Cumulative voting (section -33)

Cumulative voting as it presently exists under Hawaii law has been retained in section -33 of this bill. Your Committee discussed this issue at great length and decided that the rights already given to shareholders with regard to cumulative voting should not be abridged. This section neither limits nor expands upon the rights of cumulative voting in Hawaii.

Filing (section -55)

Section -55 of this bill has been amended to provide for a general filing section. The requirements for the filing of any document with the director pursuant to this bill are listed in this section. Throughout S.B. No. 1829-80 all references to the manner of filing of a particular document have been deleted.

Also omitted throughout this bill is the requirement that the director ensure that the document to be filed is correct as to its contents. Your Committee believes that the director should not be required to ensure that all documents filed are in fact truthful only that they conform on their face as to the information required by a particular section.

Three-fourths vote (sections -72, -77, -79, -84, and -89)

Throughout this bill, sections which pertain to a course of action proposed for the corporation which would substantially affect the shareholders' interests have been amended with

regard to the percentage of votes needed to effect such change. The Model Act proposed a majority vote for such actions. In this bill, as amended, sections -72 (consolidation), -77 (merger, consolidation, or exchange of shares between domestic and foreign corporations), -79 (sale or exchange of assets), -84 (voluntary dissolution), and -89 (revocation of voluntary dissolution), three-fourths of the holders of shares of the corporation entitled to vote thereon must approve a proposed plan before the corporation may act.

Notice to dissenting shareholders (section -80A)

Section -80A is entirely new. This section spells out in detail the notice which must be sent to all shareholders who have a right to dissent as to a proposed course of action which would affect their rights as shareholders. This section ensures that shareholders will be informed of all corporate actions which will substantially affect their rights and that they will be given an opportunity to voice their opposition prior to the initiation of substantial changes in the corporation.

Foreign corporations (sections -106 to -132)

Sections -106 through -132 of this bill pertain to the regulation of foreign corporations. In order to encourage foreign corporations to do business in Hawaii, your Committee believes foreign corporations should be treated in much the same way as domestic corporations. These sections therefore have been changed generally to conform to similar sections relating to domestic corporations.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. 1829-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1829-80, S.D. 1, and be recommitted to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 433-80 Judiciary on S.B. No. 2278-80

The purpose of this bill is to increase sheriff's and police officer's fees for serving district or circuit court criminal summons, warrants, etc., and increase the related mileage fees.

The present service fee of \$10, which has been in effect since 1975, is increased to \$15.00. The present mileage fee of fifteen (15) cents, which has been in effect since 1978, is increased to eighteen (18) cents. Service of process is performed by deputy sheriffs and off-duty police officers as independent contractors. Increase in service and mileage fees is required by inflation to enable continuation of these services.

Note that your Committee has decided on one increase in the service fee, instead of the two suggested by the bill. Also, the spelling of the word "judgment" is corrected in the bill on page 2, line 6. This bill has also been amended to correct technical errors.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2278-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2278-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 434-80 Judiciary on S.B. No. 2416-80

The purpose of this bill is to appropriate \$223,396.45 out of the general revenues of the State of Hawaii to replenish the Criminal Injuries Compensation Fund for compensation ordered by the Criminal Injuries Compensation Commission pursuant to Chapter 351, Hawaii Revised Statutes. The sum to be appropriated was used to compensate 241 victims.

This bill has been amended to provide for additional appropriations of \$46,556.53 for awards made to 40 victims in 1979 and \$49,859.69 for 50 victims in 1980.

Your Committee has also decided to appropriate \$100,000 for the payment of future awards to victims and their providers for the remainder of the year 1980 until June 30, 1981. This appropriation will allow the Commission to be current in its payments to crime victims rather than having to be reimbursed by the legislature each year.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. 2416-80 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2416-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 435-80 Judiciary on S.B. No. 2996-80

The purpose of this bill is to appropriate a specific amount of money, \$150,000, for a specific period of time, the fiscal year ending June 30, 1981. This appropriation is now required by Article VII, Section 11, of the Hawaii State Constitution, for payment of authorized claims and expenditures by the department of budget and finance under the Uniform Disposition of Unclaimed Property Act, Chapter 523, Hawaii Revised Statutes.

In the past, the appropriation for this purpose was for an indefinite period of time and open-ended. The attorney general has issued an opinion that such appropriation would be improper under the new requirements of Article VII, Section 11, of the Hawaii State Constitution.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2996-80 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. 436-80 Judiciary on S.B. No. 1346

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.

SCRep. 437-80 Judiciary on S.B. No. 1828-80

The purpose of this bill is to review and amend Hawaii's law pertaining to non-profit corporations. This bill is patterned after the Model Non-Profit Corporation Act which was first published in 1952 by the American Bar Association's Committee on Corporate Laws of the Section of Corporation, Banking, and Business Law. The companion to this bill is S.B. No. 1829-80, "The Hawaii Business Corporation Act," which was drafted by the same bar committee and closely resembles this bill in concept.

A Hawaii Bar Association Committee comprised of practicing corporate attorneys, a University of Hawaii School of Law professor and his students, the director of the department of regulatory agencies, and members of your Committee on Judiciary and the House Committee on Consumer Protection met for several weeks on an ongoing basis to study and suggest changes to the Model Act. The results of this labor are reflected in this bill as amended herein.

Your Committee believes that this bill will not only modernize, but will substantially improve upon present law in Hawaii regulating non-profit corporations.

Of utmost importance to your Committee in proposing changes to this bill was conformance to present Hawaii corporate practice. Your Committee also effected changes to this bill as they are reflected in the business corporation bill (S.B. No. 1829-80) to maintain uniformity between the two.

Briefly, the substantial changes made to S.B. No. 1828-80, are as follows:

Service (section -10)

Service of process, section -10, has been amended to conform to section 416-131, Hawaii Revised Statutes. This change was made to expand upon the number of people dealing with the corporation who may be served. Under the Model Act only the registered agent of the corporation could be served or the director of regulatory agencies if no registered agent can be found. The changes to this bill allow for service to be made upon any officer or director of the corporation or any person found to be in charge of the property of the corporation. If no authorized person for service of process can be found, the director of regulatory agencies as in the Model Act shall serve as agent for the corporation for purposes of service.

Directors (section -17)

The Model Act provided that the directors of a corporation did not have to be residents of this State. The bill as amended provides that at least one director must be a resident. This requirement lends greater accountability on the part of the resident director on behalf

of the corporation and for purposes of service ensures that at least one director may be served within the State. This requirement also conforms with section 416-4, Hawaii Revised Statutes.

Directors' Meetings (section -22)

The proposed change to this section allows for a meeting of all the directors by means of a telephone conference. This provision is currently part of State law, section 416-83, Hawaii Revised Statutes.

Filing (section -30)

Section -30 of this bill has been amended to provide for a general filing section. The requirements for the filing of any document with the director pursuant to this bill are listed in this section. Throughout S.B. 1828-80 all references to the manner of filing of a particular document have been deleted.

Also omitted throughout this bill is the requirement that the director ensure that the document to be filed is correct as to its contents. Your Committee believes that the director should not be required to ensure that all documents filed are in fact truthful only that they conform on their face as to the information required by a particular section.

Voluntary dissolution (section -45)

Upon the voluntary dissolution of a corporation, a notice to all creditors shall be published in a newspaper of general circulation in the State.

Tort claims (section -62)

Tort claims against a corporation may be presented within two years from the date of dissolution of a corporation whether the dissolution be voluntary or by decree of court under the Model Act. Section -62 has been amended to provide that a tort claim shall also be required to be presented within two years from the date giving rise to the claim. This provision allows for a final cut-off time after which tort claims may not be brought against the corporation.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. 1828-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1828-80, S.D. 1, and be recommitted to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 438-80 Judiciary on S.B. No. 1832-80

The purpose of this bill is to allow prosecutors in the career criminal units to decide whether an individual should be the subject of career criminal prosecution.

Your Committee feels that this is a vital amendment, because according to existing law, if a career criminal unit cannot prosecute a career criminal case due to insufficient resources or case overload, a regular deputy cannot be assigned to the task.

Your Committee has amended the bill to allow the desired flexibility necessary for the efficient prosecution of career criminals while specifying instances where career criminal prosecution is to be mandatory. First, your Committee has amended the bill by eliminating the term "shall" because it is a mandatory term, especially as it is used in the Hawaii Revised Statutes, and replaced it with the term "may" to allow flexibility to the county prosecutors. Also, your Committee has amended the bill by eliminating the words "as much as possible" because it becomes repetitive with the replacement of the term "shall" with the term "may."

Your Committee has further amended the bill to ensure that habitual criminals or those who pose a definite threat to our community become the subject of career criminal prosecution by adding a provision which states that if an individual falls into three or more of the categories for career criminal prosecution, it would be mandatory for that individual to become the subject of career criminal prosecution. Finally, your Committee feels that the description of the individual who falls into category (11) of the bill is vague and needs clarification. Therefore, your Committee has amended the bill by inserting the words "recurring or ongoing" to better define the category.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1832-80, as amended herein, and recommends that it pass Second Reading as S.B. No. 1832-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 439-80 (Majority) Judiciary on S.B. No. 1838-80

The purpose of this bill is to extend the life of the Hawaii Crime Commission, due to end on June 30, 1980, for a six-year period, and for subsequent six-year periods as the legislature shall determine, based on the need for and the effectiveness of the commission. This bill also establishes a full-time chairman of the commission and clarifies the commission's functions.

Your Committee discussed extensively the need for the Hawaii Crime Commission and its effectiveness to date. Your Committee determined that the Commission still serves a viable function in society. The commission as presently composed plays an important supplementary role with respect to crime in Hawaii by acting in an "overview" capacity on all aspects of crime in Hawaii and the functioning and effectiveness of the criminal justice system.

Your Committee was also personally impressed with the dedication of the members of the present commission and their capacity to collect data and hear from persons unavailable to law enforcement agencies.

COMMISSION ESTABLISHED IN LIEUTENANT GOVERNOR'S OFFICE

Your Committee has retained the establishment of the commission in the lieutenant governor's office for administrative purposes only. The commission is independent of the executive in its control of its functions. This must be so to maintain the commission's independence to research the source of crime wherever it may exist in Hawaii.

COMMISSION MEMBERS

Your Committee has decided to retain the philosophy of a "citizen's commission". In the words of the statute, "the members shall be representative of the population of the State." The "overview" function of the commission is best served by a group of citizens who act for the people in general, as a "citizen's voice," in providing input about crime and the criminal justice system to all branches of government. Expertise can be supplied by the commission staff.

A twelve-member commission was retained with six-year terms for all members, except that for the initial members, four of whom shall serve for two years, four of whom for four years, and four of whom, including the chairman, for six years. All members shall be appointed by the governor with the advice and consent of the senate and may be removed or suspended by the governor for cause after notice and hearing pursuant to chapter 91. Any vacancy on the commission shall be filled by the governor for the unexpired term with the advice and consent of the senate.

THE CHAIRMAN

In keeping with your Committee's desire to increase the effectiveness of the commission, a full-time chairman has been provided. This will provide a focal point for the commission's activities and lend continuity to its work.

The chairman shall be appointed by the governor with the advice and consent of the senate from a list of not less than three nominees submitted by the Judicial Council. The governor shall make his selection within thirty days after presentment of the list by the Judicial Council or within ten days after senate rejection of any previous appointment. If the governor fails to reset any deadlines for appointment, the Judicial Council shall make the appointment with the advice and consent of the senate.

The chairman may be removed or suspended by the governor with the advice and consent of the senate upon a two-thirds vote of the commission initiating such action.

COMPENSATION

The chairman shall be compensated at the level of a State circuit judge, but shall not be entitled to the retirement benefits for that position. The other commission members shall serve without compensation.

FUNCTIONS

The functions of the commission have been clarified and reorganized in order of importance.

The primary function of the commission will be to "research" and collect evidence necessary to study crime, criminal activity, and the operation of the criminal justice system. The word "research" has been substituted for "investigate" to clarify the role of the commission as a "citizen's overview commission" and not a law enforcement agency. If the commission does collect sufficient data to warrant criminal prosecution, such information may be submitted to the appropriate federal, state, or local law enforcement agencies for prosecution. Note, the commission is not required to submit such evidence for prosecution, but may do so or not at its discretion depending on the need to protect the identity of confidential sources, etc.

The commission is also mandated to evaluate programs, agencies, projects, substantive laws, procedures, and practice relating to crime in all branches of government; implement public education programs on crime and crime prevention; report yearly to the legislature; hold public and closed hearings; manage funds for rewards for apprehension and conviction of criminals; and perform all other necessary functions and duties related to its conduct of business and its procedures.

EFFECTIVE DATE OF NEW COMMISSION

The life of the present commission is extended to June 30, 1981. The initial chairman and members of the new commission are to be appointed during the 1981 legislative session and take office July 1, 1981.

RECOMMENDATION

Your Committee is extremely hopeful that the Hawaii Crime Commission will be an effective tool in the State's arsenal of crime prevention. The commission fills a void for organized and constructive input about crime from Hawaii's citizens and serves an important "overview" function on the entire criminal justice system. Crime commissions in other states, notably California, have proved very effective, and we expect the same results in Hawaii.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1838-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1838-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senators Campbell and George did not concur.

SCRep. 440-80 Judiciary on S.B. No. 1851-80

The purpose of this bill is to create a juvenile justice master plan for Hawaii.

It has been nearly a decade and a half since the conscience of America was shaken from its stupor by the United States Supreme Court's decisions in Kent v. United States, 384 U.S. 541 (1965) and In re Gault, 387 U.S. 1 (1967). By those cases each state in the union has been compelled to examine not only the subject of constitutional safeguards extended to minors, but also whether the very structure of the juvenile court system that originated in this country at the turn of the century in the noble purpose of protecting minors from the harsh realities of adult criminal reality, requires examination as to its essential bases.

The last few years have been, for the subject of juvenile justice, a time of tumult and confusion. It has engendered genuine and contending forces that chorus opposing and varied positions, each supported by thoughtful and comprehensive scholarship. This turmoil exists nationwide, and upon your Committee's review, Hawaii has not escaped the net of confusion that has so far obstructed unified and cohesive effort toward obtaining solutions to most evident problems.

Senate Bill No. 1851-80, S.D. 1, is a major step for the State of Hawaii to firmly establish a comprehensive system of juvenile justice with specific guidelines to eliminate the confusion and lack of cohesion which has marked the past ten years. This plan can provide a system for availing means for people to understand rights that belong to each other, and where such understanding is unavailing, the means for deterrence to protect the innocent from those who would do them harm.

PURPOSE

The purpose of S.B. No. 1851-80, S.D. 1, is to provide the statutory structure for essential reformation of our juvenile justice system. The term "reformation" is used here deliberately, and also as including the processes that have been already initiated and undertaken by the family court, police and others by internal administrative procedures and by separate

and less ambitious legislative efforts. In this regard, your Committee views S.B. No. 1851-80, S.D. 1, as a reform measure also in that what is sought to be achieved is the improvement and strengthening of the present system and not the drastic eradication of certain of its aspects. In this respect, your Committee does not understand that anyone has come forth contending the order of administrative abuse, as in In re Gault, supra, that has required drastic measures in other states. In the study of "Juvenile Detention in Hawaii," May 8, 1978, by the then law student, Ms. Riki May Amano, it is concluded that the present system "is a positive reflection of the citizens concerns for their children"... and that the only present need "is to codify the practices now in effect."

In designing the statutory reformation of the juvenile justice system, it has become apparent to your Committee that focus must be given to a subject matter that appears to have been studiously avoided in Hawaii. Such avoidance is bottomed on the effort and desires of persons of contending viewpoints to work toward a consensus in the establishment and implementation of a juvenile justice master plan. Such effort is commendable, but has been productive only in achieving, in the form of S.B. No. 1839-80, consensus to obtain certain improvements regarding the Hawaii youth correctional facility. What is lacking is the establishment of basic policy upon which the necessary solutions may be formulated. Policy, however, is the responsibility of the legislature, and we seek, by S.B. No. 1851-80, to meet that responsibility.

The specific subject matter that must be resolved involves the family court's jurisdiction over status offenders -- minors who have committed offenses which would not be violations of law if committed by adults, such as truancy and curfew violations. As questions of constitutional rights of minors in criminal violation were reviewed in cases like In re Gault, supra, further scrutiny of the juvenile court system has raised an overriding question. That question is whether minors should be affected in their freedom in the least, if as status offenders, their conduct is not considered socially offensive but for the fact that it is attended by their status as minors. The view that prevailed over the years allows detention -- physical restriction in secure facility -- of status offenders, on the theory of parens patriae whereby the juvenile court exercises its right as ultimate "parent" over the wayward child, ostensibly in the child's best interest.

This is the point of most serious contention in recent debate over the juvenile justice system. Your Committee finds it necessary to address this subject matter because it is simply impossible to lay out the statutory structure for a comprehensive juvenile justice system without coming to grips with it.

Upon extensive research, your Committee observes the diametrically opposing views expressed in (1) the Institute of Judicial Administration of the American Bar Association, Juvenile Justice Standards Project in the tentative draft of its standards relating to Noncriminal Misbehavior published in 1977 and (2) the position taken by the National Advisory Committee on Criminal Justice Standards and Goals in their volume, Juvenile Justice and Delinquency Prevention, published in 1976.

We understand that the American Bar Association's volume on Noncriminal Misbehavior has not been adopted even after extended debate. Nonetheless, the fulcrum of its position is that "A juvenile's acts of misbehavior ... which do not violate the criminal law should not constitute a ground for asserting juvenile court jurisdiction." (p. 23)

The National Advisory Committee reached the opposite conclusion:

"When the members asked themselves if there is conduct that is not criminal for an adult, but that should be under some form of legal restriction for children, the answer was an emphatic 'yes!'. Some retention of the court's power to intervene is appropriate and necessary, not only to protect children from themselves but to serve as a forum where they can seek relief from intolerable circumstances." (p. 311)

The debate continues to this day. See the two articles "Jurisdiction Over Status Offenses Should Be Removed from the Juvenile Court: A Policy Statement," National Comment on Crime and Delinquency, and "Jurisdiction Over Status Offenses Should Not Be Removed from the Juvenile Court," Lawrence H. Martin and Phyllis R. Snyder. See also 39 Ohio State Law Journal 240 (1978) "Juvenile Court Jurisdiction Over Noncriminal Misbehavior," "The Argument Against Abolition," and 6 Pepperdine Law Review, 639 (1979), "Take My Child, Please -- A Plea for Radical Nonintervention."

Most recently, the Secure Custody Committee organized by the family court has issued a report indicating that it "believes there is a need for detention as a sanction short of incarceration at Hawaii Youth Correctional Facility" but also noting that various committee members hold different views as to whether detention is an appropriate sanction for status offenders.

It is your Committee's conclusion that abolition of family court jurisdiction over status offenders would be at least premature, if not totally unwise. Even if there were but one status offender every year for whom the prospect of detention provides the essential base for beneficial therapy, that would be sufficient reason for retaining family court jurisdiction. In contrast, the American Bar Association volume on Noncriminal Misbehavior noted among its closing paragraphs:

"Inevitably, some cases will be lost to help and some youth will go unassisted who might have been aided if the formal scheme of coercive intervention in cases of noncriminal misbehavior were kept. It is believed, however, that their numbers will be relatively few and that the social costs of retaining the status offense jurisdiction as it now exists far outweigh the relatively small benefits."

Your Committee rejects the notion that a juvenile justice system worthy of its name can be designed programming the sacrifice of the "relatively few." Moreover, S.B. No. 1851-80, S.D. 1, does not presume retention of status offense jurisdiction "as it now exists," but will reform past inadequacies. It is intended to be a system that retains the potential for reaching every child and family in need.

It should be made absolutely clear that your Committee does not intend by S.B. No. 1851-80, S.D. 1, the establishment of coercion as the primary tool in the processing of status offenders. We intend to the contrary that non-coercive methods be exhausted before detention should be utilized. We agree with the Dissenting View of Justine Wise Polier in the "Standards Relating to Noncriminal Misbehavior," which supports the increase of "alternative services that can be used voluntarily," and which concludes that "the premature ending of juvenile court jurisdiction before there is a growth of such services will only lead to losing sight of children and families most in need of services." (p. 67)

Your Committee reviewed section 571-1 which sets out the construction and purpose of chapter 571 of the Hawaii Revised Statutes which establishes the family court. We have amended section 571-1 to state the following to be the purpose and policies of the family court.

"The purpose of this chapter is to establish and provide for a system of family courts. It shall be a policy and purpose of said courts to promote the reconciliation of distressed families, render appropriate punishment, encourage the rehabilitation of juveniles in difficulty, and the reduction of juvenile delinquency."

We have also introduced further language to section 571-1 to express our view that, "[A]ll children found responsible for offenses shall receive dispositions that provide incentive for reform and/or deterrence from further misconduct."

Finally, we included the following language to section 571-1:

"While providing that the court shall give special consideration to the rights and well-being of children and families, nothing in this chapter shall be interpreted as diminishing the fundamental rights of all the people to be secure in their lives, liberty, and property."

By these inclusions to section 571-1, we intend that dispositions in juvenile matters will be commensurate with deterrence from criminal behavior, protection of the public and instilling a responsible attitude toward society and fellow men.

JUVENILE JUSTICE INTERAGENCY BOARD

Senate Bill No. 1851-80, S.D. 1, establishes a Juvenile Justice Interagency Board to promote the implementation of the juvenile justice master plan. It is the nature of government that in its organization, effort is made to compartmentalize functions into theoretical and neatly confined areas of operation. However, it is the nature of the human animal that his life is lived in its totality, defying schematic differentiation. The creation of the inter-agency body recognizes this fundamental dichotomy. It recognizes the need for supreme efforts by every member to subvert his self-interest in order to coordinate their separate and essential functions for the general good. Effective coordination is the key to success for the juvenile justice system.

Your Committee is aware of the different philosophical stance that vigorously contend, not only with reference to the issue of status offenders, but in almost every problem that constitutes the broad subject of juvenile justice. However, much of the cause for confusion is obviated by comprehensive policy directions provided by S.B. 1851-80, S.D. 1. With that accomplishment, it is your Committee's expectation that there will be a minimum of interagency conflict, and that the members of the interagency board will be able to progress in efficient fashion to plan and integrate varied and creative programs for meeting the needs of juveniles and combatting juvenile crime.

We would remind each member of the interagency board that the commitment to the juvenile justice master plan must be total. There can be no jurisdictional jealousy, nor passing of the buck in internecine back biting. Each agency must expect to exert efforts beyond its traditional jurisdictional boundaries.

With the expected coordination of efforts, your Committee hopes that the separate agencies will also achieve beneficial transformation of their traditional attitudes. With regard to the police, we hope that it will involve them in closer affinity with the local communities in which they serve. The fact that the police is necessarily identified as society's source of coercive protection against wrongdoers does not exclude its role as friend to those in need of guidance. We envision that expanded effort by the police in follow-up of minors they have released to their families, will help them realize the potential of beneficial services they may avail the families of the local communities.

While the police function to provide emergency services to families in crisis, the schools are availed the chance to provide guidance under more placid circumstances. Your Committee is concerned by the fact that failure in school and lack of educational skills attend the predominant number of minors entering the juvenile justice system. We do not deny that being equipped with basic skills is imperative in modern society. But your Committee notes the growing awareness that the traditional approach to obtaining those skills are not amenable to the talent or disposition of an unfortunate percentage. In that respect, we point to programs such as Education through Aviation and others that try to reach school dropouts by supplementing the traditional curriculum.

Accordingly, we direct the interagency board to arrange for the creation of an alternative means of delivery of educational services to that percentage of children normally expected to have significant difficulty under the traditional curriculum, so that educational failure will not lend so significantly to juvenile problems.

In this respect, we also note the extreme need for improvement of the educational program at the Koolau Youth Correctional facility. Your Committee directs the superintendent of education to investigate whether the present system of requiring the students at Koolau to adhere to the same standards as applied in the regular educational system is fair and adequately meets the special needs of the youth at Koolau.

Your Committee is deeply concerned that lack of parental skills appear to attend so much of the interpersonal conflicts that breed juvenile problems. We direct the superintendent of education, with the aid of the rest of the members of the interagency board, to devise programs which will reach out to and be conducted in, the local communities after working hours, which will avail appropriate guidance and help to families to obtain needed parental skills and expand their ability to help their children realize their potential.

It is your Committee's view that our schools should not be merely places where parents send their children. They should, rather, be facilities upon which familial aid and communal pride coincide their respective focus. We think that the department of education has a far greater responsibility for society's juvenile problems than it has been willing to assume to date.

Your Committee does not envision entry of the department of education in social work other than in its educational aspects. However, we find it logical to assume that schools which are unused after hours should provide economical means for the department of social services and housing to expand services to families in need of aid because confronted by juvenile problems, either through programs it operates or through those operated by private agencies.

Senate Bill No. 1851-80, S.D. 1, is intended to foster the expansion of varied and creative programs designed to reach troubled juveniles and their families. It is your Committee's expectation that the department of social services and housing in close conjunction with the family court, will, through the interagency board, promote their creation and coordinate their expanded efforts.

In structuring this master plan, your Committee gave serious consideration to what appears to be an obvious and logical reorganization of present functions in juvenile justice -- that is, to place social welfare functions in the department of social services and housing and to confine the family court's function to adjudication. We have decided to stay with the present system of intensive family court involvement to continue the work it has already undertaken, and because present turmoil is focused in great part on legal interpretations and implementation of judicially initiated concerns for the rights of minors. It is our thought that at the present time, the disruption that would attend the transfer of functions would not be conducive to orderly facilitation of the concepts sought to be implemented by S.B. 1851-80, S.D. 1. However, we do not intend to preempt a thoughtfully conceived

plan for such transfer of functions, provided that the same will be preceded by exhaustive investigation and debate over its merit and the formulation of a gradual and orderly plan of implementation.

It is also the expectation of your Committee that in their participation in the interagency board, the prosecutor and public defender members will remove their respective cloaks of advocacy in the interest of greater social benefit. It is your Committee's intent that the Senior Judge of the family court, the prosecuting attorney and public defender, who participate as members of the interagency board should lend not only their respective expertise, but provide the necessary drafting of concrete and appropriate legislative proposals to create the desired programs and improve statutory provisions.

The juvenile justice interagency board's function in the juvenile justice master plan as conceptualized in S.B. 1851-80, S.D. 1, is to provide coordination that will pierce traditional notions of governmental boundaries. It is expected to provide the leadership and planning for the creation of imaginative programs for Hawaii's troubled youngsters and their families, so that the youngsters may find their appropriate emergence as confident and productive citizens. Finally, it is your Committee's expectation that if the juvenile justice interagency board is effective, it will provide the necessary impetus to further improve Hawaii's laws. We would consider it a failure if the juvenile justice interagency board failed to produce annually throughout the 1980's substantial legislative proposals.

POLICE

Your Committee was favorably impressed with the present effort and efficient organization of the Honolulu police department in its effort to adapt their activities to conform to standards and practices currently being advocated by leading juvenile justice scholars and authorities. We reviewed the Honolulu police department's "Procedures for Handling Juveniles" and find the same to be comprehensive. We are confident that if S.B. 1851-80 is enacted, necessary modifications will be implemented. We would emphasize that S.B. 1851-80, S.D. 1, effects no substantial changes to present police procedure.

We have, however, effected changes to sections 571-72 and 571-73 so as to formally authorize the present police practice of counseling and releasing troubled juveniles when such is proper, and to allow the expansion of such activity to "follow-up counseling."

RELEASE, CUSTODY AND DETENTION

When a youngster gets in trouble, the initial and most important step is to properly evaluate him in terms of whether the youngster should be released to his family, afforded counseling and other services or whether he should be detained in order to effect his own protection or that of society. This is not a task that is at all easy. It requires efforts by several persons with different perspectives and approaches in order to ensure that the decision ultimately taken is correct.

Under present law, detention is defined, in section 571-2(7), Hawaii Revised Statutes, as "the temporary care of children who require secure custody for their own or the community's protection in physically restricting facilities pending court disposition."

The detention process is set forth in sections 571-31 and 571-32, Hawaii Revised Statutes. Section 571-31 authorizes any police officer to take a child into custody without an order of the judge when there are reasonable grounds to believe that the child comes within sections 571-11(1) or 571-11(2).

Authority to take a child into custody is broader than the authority to detain. Section 571-31 presently requires the officer to release the child to the care of his parent or other responsible adult unless his immediate welfare or the protection of the community requires that he be detained.

If the police officer determines that the child's immediate welfare or the protection of the community requires that the child be securely detained, section 571-32(a), Hawaii Revised Statutes, requires the child to be taken without unnecessary delay to the place of detention. Section 571-32(b) mandates a review of the officer's legal basis for detention by a duly authorized staff member of the detention facility or a court officer prior to acceptance of the child into the facility.

The Family Court Act as adopted in Hawaii is based on the Standard Family Court Act. The definition of detention and the grounds for detention are the same in Hawaii's Act as they are in the Standard Act. The Standard Act contained comments delineating the drafter's intent with regard to interpretation of the standards established in the Act. The

obsolete and others to require substantial revision. In addition, your Committee included some new sections that incorporate recommendations and concepts derived from substantial investigation. This investigation included among other sources: correspondence from the Koolau facility's staff to the Corrections Division of the Department of Social Services and Housing, the Corrections Division's November 1979 report entitled, "Proposed Short and Long-Range Plans for the Hawaii Youth Correctional Facility", lengthy interviews with personnel involved with the Koolau facility, and tours of the facility itself.

Your Committee has extended jurisdiction of the family court for disposition purposes over minors for offenses committed during minority to age twenty-two.

Section 352-9 entitled "Period committed" provides for an incarcerated person reaching the age of nineteen to be placed on juvenile parole for the balance of the term of commitment or "sentence". The possibility of automatically transferring the person from a youth correctional facility to an adult facility after the nineteenth birthday was rejected by your Committee. Corrections Division authorities and family court judges agreed that the prospect of such an automatic transfer "hanging over the head" of a youth could foreseeably lead him to disruptive behavior and a negative attitude.

Juvenile parole up to age twenty-two was deemed the best way to continue some enforceable form of control over the person turning age nineteen. The presently grave problem of a dangerous individual being released unconditionally into the vulnerable community is hereby mitigated.

To illustrate, a seventeen year old youth could be committed by the family court for a term of four years. Such would be the case where the youth's offense would neither justify automatic waiver nor the discretionary waiver of the court and yet be sufficiently serious to warrant exerting jurisdiction beyond age nineteen. The first two years could be spent in a youth correctional facility and the balance of the term spent on a juvenile parole status under the supervision of the juvenile parole office and the retained custody of the director of social services.

Section 352-26 entitled "Taking into custody and detaining persons for violations of terms and conditions of parole and furlough and attempted escape" describes the available sanctions for violations of parole. These sanctions are divided according to the age nineteen cut-off when incarceration in the facility is possible and after age nineteen. Such sanctions are indeed necessary to afford any force and effect to the status of parole.

Section 352-26 enables a designated employee of the Department of Social Services to take into custody and place back in the facility an alleged parole violator who is under the age of nineteen if a written order to that effect is obtained from the director of the department.

If such employee regards a paroled person as being probably dangerous either to himself or the community, or likely to flee the jurisdiction, in the interest of time the employee may likewise take the person and return him to the facility. In both such instances, the office of juvenile parole must hold hearings within thirty days of the return to afford the parolee an opportunity to be heard and determine the subsequent disposition of his case.

The Committee had more difficulty deciding how to handle the parole violator who is over nineteen years of age. Due to the nineteen-year-old age limit, the director and any designated employees are precluded from the sanction of returning the alleged violator to a youth correctional facility. Consequently, section 352-26(c) enables them to place a parole violator in an adult correctional facility under certain conditions.

Paragraph (1) provides for such adult incarceration in the event a crime is alleged as the certain parole violation. Again, a written order from the director is necessary to effectuate such an incarceration. Paragraph (2) defines the case of a juvenile parole violation other than a committed crime. The director is notified of the violation and is empowered to petition the family court for an ex parte order to place the parolee in an appropriate adult facility. Both avenues of commitment provide for a speedy juvenile parole office hearing to further safeguard the person's due process rights.

Thus, the retention of jurisdiction proposed in section 571-13 will normally result in the juvenile parole office of DSSH having supervisory responsibilities over a person between age nineteen and twenty-two. However, the Committee's revision of section 571-48(1)(A) enunciates a probationary power of the family court. Instead of choosing the more drastic disposition route of placing an adjudicated offender in a youth correctional facility for a considerable time, the court may sentence instead to a probationary period. The initial portion of that period may be spent incarcerated in a facility as one of the conditions of parole. Such a confinement period includes a suggested statutory limit of one year to conform with the adult practice. Reference is made to section 706- 624(3) as amended

juveniles who are at least sixteen years of age who are accused of the most serious violent offenses and who have previously committed other serious offenses. Our consultation with several family court judges indicates equally understandable opposition to this reduction in their authority.

While having great respect for the intimate knowledge and depth of experience possessed by our esteemed family court judges, we believe that in the largest sense the public's demand is supported by the facts. An eighteen year study, *Delinquency in Birth*, Cohart, University of Chicago Press (1972) of 10,000 Philadelphia lawyers revealed that six per cent had committed five or more offenses prior to age eighteen. Moreover, this same six per cent accounted for over half of all recorded delinquencies and about two-thirds of all violent crime attributed to the entire 10,000. That the same is true in Hawaii is supported by a SLEPA study which showed that in 1976 about 85 per cent of the juveniles arrested for robbery were repeat offenders. Of these, 72 per cent had been arrested for law violations four or more times and 36 per cent for four or more felony equivalents. Your Committee has therefore amended the Family Court Act by adding section 571-11.1.

It should be noted that this change of jurisdiction is not intended to have any influence on the court's decision as to whether it should waive jurisdiction in cases proceeding under section 571-22, Hawaii Revised Statutes.

Your Committee has amended sections 571-11 and 571-12, Hawaii Revised Statutes, to adapt them to section 571-11.1.

Your Committee has amended section 571-3, Hawaii Revised Statutes, to change the upper age limit for retention of family court jurisdiction from 19 years of age to 22 years of age. The present law is deficient in terms of the court's flexibility in the disposition of offenders who are nearly eighteen. In the case of a fairly serious offense, the court now has the choice between waiver to an adult court, or a one-year term (until age 19) at HYCF. The extension provision to age 22 offers intermediate choices such as probation for four years or parole for three years following one year at HYCF.

Your Committee has also amended section 571-21, Hawaii Revised Statutes, to adapt to the newly-created juvenile intake agency by adding factors to be considered by a family court judge in determining whether waiver of the court's jurisdiction is appropriate. The factors to be considered are taken, with slight modification, from the Appendix to the Seminal United States Supreme Court opinion in *Kent v. United States*, 383 U.S. 541 (1965). We adopt them because they provide lucid guidance in a sensitive and complex area.

Your Committee has amended sections 571-41.1 and 571-41.2 to close a possible loophole in the State's ability to extradite, or seek the extradition of, a minor.

Under current law, these sections make the Uniform Criminal Extradition Act, chapter 832, Hawaii Revised Statutes, applicable to a minor who "violates" a law defining a crime. Although chapter 832 refers to any person "charged" with treason, felony, or other crime, sections 571-41.1 and 571-41.2 seem to limit its application to minors who have been adjudicated.

Your Committee has amended these sections to clearly indicate that extradition of minors pursuant to chapter 832, shall be available in cases in which the minor is alleged to have violated a law defining a crime.

Your Committee has amended section 571-48, Hawaii Revised Statutes, to increase the range of dispositions available to family court with respect to adjudicated minors. Section 571-48(11) authorizes the court to order a law violator to make restitution to the victim of the minor's offense and to render community service. Until very recently, victims have been the forgotten people in the criminal justice system. We believe that requiring a minor to make restitution of money or services to the victim of the offense can be of great benefit to both the victim and the offender. Restitution humanizes the criminal justice process by focusing attention and concern on the particular harm done. Appropriately designed and supervised community service can help a troubled youngster appreciate the cooperation required to make society work for our common benefit and can provide a positive learning experience. Your Committee has accordingly authorized the court to order community service for both law violators and status offenders.

HAWAII YOUTH CORRECTIONAL FACILITIES

Your Committee has decided to repeat chapter 352, Hawaii Revised Statutes, entitled "Hawaii Youth Correctional Facility" and to write a new chapter. Although much of the original sections of chapter 352 were retained, several sections were found to be clearly

and affirmation of its value. The methods, programs and procedures listed under section 571-31.4(b) are adapted from the federal Juvenile Justice and Delinquency Act of 1974. Your Committee recognizes that the resources to implement the programs described may not be immediately available. Our intent is to encourage a creative diversity of approaches and to provide the mechanism for cooperation between the court, other public agencies and the private sector.

Senate Bill No. 1851-80, S.D. 1, differentiates between "law violators" and "status offenders." As initially explained in this report and to be defined in a new subsection to section 571-2, status offenders are children who have misbehaved, but not in a fashion which would render the child's act a crime if such act had instead been committed by an adult. In short, a "status offender" has theoretically yet to impose himself against the criminal law and has not, as yet, inflicted injury to anyone. His misbehavior is in effect an injury only to himself.

Senate Bill No. 1851-80, S.D. 1, treats the informal adjustment of law violators and status offenders in two separate sections -- respectively section 571-31.4 and section 571-31.5. This is done in anticipation of a time in the future when the ideal of segregating the two types of youngsters shall be achieved.

Additionally, it should be noted in particular that although the types of informal adjustment will generally be applicable to both categories of youngsters, subsection 571-31.4(b)(1) involving restitution would not be appropriately applied to a status offender.

Your Committee is aware that frequently youngsters come into the jurisdiction of the family court under circumstances where both categories -- law violator under section 571-11(1) and status offender under section 571-11(2) -- would both prevail. We understand that such situation frequently occurs in the case of juveniles picked up for shoplifting. It is very often found that such child had run away from home some weeks or months before, but had not been reported by the parents.

In these dual status situations, Senate Bill No. 1851-80, S.D. 1, establishes discretion in the intake officer whether to handle the informal adjustment of the child as a law violator or status offender. In the exercise of that discretion, the intake officer must take into consideration the criteria set out by subsection 571-31.1(c)(a) through 571-31.1(c)(5), which include severity of the violations; frequency of violations; the child's age and character; the interpersonal relationship between the child, the family and community; and the previous history of informal adjustment.

Finally, it is the intent by S.B. No. 1851-80, S.D. 1, that when informal adjustment is not available, has failed, is reasonably expected to fail if attempted, or is unable to respond to the child's needs, the intake officer shall "proceed with formal action". In this regard, it is our intent, particularly in status offense cases that detention, adjudication and incarceration should be a last alternative when resources and sessions in informal adjustment are unavailable or will be futile.

CURFEW VIOLATION

Your Committee has amended section 577-16 to make violation of curfew a 571-11(2) "status offense".

Under present law, violation of curfew is a 571-11(1) law violation. Your Committee finds that a curfew violation, which can be committed only by a minor, should be characterized a 571-11(2) "status offense". "Status offenses" presently include running away, being beyond parental control and educational neglect. All status offenses are alike in that they are "offenses" which can only be committed by minors.

Your Committee believes that clear and consistent delineation of the different bases of the court's jurisdiction over alleged law violators and alleged status offenders is both necessary and desirable.

FAMILY COURT: JURISDICTION AND PROCEDURE

The family court is treated with respect to "Release, Custody and Retention," "Intake Agency," "Curfew" and "Hawaii Youth Correctional Facilities" in other parts of this report. In this part, we are reporting on the jurisdiction and procedure of the family court and other miscellaneous provisions.

Your Committee is aware of the strong public pressure to be firmer with repeat juvenile offenders who have committed serious offenses, and of the outcry that accompanies each incident of a serious new offense by a juvenile with a previous record. This plan responds to this understandable public demand by removing from family court jurisdiction those

Accordingly, the progress already made by Hawaii's family court has properly been in the direction of establishing a system whereby genuine effort is made to fully evaluate a child coming within its jurisdiction and to divest him from the course of crime and serious maladjustment. Senate Bill No. 1851-80 overhauls the present statutory structure to amplify the activities of the family court in that regard.

First of all, your Committee's staff, in observing detention home hearings, was impressed by the apparent inability of some parents to handle basic tasks of parenting. This is not the view merely of a single observer, but appears to be the consensus of many who have participated in or have observed detention home hearings.

Significantly, the Secure Custody Committee, organized by the family court, in the present draft of a pending report has noted that the problems of many minors referred to detention home often reflect the problems of an entire family. Accordingly, that committee has drafted a report presently indicating as follows:

"It is the belief of the Committee that it is within the legitimate jurisdiction of the court to concern itself with, and intervene in, the problems of families that bear upon the welfare of the child. The Committee feels that the court has paid insufficient attention to clinical intervention to aid a family as a whole as an avenue to aiding a particular child. The Committee recommends a written policy declaration from the Family Court judges and officers indicating their intention to utilize clinical intervention in the family as an avenue to remedying the problem of the child."

Your Committee's conclusion respecting the need for direct intervention into the family was reached before the Secure Custody Committee's report was made available to your Committee's staff, but we, nonetheless, applaud the Secure Custody Committee's courage and acumen.

The language of the present law found in section 571-21(c) extends family court's endeavors respecting families of troubled juveniles only "when a complaint or petition is made or sought to be filed," and limits the court staff's endeavors to inquiring "into the interpersonal relationships of the members of the family to ascertain the causes of the conflict" and "extending or securing suitable measures of help and conciliation..."

Your Committee has changed the structure of the law to explicitly allow families to seek and obtain help on a voluntary basis and without the initiation of formal procedure. We have also provided that the intake agency may require the child, his family or both "to appear at the intake center as soon as practicable for...family crisis counseling..."

Finally, with reference to the family, your Committee believes very strongly that in our very complex society parenting is definitely a learned skill. As such, it is now time to reassess the role of our educational system in this respect. This aspect of the juvenile justice master plan is of the utmost importance. If we have not provided statutory reconstruction addressed to the department of education in this regard, our deference is based upon its obvious importance and the superintendent of education's ready ability to recognize it and to give it top priority. We expect that the juvenile justice interagency board will give the superintendent of education every help and cooperation to develop a meaningful curriculum and its delivery into the local communities.

There is a tremendous amount of literature, much of it conflicting, regarding the effectiveness of different methods of dealing with troubled youngsters. In wading through a large portion of this literature, your Committee has been struck by the negative and critical tone of many of the academic commentators. There seems to be a presumption that an inability to demonstrate abstract statistical success means failure in fact. Our own conclusion is that the number of variables involved and the lack of laboratory conditions on human affairs go a long way in explaining the lack of consensus in this area. The wait for scientific certainty may be a very long one indeed and waiting may be a luxury we cannot afford. In this situation, our surest guides are experience and common sense.

JUVENILE INTAKE AGENCIES

The creation of a juvenile intake agency within the family court is a major feature of the master plan for our juvenile justice system. Many of the functions of the newly-created agency are already performed by the family court. The basic changes wrought by the creation of the intake agency are that it consolidates the intake function, codifies procedure, increases the availability of the court's resources to those in need, and expands the court's capacity to provide a varied continuum of services.

Similarly, the informal adjustment process has been used successfully by the court for many years. Your Committee's codification and definition of this process is a recognition

Comments to the Standard Act were not explicitly adopted by our legislature when Hawaii's Family Court Act was adopted. However, neither the Standard Act itself, nor the comments in it explicitly defined the terms "immediate welfare" or "protection of the community."

Much of the criticism and appellate judicial scrutiny directed at juvenile and family courts nationwide has focused on the lack of clarity and definition in the standards by which children are judged. Secure detention is a significant deprivation of liberty, especially since bail is not available to minors. Safeguards are necessary to ensure that minors are not unnecessarily detained.

Your Committee has added a new subsection, 571-31.1, to the Hawaii Revised Statutes, to clarify the standard for detention by defining the terms "immediate welfare" and "protection of the community". We believe that these definitions and the accompanying list of pertinent factors will help decision-makers arrive at fair, consistent decisions, and will help to prevent unnecessary detention. The new standard for detention is binding on all persons who are charged with the responsibility for making decisions effecting the detention of a child.

Your Committee has also amended section 571-31 to give the officer who takes a child into custody the additional option of referring or delivering the child to an appropriate juvenile intake agency. When the officer is certain that secure detention is required, the child will be taken directly to the detention facility. Delivery of the child to a juvenile intake agency would be appropriate when the officer: believes that the child may require temporary out-of-home placement other than detention at the detention facility; is uncertain of the need for secure detention; or, believes that the services available through the intake agency are immediately necessary.

Your Committee has also addressed the need for additional tools in modifying a child's behavior. Children who have been adjudicated as law violators and status offenders are most often placed on probation and protective supervision, respectively, by order of the court. Either status requires the child to follow certain rules, such as attending school regularly, keeping appointments with the probation officer, obeying the law and so on. Particular rules applicable to individual children may also be incorporated in the court order. A child placed on either status has an assigned probation officer and has had the rules fully explained.

Problems arise when a child violates the court order. Judges are understandably reluctant to send any but the most serious violators to the youth correctional facility, where they will be exposed to more hardened and sophisticated delinquents. At the same time, there is a perceived need for an appropriate short-term sanction for violation of a court order. The Secure Custody Committee of the family court has, after exhaustive study of this situation, recommended that short-term secure detention be available as a post-adjudication sanction for some of the children who violate orders of the court. We agree, and believe that, used sparingly, short periods of detention can achieve positive results otherwise unattainable.

We have, therefore, amended the definition of detention in section 571-2(7) to allow for the detention of a child who has violated a court order of probation or protective supervision.

Your Committee has also amended section 571-31 to authorize an officer to take a child into custody when there are reasonable grounds to believe that the child has violated a court order of probation or protective supervision.

Your Committee has amended section 571-32(a), Hawaii Revised Statutes, by substituting "non-secure child caring institution" for "foster family home". This change explicitly authorizes temporary care at any appropriate non-secure facility coming within the definition of "child caring institution" in section 346-16(a)(2), Hawaii Revised Statutes.

Your Committee has amended section 571-32(d) to conform to current practice. However, we look forward to the day when each county has appropriate detention facilities for children.

INTAKE AGENCY

In every society a percentage of the population falls aberrant to normal societal responsibilities. A truly democratic society endeavors to be concerned that its efforts to obtain conformity to societal norms should not be prompted by ideological dogma and that the individual is preserved his right to be different so long as he does no harm to others. The task of the truly democratic society goes one further step in the area of juvenile justice. It must avail to each child the opportunity to emerge into adult society properly equipped in his education, vocation and ability to understand and handle interpersonal relationships.

Section 352-21 entitled "Youth correctional facilities' benefit fund; disposition of income" appears in the new version of chapter 352. The Committee's intent in creating this benefit fund was to amplify and modify the "special fund" concept briefly mentioned in the old section 352-17. Therein the special fund was to be credited with all "work release" related funds until such time as they were first disbursed among the individuals' personal accounts and the balance disbursed to the State's general fund (old section 352-20). It is intended that retaining the balance previously credited to the general fund will provide a source of discretionary revenue for the director expressly for improving the conditions at the youth correctional facilities. This visible availability of actual and potential funds may engender feelings of pride, accomplishment, responsibility, motivation and team work in the troubled youths housed at Koolau. This ability to improve their situation by plainly working harder easily justifies the creation of this fund.

Reference to this special benefit fund as a new concept leads into the final portion of this committee report. To tie together the revised sections with the original sections and the needs of the Koolau operation as deciphered by this Committee, several completely innovative sections were introduced. In addition to the benefit fund (section 352-21) and the parameters of juvenile parole (section 352-25 and 352-27) already discussed, your Committee seeks to establish in section 352-25 an office of juvenile parole.

Formerly, the administration of juvenile parole occupied a separate branch of the Corrections Division of the Department of Social Services and Housing. In 1975, the administrator of the parole office retired and the office's branch status was terminated. It was relegated to part of the department's Division of Vocational Rehabilitation, and then in 1977 was transferred on a "section" status back to the Corrections Division.

The dissipation of the office over the past five years has left it staffed with merely two juvenile parole officers to handle the entire State. They have no support staff of their own and are responsible for formulating the parole plans and opportunities for all youths still incarcerated in the facilities in addition to supervising the actual parole of those released on parole. It was reported to this Committee that the normal caseload number out on parole to be shared between the two runs around fifty individuals and the number incarcerated fluctuates around seventy.

Your Committee judged that to best effectuate the purposes of this chapter and the philosophy of a total constructive treatment of the youths, a strong after-care program is essential. To this end, the office of juvenile parole was created. It will share staff including an administrator with the community services section established in the preceding section. The Committee trusts that with this legislative mandate, the relevant department officials will devote the necessary support to provide a higher standard of treatment.

The community services section will accomplish the same purpose of enhanced treatment of the committed individuals. It envisions detailed coordination of the placement in various programs available for each individual. These will include out-facility alternatives such as furlough, parole and discharge.

It is acknowledged that those persons who are confined at Koolau are often the most recalcitrant and incorrigible of society's youths. However, the Committee noted a distressing lack of ingenuity and attention applied toward the in-facility and out-facility treatment of these youths. A state of general malaise pervades the facility, adversely affecting both staff and committed individuals. Admittedly, the recognized decrepit condition of the thirty-year-old facility with the concomitant attitude in recent years of "phasing it out" has not helped this situation. However, the insipid attitude that these same hardened youths are at the end of society's line and doomed to a criminal existence itself constitutes a crime of sorts. These are human beings, young ones at that, and require more than passive custodial "care". Today's abandoned "juvenile delinquents" at Koolau are conceivably, indeed foreseeably, tomorrow's bitter, hardened criminals.

The above expression of observation and philosophy helps to further clarify the new sections added to this chapter.

Section 352-3 entitled "Contracting with private agencies for residential youth facilities" expressly allows the director to contract with these private concerns to expand the range of services and facilities that may be offered.

Section 352-5 Staff standards and training mandates that uniform standards shall be established and consistently followed by all staff of Hawaii's youth correctional facilities. Staff members failing to comply may face consequences. Staff members shall also partake in an on-going training program to raise the level of competence and effectiveness.

Section 352-12 Segregation of committed persons is likewise very crucial in this re-organization scheme. The current limitation of two male cottages and one female cottage

in 1978. The balance of the person's probation would be spent in the community subject to certain other conditions as supervised by family court probation officers.

The following provisions are sections that were obsolete and were repealed in their entirety:

- (1) Section 352-3 Names of schools;
- (2) Section 352-13 Monitors; appointment; compensation; and
- (3) Section 352-21 Apprenticed, when.

With regard to the more substantive revisions to the sections that were retained in the new chapter, your Committee reports as follows:

All references to the Hawaii Youth Correctional Facility including the chapter title have been changed to read "facilities". This plural substitution was necessary to widen the application of chapter 352 to include other existing and future facilities that may eventually serve similar or related purposes as does the present Koolau facility.

The section entitled "Period committed" was previously listed as section 352-10 and now is assigned section number 352-9. Mention was made earlier as to its application to those committed persons over nineteen years of age. It suffices to say that the section's original scope defined commitments to the facility for the duration of a youth's minority or until the individual's nineteenth birthday in certain extended cases. The revised section acknowledges the necessity of greater flexibility for purposes of court commitment to such a facility. The court can "sentence" a youth to a short term commitment which may include incarceration followed either by discharge, parole or the balance of the probation ordered. As discussed earlier, the court is also free to exert its jurisdiction until the individual's twenty-second birthday.

Your Committee notes that three distinct pairs of sections from the repealed chapter were combined in the revised version. The three pairs are listed below but only one requires elaboration as to its resulting synthesis:

- (1) Section 352-14 Parole to parents and section 352-15 Home placements were combined into new section 352-25 entitled "Furlough, parole, discharge".
- (2) Section 352-27 Transfer to jail and section 352-28 Transfer back or discharge were merged into new section 352-28 Transfer to correctional facility.
- (3) Section 352-23 Abduction, penalty and section 352-24 Enticing, etc., penalty were joined in the new section 352- Harboring or concealing a child away from custody assigned by competent authority.

This "Harboring" section makes such an offense a class C felony. A family court source cited such "abduction" or "enticing" attempts as quite common and the practice of pimps especially interested in impressionable young females. This new section is retained and strengthened to address this grave problem.

Regarding a committed person's labor and compensation therefor, six of the original sections (sections 352-16 to 352-20 and 352-22) have been altered and made into six consecutive sections in the new chapter 352 (sections 352-16 through 352-21). Incarcerated youths are still provided an opportunity under certain conditions to work for compensation in employment outside the facility. This furlough arrangement is recognized as beneficial in engendering feelings of responsibility, self worth and other such positive results.

Youths may no longer be just "out to labor to families or other suitable persons" (old section 352-22). Nor may the director make withdrawals from a youth's trust account for restitution purposes without a court order imposing such a remedy (old section 352-19). The discretion formerly allowed the director (old section 352-17) in deciding what amounts from the outside labor proceeds to credit each individual account based on his "fair and just" judgment is removed.

On the other hand, the payment of "compensation in facilities" is expressly endorsed by new section 352-17 of the same title. The Committee accepted the consensus among corrections personnel who were approached that the very possibility of such in-facility compensation works positive effects. Notions of morale, incentive, industriousness and responsibility are reinforced. The ability to contribute to supporting relatives and friends is rehabilitative. The experience of working for compensation only to see a portion of it go toward satisfying a court-imposed restitution order is acknowledged to be highly beneficial.

aggravates the problem of appropriately segregating those persons confined to the facility. Stories of fierce intimidation and peer pressure to remain incorrigible are common and easily understandable with the range of youth presently residing at Koolau. A crude attempt to segregate the boys in two cottages according to age, offense committed, attitude and behavior is being made.

The persistence of such an inherently flawed situation is intolerable. Most efforts to improve attitudes and behavior will fail under such conditions. The Committee regards proper separation as a key to essential improvement of treatment by incarceration. To this end, part of the requested appropriations for the "temporary Koolau plan" will be expended on renovating an existing facility to open up a third boys' cottage.

Sections 352-13, 352-14 and 352-15 speak for themselves as they relate to the Committee's conclusions. Counseling of both the group and individual variety should be made available. This could be done simply by adding an additional social worker to each residence cottage, bringing the number up to two each. The additional of one or two part-time positions will liberate counseling specialists from time-consuming activities which they are now required to engage in to the detriment of their true purpose.

We conclude that vocational training and employment counseling are crucial additions to the current treatment. Educational programs must be better adapted to those youths who cannot truly be expected to be fully successful in terms of normal educational standards.

Section 352-15 entitled "Recreational and program activities" incorporates recreation and other outdoor programs and recognizes that they are essential to attain effective rehabilitation of these youths.

We acknowledge the helpful testimony that the former superintendent of the Koolau facility, Mr. Kayo Chung, delivered before your Committee on February 4, 1980. As he indicated, the opportunity to work with live animals and growing crops can afford positive experiences of a deep, rehabilitative nature.

Your Committee concludes that the present situation at Koolau is deplorable and hopes that these statutory changes together with appropriate funding will correct it.

CHILD SHELTER FACILITIES

If one item was to be singled out as of the most immediate need in the entire system of juvenile justice in Hawaii, it is the need for more child shelter facilities. Your Committee cannot emphasize it strongly enough. Juveniles are being confined at the detention home in Honolulu in situations where the family court does not desire to detain them in secure facilities, but must do so because these juveniles have no place to go. There are children who have been refused by their own families and whose welfare would be best served in child shelter facilities. They are detained only because there are no shelter facilities to take them and are awaiting vacancy in such facilities. This is a serious indictment.

One reason for this state of affairs is the lack of funds. Another is that under a recent amendment to section 321-11(10), the responsibility for setting the standards for child shelter facilities was transferred from the Department of Social Services and Housing to the Department of Health, and the latter has imposed broad and stringent medical and staff training requirements as are imposed upon hospitals. S.B. No. 1851-80 returns that responsibility to the Department of Health to allow it to provide requirements commensurate with the reasonable and expanded establishment of shelter facilities.

Your Committee urgently recommends appropriation for contract and fee-for-service basis shelter facilities. The director of social services is directed to make every effort to encourage the expanded availability of private child shelter facilities, and to supplement that effort by submitting a plan for the establishment of a state operated system of shelter facilities to eradicate the present failure of our system.

APPROPRIATIONS

S.B. No. 1851-80, S.D. 1 seeks the following appropriations:

(1) Intake Center	\$ 200,000
(2) Child Shelter Facilities	365,000
(3) Koolau Youth Correctional Facility: refurbishment	3,590,000
(4) Koolau Youth Correctional Facility: new facility	700,000
(5) Intermediate Facility	100,000

Items (1) and (2) are to be expended by the family court and items (3), (4) and (5) are to be expended by the Department of Social Services and Housing.

S.B. No. 1851-80 is the culmination of intensive work by a task force made up of members of your Committee staff and substantial input made by persons in the field and interested persons from the public, obtained by way of inquiries, interviews, research, public hearings and a weekend workshop.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1851-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1851-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 441-80 Judiciary on S.B. No. 1944-80

The purpose of this bill is to provide for judiciary security personnel similar to the capitol security force.

Your Committee desires that such judiciary security personnel have the same qualifications and undergo the same training required of the capitol security personnel hired under section 28-11.5, Hawaii Revised Statutes, by the department of the attorney general. The uniforms should also be identical to the capitol security personnel. This will guarantee security personnel for the judiciary professional in qualification, training and appearance.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1944-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1944-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 442-80 Judiciary on S.B. No. 2230-80

The purpose of this bill is to allow individual taxpayers to claim as a deduction contributions to candidates for federal office, subject to the same limitations placed on contributions to candidates for state and local offices who have voluntarily agreed to comply with campaign spending limits.

The effect of the law is to allow a maximum \$100 deduction per candidate for federal office subject to a \$500 aggregate deduction for contributions to all candidates, federal, state and local. The deduction is allowed for a contribution to a candidate for federal office whether or not that candidate has voluntarily complied with campaign spending limits for his office.

Your Committee feels that taxpayers who wish to support federal candidates should be allowed deductions similar to those allowed for taxpayers who support state and local candidates.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2230-80 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. 443-80 Judiciary on S.B. No. 2071-80

The purpose of this bill is to work substantial changes in the small claims court. The bill would create mediation and arbitration possibilities through the court, provide for collection of judgments through the court, increase the jurisdictional amount to \$1,000, impose mass filing limitations, allow for the advisory appearance of attorneys, and provide for trial de novo appeals in circuit court.

Your Committee is opposed to the general intent of the bill to make such sweeping changes in the small claims court, making court procedures much more complicated. The original intent of the legislature in the creation of the small claims court was speed and simplicity in court procedures for simple adjudication between parties. These objectives still exist, and the enactment of this bill would work against both speed and simplicity.

Your Committee does agree that the jurisdictional limitation should be raised to \$1,000, considering recent and probable future inflation.

Your Committee has amended the bill by deleting all other proposed changes to the existing small claims court statute. By such amendment, your Committee does not express any opinion regarding the discretion of the small claims court judges to provide for mediation, arbitration, or attorneys in court.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2071-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2071-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 444-80 Judiciary on S.B. No. 2200-80

The purpose of this bill is to increase the time period the attorney general has to process a request for return of fingerprints and photographs after an expungement order.

The attorney general, through his duly authorized representative, the Bureau of Crime Statistics and Identification, reports that the present 60-day period is too short considering the number of requests for expungement it presently receives. The attorney general also has requested an increase to 120 days, as more realistic administratively, over the 90-day period proposed in the bill. Your Committee has adopted this request of the attorney general and amended S.B. No. 2200-80 accordingly. The bill has also been corrected for typographical errors.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2200-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S. B. No. 2200-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 445-80 Judiciary on S.B. No. 2274-80

The purpose of this bill is to implement Article I, Section 11, of the Constitution of the State of Hawaii as proposed by the Hawaii Constitutional Convention of 1978 and ratified by the voters on November 7, 1978, which pertains to the grand jury counsel and grand jury proceedings.

Your Committee received the testimony of the attorney general, and we understand that that testimony contains the rationale by which the governor previously vetoed a similar legislative proposal during the 1979 legislative session, which was H.B. 95, H.D. 2, S.D. 2, C.D. 1.

We have amended the original version of S.B. No. 2274-80 to accommodate the attorney general's testimony.

1. Disqualification of grand jury counsel. The attorney general suggests that the prosecution, upon petition to the chief justice, should be allowed to initiate disqualification of the grand jury counsel.

Senate Bill No. 2274-80 was amended to provide such procedure.

2. Grand jury counsel's function re advisory on matters of law. The attorney general points out that the grand jury counsel's function to advise on matters of law may be in potential conflict with the supervisory circuit court judge's duty under section 612-16(d) to "give them such information as it may deem proper as to their duties and as to the law pertaining to such cases as may come before them."

Your Committee understands that the need for the grand jury counsel was envisioned because of the absence of the court during its proceedings. We have amended the original version of S.B. No. 2274-80 to indicate explicitly that the grand jury counsel's advice to the grand jury is to be provided "during the court's absence."

We have decided not to change section 612-16(d) in any way for the reason that when the court and the grand jury counsel are both present, the decorum of the judicial system requires the preeminence of the presiding judge.

3. Invasion of the province of the grand jury. The attorney general comments that the grand jury counsel's possible participation in indirect questioning of the witness or the prosecution would present the problem of possible invasion of the province of the grand jury.

Your Committee fails to see any presumption of bias by the grand jury simply questioning the witnesses or the prosecution. We envision that the grand jury counsel will not direct the grand jury to ask the questions but will leave it to the grand jury to ask such questions as it may deem to be necessary or helpful to its impartial endeavor. Accordingly, S.B. No. 2274-80 was amended to state very clearly that the grand jury counsel "shall not participate in the questioning of the witnesses or the prosecution." We do not intend that the grand jury should not obtain the grand jury counsel's aid in formulating questions that it desires to ask, so long as the impetus of the inquiry rests in the grand jury.

It is your Committee's view that an additional function of the grand jury counsel should be to monitor prosecutorial misconduct. We are aware that there is a difference in the criteria for determination between the grand jury and the jury that ultimately tries the case. In that regard, the grand jury needs only to determine "probable cause" while the trial jury must find guilt "beyond a reasonable doubt". Your Committee is aware that accordingly the evidence to be presented before a grand jury may differ radically from that ultimately presented to the trial jury.

However, your Committee is also aware that as the grand jury is made up of lay persons, a prosecutor, if moved by ambition or motivated by concerns other than fairness, can attempt to manipulate a grand jury. When so manipulated, the process of indictment could be a tool for malice and mischief.

Your Committee does not intend that the grand jury counsel should intervene in the prosecutor's presentation of the case. We will not at this time prescribe specific procedure or conduct for the grand jury counsel in that regard. It is expected that the grand jury counsel will be moved to act in appropriate manner on a case-by-case basis, and that experience will allow more particular statutory treatment in the future. We also expect that the very fact of the presence of the grand jury counsel and his "watchdog" function will provide the necessary effect of maintaining proper prosecutorial decorum in almost all cases.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2274-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2274-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 446-80 Judiciary on S.B. No 2275-80

The purpose of this bill is to increase the fee for transcripts of court proceedings from the present \$1.25 to \$1.50 per page and to increase the fee for copies of transcripts from fifty cents to sixty cents per page.

This bill amends section 606-13, Hawaii Revised Statutes, to compensate for inflationary increases in the costs of supplies and equipment utilized by court reporters.

Your Committee has amended S.B. No. 2275-80 to correct a typographical error in the original bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2275-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2275-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 447-80 Judiciary on S.B. No. 2277-80

The purpose of this bill is to amend Hawaii Revised Statutes to make approved credit cards acceptable in lieu of cash in payment of all court charges, including bail.

Although the Ninth Legislature passed Act 35, SLH 1978, which authorizes the courts to receive payments by approved credit cards, it has not been possible to implement the above act because the activities for which the courts receive payments do not fall within the definition of "services" under chapter 476, Hawaii Revised Statutes, the Retail Installment Sales Act. This bill corrects this deficiency and also makes conforming amendments to sections 706-642 and 804-1, Hawaii Revised Statutes, as to payments of fines and as to deposits with the court in lieu of bail.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2277-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 448-80 (Majority) Judiciary on S.B. No. 2530-80

The purpose of this bill is to make an appropriation to fund the presently existing Hawaii Crime Commission through June 30, 1981.

Senate Bill No. 1838-80, S.D. 1, proposes to restructure the crime commission as of July 1, 1981, with a full-time paid chairman and other changes. Senate Bill No. 2530-80 is needed to fund the present commission's activities through the 1980-81 fiscal year.

A purpose section has been added to the bill and the appropriation termination date has been changed from June 30, 1982, to June 30, 1981.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2530-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2530-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Chong.
Senators Campbell and George did not concur.

SCRep. 449-80 Judiciary on S.B. No. 2900-80

The purpose of this bill is to appropriate \$3,500,000 for the settlement agreement negotiated between the State of Hawaii and Mark Construction, Inc. This negotiation settlement arises out of three separate lawsuits filed on behalf of Mark Construction against the State of Hawaii based on contracts awarded to this corporation for the construction of three separate federally aided highway projects on Oahu. These three lawsuits were consolidated and seek damages from the State in excess of \$12,000,000.

Your Committee has met with the attorneys representing the State and has discussed in detail the claims asserted by Mark Construction.

It is your Committee's recommendation that based on those claims, an appropriation of \$2,000,000 is justified for purposes of settling this lawsuit out of court.

The parties to this matter may, however, enter into a negotiated agreement based on the following structured settlement: a lump sum payment of \$2,000,000 with periodic payments of up to the remainder of the original negotiation amount of \$1,500,000 to be paid over a number of years.

In appropriating this amount, it is not your Committee's intention to in any way indicate the validity of the basis of these claims against the State in this lawsuit, only that this amount is believed to be a fair and just agreement and that settlement in this case is in the best interests of the State.

Further, your Committee believes the State should apply for federal reimbursement of this appropriation from the Federal Highway Administration.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2900-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2900-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 450-80 Judiciary on S.B. No. 2981-80

The purpose of this Act is to authorize the lieutenant governor's office to produce a Voters Information Pamphlet as a practical, concise, and cost efficient way of giving voters helpful information about candidates and the electoral process.

Under present law, there is no provision that would allow the lieutenant governor's office to produce a pamphlet for voters giving them information about candidates, nor are there funds appropriated to do so. This bill authorizes the lieutenant governor's office to produce a pamphlet to be mailed to all residential households in the State prior to the 1980 primary election covering all the candidates running for office in that election. This bill also appropriates \$76,000 for this program.

Your Committee received testimony from the office of the lieutenant governor, the League of Women Voters, the Committee on the Status of Women, the Hawaii Congress of Parents, Teachers and Students, the Oahu County Democratic Party, the United Public Workers

Union, the Hawaii Government Employees Association, the National Organization of Women and the Hawaii Federation of Business and Professional Women's Clubs, Inc., that favor the concept of a Voters Informational Pamphlet.

Your Committee is in full support of the concept of an informational pamphlet. However, your Committee feels that the specific details regarding such a pamphlet should be embodied statutorily in order to avoid possible litigation which may delay or preclude its publication. Therefore, your Committee has amended the bill by providing for a new part to be added to Chapter 11 of the Hawaii Revised Statutes which would do the following:

1. Require that the pamphlet indicate the office the candidate is seeking, along with name and address, and whether or not such nominee has agreed to abide by campaign spending limits;
2. Allow the chief election officer to determine what information about the electoral process to be included in the pamphlet;
3. Require that candidates be given information relating to the pamphlet, including a request for a photograph and questions to be responded to by such nominee, no later than the filing of nomination papers;
4. Requires that the questions posed to each candidate or potential candidate be the same;
5. Indicates what will appear on the pamphlet when a candidate fails to submit a photograph or a response to one of the questions posed by the chief election officer;
6. Allows the chief election officer to edit written responses to questions when they exceed the limit on the number of words allowed;
7. Requires that candidates appear in the pamphlet in alphabetical order for each elective office;
8. Requires the lieutenant governor to reject any response from a candidate which in the lieutenant governor's opinion contains libelous matter;
9. Exempts from the campaign expenditure limitations and reporting requirements, all costs of the pamphlet to each candidate participating.

Your Committee feels that these amendments provide the necessary specificity to make the Voter Information Pamphlet a meaningful and viable means of achieving an informed, enlightened and otherwise educated voter population.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2981-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2981-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cobb.

SCRep. 451-80 (Majority) Education on S.B. No. 3039-80

The purpose of this bill is to appropriate funds to expand alternative education services, including supplies, instructor home visits, part-time work-study, and a comprehensive education advisor at Kohala High and Elementary School, Hawaii.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3039-80 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 Abercrombie.
Senator Kawasaki did not concur.

SCRep. 452-80 (Majority) Education on S.B. No. 1939-80

The purpose of this bill is to create a new and comprehensive Hawaii State Health Authority for continuous analysis of health services delivery, responsiveness, cost-effectiveness, planning, consumer advocacy, and coordination of all facets of the health care system.

In recent years health care delivery in the State has suffered from rising costs, inappropriate distribution of resources to reduce preventable, premature death and disability, inequitable

access to services--especially among low-income and rural populations, a lack of effective coordination among publicly funded health services, and in general, limited impact of planning efforts on health care delivery to implement changes designed to remedy these conditions. Public efforts to contain health care costs in Hawaii have been restricted to certificate of need (CON) review of capital improvement costs and many of the cost increases lie beyond the control of CON. It has generally been noted that effective cost containment in the health care industry will require organizational linkage of planning, CON, rate review, the promotion of competition, and involvement of consumers in various strategies for health promotion and cost containment.

Your Committee held a public hearing on Friday, February 29, 1980, to receive testimony on S.B. No. 1939-80, S.D. 1, and at that hearing testimony was received from the Hawaii Medical Association, the Hawaii Hospital Association, the Department of Health, the State Health Planning and Development Agency, and the International Longshoremen's and Warehousemen's Union. These groups offered constructive criticism regarding numerous provisions of the bill and wherever possible, without emasculating the basic intent of the bill, their criticisms and suggestions have been used to modify and substantially improve the bill. The following items have been introduced into the amended bill, for the reasons cited below.

1. Clarification of organizational, financial, and operating philosophy in the statement of findings and purpose in order to highlight the rationale underlying key provisions of the bill, especially separation of the Authority from the Department of Health, the extensive representation of consumers on the board of the Authority, the assessment of acute and long-term care facilities, the reliance on natural market forces in the health industry, improvements in cost-effectiveness in health services, and solicitation of voluntary private sector cooperation. The preservation of the existing State Health Planning and Development Agency in its structure and duties is another key element in the operating philosophy, along with representation of the statewide health coordinating council (SHCC) and subarea councils among the consumer members of the board. Much of this addition to the statement of findings and purpose has been developed in response to the testimony offered at the public hearing.
2. An entire new part has been added on suspension of state regulations, largely in response to the testimony of the hospital industry regarding the cost impact of public regulation.
3. The composition of the board has been dramatically altered from a strictly consumer nine-member board with two ex officio to an eleven-member board with four provider members, four consumers, and three ex officio. Testimony from provider organizations strongly encouraged this modification.
4. The rate review program, which would only with subsequent legislative enactment be implemented by 1983 was modified to restrict the program to public declaration of rates, comparative analysis of rates, and public hearings on rate increases with no public approval or disapproval power and assurance that the program would not be operational before 1983.
5. Introduction of language linking SHCC and subarea council quarterly recommendations to the consumer advocacy program in order to assist in focusing the work of the consumer advocate on particular matters of great concern to consumers.
6. Elimination of the civil service exemption for all authority employees with the exception of the executive director and the administrator of the SHPDA so that the SHPDA staff could be held intact in administrative transfer to the Authority. The SHPDA administrator noted in his testimony the problems that civil service exemption would cause the SHPDA.
7. Change of language to more accurately reflect the intent of the Office of Health Services promotion to foster competition among alternative payment approaches to assist in generating natural market forces to curb health care cost inflation.
8. Incorporation of the Voluntary Effort program into the purview of the Office of Cost Analysis so that this private effort be recognized as a critical ingredient of the overall public-private effort directed at the cost-containment effort. This change was made in response to suggestions offered by the Hawaii Medical Association (HMA).
9. Elimination of the subpoena power in response to complaints by the HMA and others.
10. Elimination of reference to the proceedings of the Joint Committee on Accreditation of Hospitals in response to HMA objections.

11. Clarification of the relationship of the Authority to the Department of Health regarding coordination and division of labor in the area of health education in response to the testimony offered by several groups.

12. Clarification of the relationship between the Authority and the SHPDA by the addition of a new part which attempts to preserve the SHPDA's organizational and fiscal integrity and autonomy while suggesting procedures for effective division of labor between the SHPDA and the rest of the Authority staff. This was a matter of great concern to the SHPDA administrator in his testimony.

13. At the suggestion of the SHPDA administrator, the assessment rate was raised from a maximum of .2 per cent to .3 per cent to provide sufficient funds for operation of the Authority as proposed. This change, which could increase the operating budget by as much as \$300,000, would involve in effect an increase of no more than \$5 on a \$5,000 hospital bill.

14. Provision was added for reimbursement to the non-ex officio board members for meetings, public hearings, and preparation therefor at the rate of \$25 an hour. This change was made in response to testimony that it would be difficult for most consumers to devote adequate time to the task of authority board membership on an unpaid basis. At 20 per cent activity, or one full day per week, per non-ex officio board member this would constitute less than 10 per cent of the total available budget and it is unlikely that more than 15 per cent activity, or 3 working days per month, are likely to be involved.

Your Committee has also made technical, nonsubstantive changes.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1939-80, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1939-80, S.D. 2, and be referred to the Ways and Means Committee.

Signed by all members of the Committee except Senator Yee.
Senator Saiki did not concur.

SCRep. 453-80 Health on S.B. No. 2927-80

The purpose of this bill is to enumerate and clarify the rights of mental health patients.

During the past year extensive deliberations of the task force which convened in response to S.R. No. 265 have resulted in a better understanding of the rights of mental health patients. This understanding has provided the basis upon which S.B. No. 2927-80 has been drafted.

Your Committee held a public hearing on S.B. No. 2927-80 on February 20, 1980, and at that hearing testimony was received from numerous persons and organizations such as the Mental Health Association in Hawaii, the Queen's Medical Center, a psychiatrist in private practice, the Hawaii Medical Services Association, the Hawaii Psychiatric Association, the Hawaii Nurses Association, the National Association of Social Workers, Inc., and the Hawaii Medical Association.

The testimony indicated that the scope of mental health patients' rights in the bill must be restricted in order to clarify their applicability. As a result, S.B. No. 2927-80 has been revised, primarily to restrict rights to patients in mental health facilities under the care of attending physicians. The only other substantive changes in the bill are the elimination of grievances procedures, considered to be inappropriate in a "Bill of Rights", and the amendments to section 334-5, Hawaii Revised Statutes, regarding confidentiality of records. The amendment to section 334-5, Hawaii Revised Statutes, has been deleted because it is felt to be unnecessary to the administration of chapter 334, Hawaii Revised Statutes.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2927-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2927-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Saiki and Yee.

SCRep. 454-80 Legislative Management

Informing the Senate that S.C.R. No. 31, S.R. No. 156 and Stand. Com. Rep. Nos. 124-80 to 453-80 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 455-80 Ways and Means on S.B. No. 2357-80

The purpose of this bill is to streamline and make improvements in the law relating to state insurance administration. Your Committee has amended the purpose of this bill to conform section 41-3, Hawaii Revised Statutes, to the 1978 amendment to article VII, section 11, of the state constitution regarding lapsing of appropriations.

The constitutional amendment provides that any appropriation which is to be paid from the general fund of the State shall be for a specific period of time. Section 41-3, Hawaii Revised Statutes, currently provides an appropriation from the general fund at any time the amount in the state insurance fund is insufficient to meet its obligations.

Your Committee has amended this bill to eliminate the open-ended appropriation and to require the comptroller to submit to the legislature a request for an appropriation in the necessary amount. This amendment would be consistent with the provisions of the Constitution.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2357-80, as amended herein, and recommends it pass First Reading in the form attached hereto as S.B. No. 2357-80, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senators Kawasaki, Chong and Yee.

SCRep. 456-80 Ways and Means on S.B. No. 2358-80

The purpose of this bill is to streamline and make improvements in the law relating to audit and accounting. Your Committee has amended the purpose of this bill to conform sections 40-35 and 40-68, Hawaii Revised Statutes, to the 1978 amendment to Article VII, section 11, of the state constitution regarding lapsing of appropriations.

The constitutional amendment provides that any appropriation which is to be paid from the general fund of the State shall be for a specific period of time. Section 40-35, Hawaii Revised Statutes, currently provides that the general fund of the State is liable without any limitation as to time for any deficiency in the litigated claims fund. Section 40-68, Hawaii Revised Statutes, currently provides for the payment, similarly without time limitation, of warrants drawn upon the state treasury in earlier fiscal year.

Your Committee has amended this bill to eliminate the open-ended appropriations in both sections. Section 40-35, Hawaii Revised Statutes, has been amended to require the director of finance to submit a request for an appropriation to the legislature in an amount to cover obligations of the litigated claims fund. Section 40-68, Hawaii Revised Statutes, has been amended to permit warrants outstanding after a year to be paid from the general fund only after the comptroller has requested an appropriation for this purpose from the legislature and the appropriation has been made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2358-80, as amended herein, and recommends it pass First Reading in the form attached hereto as S.B. No. 2358-80, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senators Kawasaki, Chong and Yee.

SCRep. 457-80 Ways and Means on S.B. No. 2359-80

The purpose of this bill is to streamline and make improvements in the law relating to disaster relief. Your Committee has amended the purpose of this bill to conform section 127-11, Hawaii Revised Statutes, to the 1978 amendment to Article VII, section 11, of the state constitution regarding lapsing of appropriations.

The constitutional amendment provides that any appropriation which is to be paid from the general fund of the State shall be for a specific period of time. Section 127-11, Hawaii Revised Statutes, currently makes an open-ended appropriation from the State's general revenues for the purpose of disaster relief. This section requires amendment in order to conform to the Constitution.

Your Committee has amended section 127-11, Hawaii Revised Statutes, to require the director of disaster relief to submit a request to the legislature for appropriation to fund major disaster relief.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2359-80, as amended herein, and recommends it pass First Reading in the form attached

hereto as S.B. No. 2359-80, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senators Kawasaki, Chong and Yee.

SCRep. 458-80 Ways and Means on S.B. No. 2361-80

The purpose of this bill is to streamline and make improvements in the law relating to unclaimed property. Your Committee has amended the purpose of the bill to conform section 523-20(b), Hawaii Revised Statutes, to the 1978 amendment to Article VII, section 11 of the state constitution regarding lapsing of appropriations.

The constitutional amendment provides that any appropriation which is to be paid from the general fund of the State shall be for a specific period of time. Section 523-20, Hawaii Revised Statutes, provides for the payment of claims for abandoned property which has been delivered to the State. Since section 523-18, Hawaii Revised Statutes, provides for payment of funds received into the general fund, pursuant to the Unclaimed Property Act, it can be implied that payment of claims for abandoned property will come out of the general fund. Pursuant to the constitutional amendment, therefore, the statute needs to be amended to require that payment from the general fund for payment of claims be pursuant to appropriations which then will have to comply with the constitutional provisions.

Your Committee has amended section 523-18, Hawaii Revised Statutes, to require the director of finance to submit a request for an appropriation to the legislature in the amount of any claim which the director has determined should be paid. Payment of the claim will then be paid from sums so appropriated.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2361-80, as amended herein, and recommends it pass First Reading in the form attached hereto as S.B. No. 2361-80, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senators Kawasaki, Chong and Yee.

SCRep. 459-80 Ways and Means on S.B. No. 359

The purpose of this bill is to provide for state bonds. Your Committee has amended the purpose of this bill to conform section 39-11, Hawaii Revised Statutes, to the 1978 amendment to Article VII, section 11, of the state constitution regarding lapsing of appropriations.

The constitutional amendment provides that any appropriation which is to be paid from the general fund of the State shall be for a specific period of time. Section 39-11, Hawaii Revised Statutes, currently makes an open-ended appropriation from the general fund for payment of the principal and interest on matured state bonds.

Your Committee has amended section 39-11, Hawaii Revised Statutes, to require the director of finance to submit a request for an appropriation to the legislature, to be paid out of the general fund, in an amount equal to the principal amounts and interest of bonds which will mature during the following fiscal year. The purpose of requiring the director to request the appropriation in the fiscal year prior to the date of maturity of bonds is to provide for bonds which mature prior to the date the legislature convenes or approves the appropriation, or the governor approves the appropriation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 359, as amended herein, and recommends it pass Second Reading in the form attached hereto as S.B. No. 359, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senators Kawasaki, Chong and Yee.

SCRep. 460-80 Legislative Management

Informing the Senate that S.C.R. No. 33, S.R. Nos. 157 and 158 and Stand. Com. Rep. Nos. 455-80 to 459-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 461-80 Consumer Protection and Commerce on S.B. No. 3131-80

The purpose of this short form bill is to amend the Hawaii Revised Statutes to establish public policy relating to mortuaries and funerals.

During a public hearing of this bill your Committee received testimony stating that inflationary pressures are present in the funeral industry as elsewhere in our economy, and thus impinge upon consumers. The testimony suggested that price lists and itemized estimates of costs be provided to each prospective customer. Your Committee was also informed that this practice is observed by many within the funeral industry.

Accordingly, your Committee has amended S.B. No. 3131-80 to reflect the foregoing points. Inasmuch as your Committee intends to hold a public hearing on S.D. 1 of this bill, the bill will be recommitted to your Committee on Consumer Protection and Commerce.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 3131-80, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 3131-80, S.D. 1, and be recommitted to the Committee on Consumer Protection and Commerce for further consideration.

Signed by all members of the Committee except Senators Carpenter, O'Connor, Carroll and Yee.

SCRep. 462-80 Legislative Management

Informing the Senate that S.R. No. 159 and Stand. Com. Rep. No. 461-80 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 463-80 Consumer Protection and Commerce on S.B. No. 3076-80

The purpose of this bill is to amend Chapter 467 to increase the percentage of payment allowed by a professional solicitor or his agents, servants, or employees for solicitation activities.

Your Committee has amended this bill and intends to hold a public hearing on the amended draft of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 3076-80, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 3076-80, S.D. 1, and be recommitted to the Committee on Consumer Protection and Commerce for further consideration.

Signed by all members of the Committee except Senator Yee.

SCRep. 464-80 Ways and Means on S.B. No. 2360-80

The purpose of the bill is to provide that salaries for various public officers be set independently of salaries set for circuit court judges.

The officers principally affected by this bill are the Legislative Auditor; Director of the Legislative Reference Bureau; Ombudsman; Chairman of the Public Utilities Commission; Chairman of the Hawaii Public Employment Relations Board; and Chairman of the Labor and Industrial Relations Appeals Board. Presently, the salaries for these officers are tied to the salary level of circuit court judges. This bill would eliminate the direct linkage of the salaries of these officers to the salaries of circuit court judges. The amendments to existing law proposed by this bill would retain the current salary level received by each officer.

Your Committee finds that this change is necessary since the duties of these officers are distinctly different from those of circuit court judges. Furthermore, there are divergent policy considerations which must be examined when setting the salary levels of judges and other officers of government. A direct linkage of salaries would prevent proper review of these considerations when establishing salary scales.

Your Committee has amended S.B. No. 2360-80, S.D. 1, by making non-substantive, technical changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2360-80, S.D. 1, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 2360-80, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 465-80 Transportation on S.B. No. 866

The purpose of this bill is to deal with programs and problems relating to air transportation.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 866, and recommends that it pass First Reading by title and be recommitted to the Committee on Transportation for further consideration.

Signed by all members of the Committee except Senators Cobb and Yee.

SCRep. 466-80 Transportation on S.B. No. 871

The purpose of this bill is to deal with programs and problems relating to land transportation.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 871, and recommends that it pass First Reading by title and be recommitted to the Committee on Transportation for further consideration.

Signed by all members of the Committee except Senators Cobb and Soares.

SCRep. 467-80 Transportation on S.B. No. 2634-80

The purpose of this bill is to reduce the consumption of gasoline by instituting incentives to the public to increase transportation practices.

Your Committee on Transportation is in accord with the intent and purpose S.B. No. 2634-80, 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 except Senators Cobb and Soares.

SCRep. 468-80 Judiciary on S.B. No. 3011-80

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, Machida, Mizuguchi and Carroll.

SCRep. 469-80 Government Operations and Efficiency on H.B. No. 1758

The purpose of this bill is to transfer certain programs among the existing departments of the Executive Branch without substantially altering the basic organizational structure of these departments. The rationale and purpose of this bill is fully explained in the purpose section and in previous committee reports.

Your Committee has amended this bill by returning to the original version of H.B. No. 1758, except that the Pesticide Control Program is to remain with the Department of Agriculture, and the Hawaii Foundation for History and the Humanities is to be transferred to the Department of Land and Natural Resources as provided in H.B. No. 1758, H.D.1.

Your Committee on Government Operations and Efficiency is in accord with the intent and purpose of H.B. No. 1758, H.D.2, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.B. No. 1758, H.D.2, S.D.1.

Signed by all members of the Committee except Senators Toyofuku and Hara.

SCRep. 470-80 Economic Development on H.B. No. 55

The purpose of this bill is to provide for proper planning and implementation of The Hawaii State Plan by facilitating the formation and operation of the State Plan Policy Council established by Act 100, SLH 1978.

The Hawaii State Planning Act, Act 100, SOH 1978 provides for the establishment of a policy council and several advisory committees to facilitate the implementation of the Hawaii State Planning Act. Under the provisions of the Act, the council is to be comprised of State and County officials and nine members from the general public to be appointed by the Governor from a list of nominations submitted to the Governor from the Mayors of the respective Counties. The list of nominations submitted by the Mayors shall have

received the advice and consent of the respective county councils. This bill would set a time limit on the submittal of the nominations to the Governor from the Mayors.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 55, 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 Kuroda and Yamasaki.

SCRep. 471-80 Economic Development on H.B. No. 1983-80

The purpose of this bill is to amend subsection 171-36(a)E, Hawaii Revised Statutes, so that where a lease to public lands is transferred or assigned to a corporate successor of the lessee, the Board of Land and Natural Resources, prior to approving the transfer or assignment, shall have the right to review and approve the consideration paid or made for such transfer or assignment, and if necessary, to revise the lease rent upward depending upon the consideration paid by the transferee (or assignee).

Currently, there is no statutory provision which expressly empowers the Board, in cases involving corporation transferees or assignees of leases to public lands, to review and approve the consideration paid for the transfer or assignment and, as may be warranted, to revise the lease rent upward.

Your Committee has heard S.B. 1987-80, which is the companion bill to H.B. No. 1983-80.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. 1983-80, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda and Yamasaki.

SCRep. 472-80 (Joint) Economic Development and Public Utilities on S.B. No. 1897-80

The purpose of the bill is to promote the commercial development of non-fossil, renewable alternate energy resources by excluding producers of electrical energy from such resources from the definition of the term "public utilities" under present state law.

Your Committees find that producers, other than public utilities, will be encouraged to produce electrical energy from alternate energy resources for sale to public utilities if they are assured they will not be considered public utilities under state law. This point was underscored repeatedly by testimony.

For purposes of consistency, your Committees have amended the bill to clarify the purpose by adding the words "non-fossil, non-nuclear" after the word "renewable" in line 13, page 1.

Your Committees on Economic Development and Public Utilities are in accord with the intent and purpose of S.B. No. 1897-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1897-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Kuroda and Soares.

SCRep. 473-80 Economic Development on S.B. No. 1986-80

The purpose of this bill is to amend Section 171-13 of the Hawaii Revised Statutes.

Presently, Section 171-13, HRS, allows the Board of Land and Natural Resources directly to award easements of public lands, without public auction, provided the public land value is less than \$500. S.B. No. 1986-80 would eliminate the \$500 limitation, allow all easements to be directly awarded, facilitate processing as well as eliminate the advertising expense of a public auction.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1986-80, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hara, Kuroda and Yamasaki.

SCRep. 474-80 Economic Development on S.B. No. 2571-80

The purpose of this bill is to extend the time for submittal of functional plans under the Hawaii State Planning Act.

The functional plans for agriculture, housing, tourism, and transportation, with any findings and recommendations of the policy council, shall be submitted not later than thirty days prior to the convening of the 1981 legislature, instead of the 1979 legislature. The functional plans for conservation lands, education, energy, higher education, health, historic preservation, recreation, and water resources development, with any findings and recommendations of the policy council, shall be submitted not later than thirty days prior to the convening of the 1981 legislature, instead of the 1980 legislature.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2571-80, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hara, Kuroda and Yamasaki.

SCRep. 475-80 Economic Development on S.B. No. 2587-80

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

Your Committee finds that accurate information concerning the availability of fuel within the State is of vital importance to the safety, health, and welfare of the people because the lack of such information can lead to uncertainties and difficulties in the State's efforts to plan for assured energy supplies as well as to assess and cope with fuel shortages and contingencies dealing with energy supply and demand.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2587-80, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hara, Kuroda and Yamasaki.

SCRep. 476-80 Education on S.B. No. 2719-80

The purpose of this bill is to require the Board of Education to appoint its secretary. The Board of Education is in favor of this amendment.

Your Committee is in accord with the intent and purpose of S.B. No. 2719-80, S.D. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and Anderson.

SCRep. 477-80 Judiciary on S.B. No. 3006-80

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, Ushijima and Saiki.

SCRep. 478-80 Judiciary on S.B. No. 3007-80

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, Machida, Mizuguchi and Ushijima.

SCRep. 479-80 Judiciary on S.B. No. 3014-80

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, Machida, Mizuguchi and Ushijima.

SCRep. 480-80 Judiciary on S.B. No. 3013-80

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, Machida, Mizuguchi and Ushijima.

SCRep. 481-80 Legislative Management

Informing the Senate that S.R. Nos. 160 and 161 and Stand. Com. Rep. Nos. 463-80 to 480-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 482-80 Ways and Means on S.B. No. 1944-80

The purpose of this bill is to provide for judiciary security personnel similar to the capitol security force with the same qualifications, uniforms, and training required of the capitol security personnel.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1944-80, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 483-80 Ways and Means on S.B. No. 1985-80

The purpose of this bill is to amend the statutory fee schedule upon which the registrar of conveyances, who is the head of the bureau of conveyances, may make charges for services performed.

Generally, this bill amends the fee schedule by:

- (1) Raising the amounts of some of the fees; and
- (2) Deleting the differences in the amounts of fees for certain services and providing a uniform amount for these services.

The amounts of the fees in the schedule have not changed since 1951. This bill proposes to raise the amounts to more adequately reflect contemporary administrative costs. The different amounts of fees for different but similar services appear not to be necessary. The proposal to establish uniform fee amounts should result in administrative ease because of the simpler schedule.

The chairman of the board of land and natural resources, which board has direct jurisdiction over the bureau of conveyances, has testified in favor of this bill. In consideration of this testimony, your Committee feels that the proposed amendments to the fee schedule are desirable for administrative purposes.

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. 1985-80, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1985-80, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 484-80 Ways and Means on S.B. No. 1988-80

The purpose of this bill is to give public employees who are on leaves of absence the option of (1) utilizing sick leave credits to supplement their weekly workers' compensation benefits to equal regular pay; or (2) to receive only the prescribed amount of their weekly workers' compensation.

Under present statutes and due to a recent ruling by the attorney general, a public employee who is on industrial injury leave is required to use sick leave credits together

with the employee's workers' compensation wage loss replacement benefit so that the employee collects an amount equal to the employee's regular pay. Some employees, however, prefer to collect just their weekly workers' compensation benefits (equivalent to 66 2/3 per cent of their regular salary), and to accumulate sick leave credits for possible later use. This bill allows a public employee to determine how the employee will draw benefits while on industrial injury leave.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1988-80 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 485-80 Ways and Means on S.B. No. 1999-80

The purpose of this bill is to amend the general assistance law to limit general assistance to persons whose disabilities are expected to continue beyond a thirty-day period.

Your Committee finds that the absence of such a statutory requirement has resulted in abuses by persons with temporary disabilities.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1999-80 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 486-80 Ways and Means on S.B. No. 2211-80

The purpose of this bill is to amend section 501-218, Hawaii Revised Statutes, by raising certain fees payable under the land court registration law.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2211-80, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 487-80 Ways and Means on S.B. No. 2278-80

The purpose of this bill is to increase sheriff's and police officer's fees for serving district or circuit court criminal summons, warrants, etc., and increase the related mileage fees.

The present service fee of \$10, which has been in effect since 1975, is increased to \$15. The present mileage fee of 15 cents, which has been in effect since 1978, is increased to 18 cents. Service of process is performed by deputy sheriffs and off-duty police officers as independent contractors. Increase in service and mileage fees is required by inflation to enable continuation of these services.

Your Committee has amended this bill to correct the statutory language to conform to the Hawaii Revised Statutes and by inserting the word "not" on page 5, line 5, and the word "by" on page 8, line 14, of the bill as received. The word "not" was apparently inadvertently omitted from section 607-4 in H.B. No. 862 and Act 55 in 1973 and the word "by" was apparently inadvertently omitted from section 607-8 in S.B. No. 412 and Act 61 in 1968 due to typographical errors.

Your Committee has also inserted section 607-4(e), Hawaii Revised Statutes, apparently inadvertently left out of the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2278-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2278-80, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 488-80 Ways and Means on S.B. No. 2323-80

The purpose of this bill is to amend the public assistance law to allow the director of social services to determine the amounts of maximum shelter allowance for recipients of public assistance who reside in residential treatment facilities and to correct an incorrect reference made in 1979 when amending the provisions relating to the determination of the amount of public assistance.

Your Committee finds that the method for determining the amount of public assistance payments for recipients in residential treatment facilities is inequitable. Basically, these facilities provide shelter and treatment to alcohol or drug abusers, mentally ill, and socially/emotionally distressed individuals. Recipients in these facilities are receiving amounts of public assistance according to two very different criteria: (1) some receive up to the maximum shelter allowance of \$175 plus the basic needs allowance of \$122 a month, as provided by law, for single recipients in non-domiciliary shelter; and (2) some receive a flat monthly amount of \$191 to meet both shelter and basic needs. Thus, inequities exist because recipients residing in some facilities may receive up to \$106 more a month than recipients residing in other similar facilities.

Your Committee further finds that this bill would improve the public assistance program by: (1) providing a uniform criteria for determining the amounts of maximum shelter allowance for recipients in residential treatment facilities; and (2) providing the director the opportunity to determine adequate amounts of shelter allowance for recipients in residential treatment facilities.

Your Committee has made a technical amendment to page 8, line 6, of this bill as received to correct an apparent typographical error.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2323-80 and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2323-80, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 489-80 Judiciary on S.B. No. 2155-80

The purpose of this bill is to, first, assign the Intake Service Center Advisory Board to the Office of the Governor for administrative purposes. Secondly, this bill proposes to expand the composition of the board by adding the chairman of the Hawaii Paroling Authority to the board. Finally, the bill proposes to change the selection of members from among the private social service agencies to selection from the private sector as a whole.

Your Committee feels that the Hawaii Paroling Authority is an integral part of our criminal justice system. Therefore, your Committee supports the inclusion of the chairman of the Hawaii Paroling Authority on the Intake Service Center Advisory Board. Your Committee is also in accord with the intent of the bill to broaden the membership of the board from the private social service agencies to the private sector.

Your Committee, however, does not believe that the Intake Service Center Advisory Board should belong in the Office of the Governor for administrative purposes. Instead, your Committee feels that both the Intake Service Center Advisory Board as well as the Intake Service Centers belong in the Department of Social Services and Housing for administrative purposes. Therefore, your Committee has amended this bill as well as section 353-1.4, Hawaii Revised Statutes, to place both the board and the centers under the Department of Social Services and Housing for administrative purposes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2155-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2155-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda, Mizuguchi and Saiki.

SCRep. 490-80 Judiciary on S.B. No. 2581-80

The purpose of this bill is to provide effective means for persons who have rented or leased personal property to others, to obtain its speedy and rightful return.

The growth of the rental industry has meant the temporary availability of expensive equipment and tools for the consuming public without unnecessary tie up of cash. As such, its growth is a reflection of how our society is continuing to seek improvement in its economic efficiency.

S.B. No. 2581-80, drafted by your Committee staff strives to achieve a fair system of justice whereby those persons engaged in the rental industry may obtain the efficient return of personal property they have rented out, and thereby make the same available to still others.

S.B. No. 2581-80 operates at three levels as a civil matter. The first is the civil remedy for personal property with \$500 or less. Remedy for this category of items is available through the Small Claims Division. The record level is for property which does not exceed \$5000, and more, which rests in the circuit court.

Common at all three levels is the remedy of requiring, upon an "Order to Show Cause", the delinquent borrower to return the property to the rightful owner or to produce it at the hearing. Previously, the owner would have to go through a cumbersome process of first filing a law suit in circuit court, then proving rightful ownership, and lastly the process of executing upon that order. Many companies found this process too costly and not worth the expense pursuing the return of the property. These costs were then passed to subsequent renters of the property.

S.B. No. 2581-80 establishes an inexpensive and effective system for obtaining the fair and speedy return of leased and rented personal property.

S.B. No. 2581-80 also makes it a petty misdemeanor for anyone to intentionally retain a leased or rented personal property for longer than 14 days after the date of scheduled return. The service of the petition and Order of Show Cause will provide the necessary notice to the borrower and aid in the establishment of intent not to return.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. 2581-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Mizuguchi, Carroll and Saiki.

SCRep. 491-80 Judiciary on S.B. No. 2888-80

The purpose of this bill is to amend two sections of chapter 351, Hawaii Revised Statutes, by imposing time limitations on the processing of cases by the criminal injuries compensation commission.

This bill will require hearings to be held within ninety days of receipt of application, subsequent decisions to be issued within thirty days of the hearing, and reconsideration hearings to occur ninety days after their initiation.

Your Committee acknowledges the supportive testimony of the bill presented by the office of the Prosecuting Attorney, on February 26, 1980. The lengthy delays in processing victim claims were cited as unduly burdensome on victims already undergoing slow resolution of their case. The commission's practice of suspending action on a victim's application until final adjudication of the criminal case is unnecessary. Ninety days to complete proper investigation and hear the case should be sufficient for the commission's purposes.

The proposed thirty-day time constraint to promulgate a decision is likewise reasonable. The department of social services testimony indicated, despite its opposition to the bill, that decisions are routinely issued within three weeks of the hearing date.

Appropriate language to implement the above suggestions is added to section 351-13.

The rationale of hastening a victim's redress also applies to the commission's procedure concerning reconsideration of its decisions. To this end the ninety-day limitation is added to section 351-17(a).

Senate Bill No. 2888-80 has been amended to delete the originally proposed language in section 351-13(b). This eliminates the mandated removal of the commission chairperson for failure to comply with these new time constraints in a certain percentage of cases. Your Committee regarded such a section as being too arbitrary and therefore inappropriate as a proper sanction for the purposes of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2888-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2888-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Mizuguchi, Carroll and Saiki.

SCRep. 492-80 Judiciary on S.B. No. 184

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 Machida, Mizuguchi, Ushijima, Carroll and Saiki.

SCRep. 493-80 Judiciary on S.B. No. 2673-80

Senate Bill No. 2673-80 has been amended in its entirety to provide for special sessions for the senate to consider gubernatorial nominations to judicial vacancies pursuant to Article VI, section 3, of the Hawaii State Constitution.

This amendment to the Hawaii Revised Statutes is necessary to allow the senate to voice its consent to any judicial appointee even while the legislature is not in session.

Your Committee is in accord with the intent and purpose of S.B. No. 2673-80, as amended herein, and recommends it pass Second Reading in the form attached hereto as S.B. No. 2673-80, S.D. 1, and be recommitted to the Committee on Judiciary.

Signed by all members of the Committee except Senators Campbell, Chong, Machida, Mizuguchi and Ushijima.

SCRep. 494-80 Economic Development on S.B. No. 2107-80

The purpose of this bill is to amend section 171-64, Hawaii Revised Statutes, to ensure that a person's sex is not used as a basis to preclude a person from the use and enjoyment of public lands.

This amendment is a housekeeping measure to bring the Hawaii Revised Statutes into compliance with the Equal Rights Amendment which was adopted by the State in 1972.

Your Committee adopted the recommendation of the Hawaii Federation of Business and Professional Women's Clubs, Inc., by also including marital status in the covenants against discrimination.

The purpose of the amendment to the bill is to further comply with the State Equal Rights Amendment.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2107-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2107-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 495-80 Consumer Protection and Commerce on S.B. No. 2253-80

The purpose of this bill is to provide for the establishment and control of time sharing in Hawaii.

In its consideration of this bill, your Committee has taken note of the growth of time sharing within the past several years, both in the State of Hawaii and elsewhere, as a novel arrangement providing flexibility in vacation dwelling accommodations.

While time sharing is an attractive proposition to the vacation dweller, and while it contributes to the tourist income of the State, its increasing popularity has caused concern on the part of a substantial number of permanent local residents. Moreover, it has grown in scope to the extent that your Committee is persuaded that its placement under governmental regulation would best serve the varied interests of the State, the time sharing industry, and the purchasers of units in time sharing plans, and above all, the people of Hawaii.

During its study of time sharing, your Committee has informed itself of a parallel activity which, similarly, appears to require the stabilizing hand of authority. The marketing of what may be called "transient vacation rentals" is now a big business in Hawaii. These are dwelling units provided on a short-term basis to visitors. In tourist destination areas such as Hawaii, they constitute a major portion of the service housing resource, and as such are nominally subject to the State excise tax. Your Committee heard the testimony of George Freitas, State Director of Taxation, to the effect that transient vacation rentals constitute four-fifths of the total problem of visitor accommodation excise tax collection. Time share units make up the remaining one-fifth. This loss in tax revenues to the State is another factor which your Committee finds to be a compelling reason for regulating

transient vacation rentals.

In the interest of permanent local residents who see themselves confronted by the prospective encroachment of time sharing, your Committee has provided language in this bill which would prohibit time sharing in purely residential areas. With respect to condominiums and cooperative apartment buildings in areas where time sharing and hotel-apartments are an existing or permitted use, the bill establishes that the approval of 100% of the owners of units in a given building is required before time sharing can be initiated in such buildings. Your Committee had in mind, for example, the apartment precinct of the Waikiki Special Design District.

The matter of county autonomy has been of concern to your Committee, for it is conscious of the desirability of leaving decisions as to the use of land to local governments. It has been apparent that the several counties place greater priority upon the nature of the use of land than upon its ownership. For that reason, your Committee has expanded the scope of this bill to provide that each of the counties shall create its own means of control and regulation of time sharing and transient vacation rentals. Your Committee deems it sufficient to establish the broad guidelines, leaving their application to the discretion of the county governments.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2253-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2253-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, O'Connor and Yee.

SCRep. 496-80 Legislative Management

Informing the Senate that S.C.R. No. 33, S.R. Nos. 162 to 165 and Stand. Com. Rep. Nos. 482-80 to 495-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 497-80 Transportation on S.B. No. 2938-80

The purpose of this bill is to amend Section 286-104, Hawaii Revised Statutes, by deleting persons adjudged as habitual drunkards as persons who are negotiable to be licensed to operate a motor vehicle.

Your Committee finds that there is no state statute or authority to adjudge a person as a habitual drunkard for the purpose of precluding the issuance of a license to operate a motor vehicle.

Your Committee finds that there are adequate state statutes which provide for the revocation of a driver's license under circumstances relating to driving while under the influence of intoxicating liquor.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2938-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 498-80 Consumer Protection and Commerce on S.B. No. 2097-80

The purpose of this bill is to continue the regulation of the cosmetology trade by extending the repeal date of the Board of Cosmetology licensing chapter until December 31, 1986.

Your Committee received testimonies from the Hawaii State Hairdressers and Cosmetologists Association stating that one concern expressed by its membership was the impact that the repeal of the licensing requirement and the minimum standards of competency for practicing cosmetologists, would have on insurance rates for malpractice insurance. Your Committee also received many other testimonies in support of this bill. Your Committee has received limited opportunity to review the bill due to the late arrival of the Sunset Evaluation Report from the Legislative Auditor's Office.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2097-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 499-80 Human Resources on S.B. No. 2001-80

The purpose of this bill is to amend Section 26-14, Hawaii Revised Statutes, to correct the statutory discrepancy which exists in the number of members serving on the Board of Social Services.

Your Committee finds that the present statute requires that the Board of Social Services consist of nine members, one from each senatorial district and three at-large members. The addition of two senatorial districts raised the total number of senatorial districts from six to eight, thereby creating a discrepancy in the number of members serving on the Board relative to the statute.

This bill requires that the Board consist of three members selected at-large and one member from each senatorial district, rather than stating a specific number. The wording will obviate further amendments to the statute when reapportionments of legislative districts are made.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2001-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 500-80 Human Resources on S.B. No. 2008-80

The purpose of this bill is to make permissive rather than mandatory the conducting and reporting of studies relating to the purposes and policies applicable to public employee compensation.

Under present statute, each director of personnel services is mandated to conduct the necessary and appropriate annual compensation studies, taking into consideration factors such as the general economic condition, cost of living, minimum standard of living, and comparable monetary and nonmonetary compensation offered by the private sector.

With the advent of collective bargaining, however, there is no longer the need for an annual compensation study. This bill allows each personnel director to determine when a compensation study is necessary and to also determine which classes of work will be reviewed.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2008-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 501-80 Human Resources on S.B. No. 2013-80

The purpose of this bill is to restore the law to its original and proper intent as it applies to vacation rights of certain public officers and employees.

Your Committee finds that section 79-1, Vacation of public officers and employees; exceptions, Hawaii Revised Statutes, provides that certain categories of public officers and employees shall not be entitled to vacation with pay, including persons employed pursuant to paragraphs (2), (3), (14) and (16) of section 76-16, Civil service exemptions, Hawaii Revised Statutes.

Section 79-1 was inadvertently affected by Act 199, Session Laws of Hawaii 1977, which among other things, changed the numbering of the paragraphs of section 76-16. The result of this renumbering of paragraphs (which did not in any manner compromise the purpose of section 76-16) is that certain employees who are entitled to vacation with pay are now technically not entitled to vacation with pay, and certain employees who are not be entitled to vacation with pay are now technically entitled to vacation with pay. This housekeeping measure merely seeks to restore the law to its original and proper intent, whereby election employees, and custodians and guides at Iolani and Hulihee Palace, and the Royal Mausoleum, among others are entitled to vacation pay.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2013-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 502-80 Human Resources on S.B. No. 2115-80

The purpose of this bill is to replace the word "widows" with the phrase "surviving spouses" as it applies to limitation of other statutes under the Pension and Retirement Systems Law.

Your Committee finds that this bill conforms to recently adopted federal regulations concerning the use of nondiscriminatory terminology.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2115-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 503-80 Human Resources on S.B. No. 2174-80

The purpose of this bill is to amend section 348-2(5)(B), Hawaii Revised Statutes, relating to vocational rehabilitation, to delete the term "domiciliary" from the definition of physical restoration services currently included as a function of vocational rehabilitation.

Your Committee finds that there is no present statutory definition of the term "domiciliary care". In the mental health and other health related programs, the term has been interpreted to mean long-term care of an indefinite duration. Services provided under section 348-2(5)(B) are generally short-term in nature and are designed to substantially correct or eliminate handicaps to enable an individual to become self-sufficient and employable.

Your Committee further finds that clarifying legislation has been proposed to define "domiciliary care", in S.B. No. 2324-80, as the care provided by a private residence or larger facilities, which includes twenty-four hour living accommodations and personal care services to adults unable to care for themselves.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2174-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 504-80 Human Resources on S.B. No. 2324-80

The purpose of this bill is to add a new definition of "domiciliary care" to the statute relating to the department of social services and housing.

Your Committee finds that presently, there is no statutory definition of "domiciliary care". This bill defines the term to mean the provision of twenty-four hour living accommodations and personal care services to adults unable to care for themselves by persons unrelated to the recipient in private residences or larger facilities; additionally, "domiciliary care" is the type of care provided by licensed adult family boarding and care homes. This bill eliminates the confusion as to the nature of care provided under "domiciliary care".

Your Committee notes that another administration bill, S.B. No. 2174-80, relating to vocational rehabilitation, delete's the term "domiciliary" from the definition of physical restoration services under the vocational rehabilitation section of the law, because services in this section are generally short-term in nature, while domiciliary care has been interpreted to mean long-term care. Your Committee feels that the term and definition of domiciliary care more appropriately belongs in the section relating to the department of social services and housing rather than in the section relating to vocational rehabilitation. This bill, along with S.B. No. 2174-80, accomplishes this end.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2324-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 505-80 Human Resources on S.B. No. 2015-80

The purpose of this bill is to clarify the manner in which the director of personnel services shall certify a list of eligibles to fill two or more positions in a class in the civil service system.

Your Committee finds that for many classes of work, i.e., clerk typist, adult corrections officer and para medical assistant, there is frequently more than one vacancy to be filled. Therefore, the director of personnel services may receive requests from several appointing authorities or several requests from the same department. Presently, section 76-23, Hawaii Revised Statutes, allows the director to certify a list of five or fewer eligibles for each vacant position. Where the score of the fifth eligible is identical with any others, those other eligibles shall also be certified. The statute is presently silent as to the certification of eligibles where there is more than one vacancy.

Your Committee further finds that the department of personnel services has promulgated rules and regulations to permit the referral of an additional eligible for each additional vacancy; five eligibles for one vacancy, six eligibles for two vacancies, etc., a method which is being used by the Federal Government. In this manner, unnecessary delays in filling the vacancies are prevented. This bill amends the pertinent paragraph in Section 76-23, Hawaii Revised Statutes, to reflect this practice.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2015-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 506-80 Consumer Protection and Commerce on S.B. No. 2676-80

The purpose of this bill is to clarify the conditions under which no-fault automobile insurance applies. At present, an insured motor vehicle is covered by a no-fault policy if operated by the owner or by any operator. This bill will change the "any operator" category to "any operator who has the expressed or implied permission of the named insured."

Your Committee heard testimony for the Motor Vehicle Insurance Division of the Department of Regulatory Agencies, and from the Hawaii Insurers Council supporting this bill. The Hawaii Insurers Council indicated that in March 1979, a federal district court judge ruled that the present Hawaii no-fault statute abrogates the permissive use qualifications for liability coverage, and requires liability coverage for any operator. This ruling means that any operator using the vehicle without permission of the owner, including a thief who steals an automobile and subsequently has an accident where injury or damage results, is covered under the owner's policy. The bill clarifies the no-fault law regarding its original intent.

Your Committee has made a punctuation amendment without affecting the intent of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2676-80, as amended herein, and recommends that it pass Second Reading in form attached hereto as S.B. No. 2676-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong, Carpenter, O'Connor and Ushijima.

SCRep. 507-80 Intergovernmental Relations on S.B. No. 2191-80

The purpose of this bill is to amend various provisions of Chapter 287, Hawaii Revised Statutes, by changing the term "chief of police" to read "Administrator."

Your committee understands that in the city and county of Honolulu and the County of Maui, the administration of the Financial Responsibility law was transferred from the Chief of Police to the County Director of Finance. This bill attempts to reflect that administrative change by making the statute conform to the existing situation.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2191-80, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 508-80 Transportation on S.B. No. 2232-80

The purpose of this bill is to authorize the Director of Transportation to enforce its rules and regulations governing abandoned vehicles on airport roads, parking lots and other areas of the airport.

Your Committee finds that abandoned vehicles on airport roads, in airport parking lots and other areas of the airport are becoming an increasingly difficult problem. The abandoned vehicles reduce the effective use of parking areas, create serious traffic hazards and are visual nuisances when left at various locations at the airport.

Your Committee heard testimony from the Department of Transportation that the Airport Division arranges for the removal, under a concession contract, of abandoned vehicles left for more than 60 days in parking areas. Owners are notified by mail that the vehicle has been towed to the airport storage area, and payment must be made for parking fees and towing cost before reclaiming the vehicle. Vehicles left or abandoned on airport roads, parking lots and other areas under the direct control of the Airport Division are removed pursuant to Chapter 290, Hawaii Revised Statutes.

Your Committee amended Section 1 of the bill by inserting the word "legal" before the word "owner" in line 8, page 1, and by requiring that notification be given to the legal owner immediately after taking custody of the vehicle. The amendment specifies that the legal owner of the vehicle must be notified before any auction of an unclaimed vehicle.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2232-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2232-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Ushijima.

SCRep. 509-80 Ways and Means on S.B. No. 2358-80

The purpose of this bill is to conform sections 40-35 and 40-68, Hawaii Revised Statutes, to the 1978 amendment to Article VII, section 11, of the state constitution regarding lapsing of appropriations.

The constitutional amendment provides that any appropriation which is to be paid from the general fund of the State shall be for a specific period of time. Section 40-35, Hawaii Revised Statutes, currently provides that the general fund of the State is liable without any limitation as to time for any deficiency in the litigated claims fund. Section 40-68, Hawaii Revised Statutes, currently provides for the payment, similarly without time limitation, of warrants drawn upon the state treasury in earlier fiscal year.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2358-80, S.D. 1, and recommends it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 510-80 Ways and Means on S.B. No. 2357-80

The purpose of this bill is to conform section 41-3, Hawaii Revised Statutes, to the 1978 amendment to article VII, section 11, of the state constitution regarding lapsing of appropriations.

The constitutional amendment provides that any appropriation which is to be paid from the general fund of the State shall be for a specific period of time. Section 41-3, Hawaii Revised Statutes, currently provides an appropriation from the general fund at any time the amount in the state insurance fund is insufficient to meet its obligations.

Your Committee has amended this bill to eliminate the extra \$5,000 which the comptroller may request in an appropriation to cover the excess of claims from the state insurance fund.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2357-80, S.D. 1, as amended herein, and recommends it pass Second Reading in the form attached hereto as S.B. No. 2357-80, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 511-80 Ways and Means on S.B. No. 2559-80

The purpose of this bill is to clarify existing laws relating to sale of dwelling units purchased from the Hawaii housing authority.

Under section 359G-8, Hawaii Revised Statutes, the Hawaii housing authority, in setting prices for dwelling units for sale to eligible purchasers, need not include certain costs,

including any amounts subsidized by the authority, to increase the selling price of the units. However, the statutory scheme of chapter 359G, Hawaii Revised Statutes, provides for recovery of these costs when a purchaser subsequently sells the unit.

Currently, section 359G-9.2, Hawaii Revised Statutes, among other things, authorizes the authority to recover subsidies when a unit is sold more than ten years after the date of purchase for the authority. However, the section is unclear as to the responsibility of the authority to recover certain costs which may have been expended and chargeable to the unit but may not be included within the word "subsidy". This bill clarifies section 359G-9.2, Hawaii Revised Statutes, by authorizing the authority to recover, in addition to any "subsidy", any other "amount" expended by the authority and chargeable to the unit being sold by good accounting practice.

It is the understanding of your Committee that the words "subsidy" and "amount" should be distinguished in the following manner. A "subsidy" includes known costs up to the time of sale of the unit which are readily identifiable in a subsidy agreement executed between the purchaser and the authority. The word "amount" includes any other costs expended by the authority after the establishment of the sales price but incurred during the development, sale, or intervening years after sale through warranty costs or other unforeseen circumstances.

This bill also clarifies that sums excluded from the sales price under the general excise tax exemption allowed in section 359G-15, Hawaii Revised Statutes, shall not be considered a subsidy.

Testimony was received from the Hawaii housing authority in support of this bill.

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. 2559-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2559-80, S.D. 2.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 512-80 Ways and Means on S.B. No. 2359-80

The purpose of this bill is to conform section 127-11, Hawaii Revised Statutes, to the 1978 amendment to Article VII, section 11, of the state constitution regarding lapsing of appropriations.

The constitutional amendment provides that any appropriation which is to be paid from the general fund of the State shall be for a specific period of time. Section 127-11, Hawaii Revised Statutes, currently makes an open-ended appropriation from the State's general revenues for the purpose of disaster relief. This section requires amendment in order to conform to the Constitution.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2359-80, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 513-80 Ways and Means on S.B. No. 1934-80

The purpose of this bill is to establish a Hawaii statewide qualifying examination for high school graduation. It requires the department of education to establish for use in the public schools, standards of competency in the areas of reading comprehension, writing ability, and mathematical ability. The bill further requires the department to develop exams to test student competency and provides that students who do not meet the minimum standards of competency shall be required to participate in such remedial coursework, tutoring, or referral as is deemed appropriate by the department. In addition to other requirements, a passing score on the basic competency high school exam is required for graduation. Your Committee is in accord with the intent and purposes of the bill.

Your Committee has amended the bill by adding to the phrase "...reading comprehension, writing ability, and mathematical ability" which appears in various parts of section 2 of the bill, the phrase "and other essential competencies.". The purpose of the amendment is to ensure that the development of standards and exams and the testing of students shall not be limited only to reading, writing, and mathematical skills.

Your Committee has further amended the bill by inserting commas, making nonsubstantive language changes, and making other style changes in the various sections to conform the bill to the Ramseyer format and the Hawaii Revised Statutes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1934-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1934-80, S.D. 2.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 514-80 Ways and Means on S.B. No. 1873-80

The purpose of this bill is to provide for the retention and administration by the University of Hawaii of all administrative and overhead costs included in contracts and grants held by the University.

Your Committee has amended section 1 of the bill as received by inserting the phrase "contracts and" between the words "in" and "grants" in line 3 and by replacing the word "to" with the phrase "held by" in the same line.

Your Committee has amended section 2 of the bill as received by adding the phrase "fifty per cent of all funds received" in line 10. Your Committee has agreed that fifty per cent of all funds annually received for administrative and overhead costs included in all university held contracts and grants would be a sufficient amount to supplement the research and training revolving fund.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1873-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1873-80, S.D. 2.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 515-80 Ways and Means on S.B. No. 1878-80

The purpose of this bill is to provide for changes in eligibility and the amount of the award under the State Higher Education Loan Fund program so as to make those provisions comparable to the provisions of the National Direct Student Loan program on the federal level.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1878-80, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 516-80 Ways and Means on S.B. No. 1870-80

The purpose of this bill is to provide for an increase in the membership of the board of directors of the Research Corporation of the University of Hawaii to include the University of Hawaii Manoa chancellor.

Your Committee agrees with the purpose of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1870-80, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 517-80 Ways and Means on S.B. No. 1942-80

The purpose of this bill is to place the public library system under the direct authority and supervision of the board of education rather than under the superintendent of education. School libraries remain under the direct authority of the superintendent of education.

Your Committee has amended sections 2 and 3 of the bill by placing the library advisory commission and state publications distribution center within the "public library system". As referred to this Committee, the library advisory commission is not placed within any department. Article V, section 6, of the State Constitution requires each permanent executive body established by law to be placed within a department. Under the bill, as received, the provisions relating to the library advisory commission may be unconstitutional. Your Committee has placed the library advisory commission within the "public

library system" and not the board of education or department of education because the commission should not be placed within a part-time board and the department of education has no authority over the public library system under this bill. The bill, as received, places the state publications distribution center within the board of education. Your Committee has amended the bill by also placing the center within the "public library system". The reasons for this amendment are the same as the reasons cited for placing the commission within the system.

Your Committee has made other technical, nonsubstantive changes to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1942-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1942-80, S.D. 2.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 518-80 Ways and Means on S.B. No. 2869-80

The purpose of this bill is to make expenses for the return of criminal defendants to a judicial circuit for appearance before a court subject to the same budgetary procedure currently used to pay witness expenses.

Your Committee has further amended the bill to delete the reference to section 704-419, Hawaii Revised Statutes, and to repeal such section inasmuch as that section provides that costs covered in this bill are to be charged to the court. Your Committee believes that section 704-419, Hawaii Revised Statutes, is in direct conflict with the purpose of this bill.

Your Committee has also made technical typographical and underscoring corrections.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2869-80, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2869-80, S.D. 3.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 519-80 Ways and Means on S.B. No. 1945-80

The purpose of this bill is to promote energy conservation by requiring all public housing and public facilities constructed by the State to be equipped with alternate energy water heating systems when the use of such systems would result in cost-savings for heating water.

Your Committee finds that energy conservation is an integral aspect of the State's overall energy program, and that the State should set the example by promoting the use of various alternate energy systems in public housing, publicly assisted housing, and other public facilities.

Your Committee has amended the bill to include public housing financed by the State and deleted references to public housing of political subdivisions. Your Committee has also made grammatical changes and amended the effective date provisions to be consistent with the intent of the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1945-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1945-80, S.D. 2.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 520-80 Ways and Means on S.B. No. 3119-80

The purpose of this bill is to exempt the adult education special funds of the department of education from the mandated transfer of moneys in the special funds to the general fund to defray central services expenses and departmental administrative expenses.

Your Committee has amended the bill by changing the phrase "general session 1979" to "regular session of 1980" on line 15 of page 3 of the bill as received. In addition, your Committee has bracketed the comma on line 3 of page 3 of the bill as received. As a result of this latter amendment, your Committee has amended section 4 to add a proviso explaining the effect of the brackets.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3119-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3119-80, S.D. 1.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 521-80 Ways and Means on S.B. No. 2473-80

The purpose of this bill is to conform the definitions of "general obligation bonds", "general obligation reimbursable bonds", "reimbursable general obligation bonds", and "revenue bonds" contained in The Executive Budget Act of the Hawaii Revised Statutes to the definitions of the terms used in Article VII, section 12, of the state constitution as amended by the 1978 Constitutional Convention and ratified by the general electorate on November 7, 1978.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2473-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong, Hara, Young and Yee.

SCRep. 522-80 Ways and Means on S.B. No. 1893-80

The purpose of this bill is to require the sellers of solar energy devices to disclose what portion of the price charged for such devices is attributable to items unrelated to the device itself and to restrict the solar tax credit to that portion of the price directly related to the installation and operation of the solar energy device.

The intent of this bill is to inform the consumer of the true cost of a solar energy device and the extent to which the total purchase price has been inflated due to the costs of incentives to promote the sale of the device.

Your Committee has amended this bill by amending the term "elect offer" to read "electric" on line 16 on page 1 of the bill as received and making nonsubstantive, technical changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1893-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1893-80, S.D. 2.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 523-80 (Majority) Ways and Means on S.B. No. 2295-80

The purpose of this bill is to permit the board of trustees of the employees' retirement system to purchase gold bullion, silver bullion, or platinum for investment purposes.

Your Committee agrees with the purpose of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2295-80, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Hara, Young and Yee.
Senator Chong did not concur.

SCRep. 524-80 Ways and Means on S.B. No. 2794-80

The purpose of this bill is to establish a revolving fund to handle moneys received from compulsory student activity fees and all other revenues received by chartered student organizations and student activity programs, except those revenues to which other special funds have prior claim, and to require that such moneys be maintained in accordance with policies of the university's board of regents.

Your Committee has made technical, nonsubstantive amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2794-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2794-80, S.D. 2.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 525-80 Ways and Means on S.B. No. 2882-80

The purpose of this bill is to increase witness fees for per diem attendance and per mile travel. The present fees were set in 1972 and are not appropriate, considering inflation, for the 1980's.

Senate Bill No. 2882-80, S.D. 1, would increase a witness' fee from \$4 per day to \$10 per day and from 20 cents per mile to 30 cents per mile for each mile actually travelled. For witnesses travelling from an outer island, the fee would be \$12 for each day and 30 cents for each mile actually travelled on the ground in addition to the cost of a round trip plane ticket.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2882-80, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 526-80 Ways and Means on S.B. No. 2457-80

The purpose of this bill is to eliminate much of the cost and time involved in processing and collecting dog license fees and nominal delinquent penalty fees.

Under current law a dog owner pays \$2 a year for a dog license plus a 20 cents delinquency penalty if the fee is not paid before March 11 of each year. Any delinquent license fee which is mailed to the department without the penalty fee is automatically rejected and returned, causing additional costs and efforts by the department.

This bill proposes to amend section 143-2, Hawaii Revised Statutes, by replacing the annual license fee requirement with a biennial fee and eliminating the 20 cents penalty fee. The license fee is raised to \$4 thus a biennial license fee of \$4 with no penalty for delinquent fees.

Your Committee is in accord with the proposed amendment to the dog license law. Your Committee has amended the bill by removing the underscoring under the comma following the word kept on line 11, page 1, of the bill referred to your Committee which was apparently inadvertently added during the drafting of the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2457-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2457-80, S.D. 2.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 527-80 Ways and Means on S.B. No. 2219-80

The purpose of this bill is to provide for the orderly transfer of these functions, powers, and duties, including the transfer of personnel, records, and equipment to the counties.

Your Committee finds that this bill is necessary to implement amendments made to the Constitution in 1978.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2219-80, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 528-80 Ways and Means on S.B. No. 2071-80

The purpose of this bill is to increase the jurisdictional amount of the small claims court to \$1,000 and to delete the reference in the equitable relief provision to landlord-tenant disagreements.

Your Committee has inserted the quotation mark on page 3, line 3, of the bill as received by your Committee.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2071-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2071-80, S.D. 2.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 529-80 Ways and Means on S.B. No. 3108-80

The purpose of this bill is to allow the office of consumer protection to compensate witnesses summoned by the office to testify pursuant to rules adopted under chapter 91, Hawaii Revised Statutes.

Your Committee finds that there are instances when the office must rely upon self-employed individuals as witnesses who, without compensation for their time in cooperating with the office, would suffer financial loss.

Your Committee has made technical, nonsubstantive amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3108-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3108-80, S.D. 1.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 530-80 Ways and Means on S.B. No. 2536-80

The purpose of this bill is to allow the director of social services to provide the transportation and administrative costs for the return of an aged and indigent alien or naturalized citizen to the alien's or citizen's homeland if the alien or citizen desires to establish permanent residence in the homeland.

The department of social services and housing has delivered testimony in favor of this bill.

From the department's testimony and your Committee's review of the bill as received, however, it appears that the bill requires substantial rewriting. Accordingly, your Committee has amended the bill to clarify certain matters and delete unnecessary and questionable provisions. It is emphasized, however, that the basic intent of the amended bill remains the same as that of the bill as received. The following are the more major amendments:

(1) Adds a definition of "qualified person". This definition makes it clear that a person who desires transportation assistance under this bill must be 60 years of age or older, eligible to receive or receiving financial assistance from the State, and a resident of Hawaii;

(2) Changes the definition of "homeland" to mean the country in which the person was born instead of the person's country of origin. This change makes the definition clearer;

(3) Deletes unnecessary definitions;

(4) Adds a provision requiring the organization with which the director of social services contracts to be non-profit as well as private. Your Committee notes that this bill requires the director to contract with such an organization if approving transportation assistance for a person;

(5) Provides language explicitly requiring application of a person desiring transportation assistance and approval of the director of social services of the application. These provisions were not in the bill as received;

(6) Requires the person to submit evidence that the person's health and safety will be protected if moving to the person's homeland. This amendment is made at the request of the department of social services and housing;

(7) Deletes requirement that the person obtain the approval of the director of social services if the person desires to reestablish residency in Hawaii after using the transportation assistance to move to the person's homeland. This requirement in the bill as received may have been illegal because immigration of an alien is the exclusive jurisdiction of the federal government and the right to travel of a citizen, whether naturalized or not, is constitutionally protected;

(8) Requires the payment of interest in addition to the amount of the transportation assistance when a person who has used the transportation assistance to move to the person's homeland reestablishes residency in Hawaii;

(9) States explicitly that a person only qualifies once in a lifetime for transportation assistance. This amendment is made at the request of the department of social services and housing;

(10) Requires the director of social services to determine the amount of the transportation and administrative costs by rule. This amendment is also made at the request of the department of social services and housing;

(11) Provides a penalty for misuse of the transportation assistance. This provision was not in the bill as received;

(12) Provides explicitly that the transportation assistance is not "financial assistance" under chapter 346, Hawaii Revised Statutes, to avoid confusion with other provisions of that chapter;

(13) Deletes the appropriation section. It is the intent of your Committee to include moneys for this program in this session's supplemental appropriations budget.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2536-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2536-80, S.D. 2.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 531-80 Ways and Means on S.B. No. 2274-80

The purpose of this bill is to implement constitutionally required changes in the grand jury system by establishing provisions for a grand jury counsel.

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. 2274-80, S.D. 1, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as S.B. No. 2274-80, S.D. 2.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 532-80 Ways and Means on S.B. No. 2654-80

The purpose of this bill is to provide for a change in the compensation rate to patient employees at Kalaupapa Settlement by making their pay equal to the compensation of civil service workers when performing comparable duties.

Your Committee has amended the proposed subsection (b) of section 326-21, Hawaii Revised Statutes, by limiting employment benefits of these patient employees to that of vacation with pay only, as provided under subsection (c).

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2654-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2654-80, S.D. 2.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 533-80 Ways and Means on S.B. No. 1995-80

The purpose of this bill is to make various amendments to chapter 452, Hawaii Revised Statutes, which establishes the Board of Massage.

The bill (1) amends chapter 452, Hawaii Revised Statutes, to make changes in terminology; (2) requires that massage therapists and massage establishments be "licensed" instead of "certificated" and that "out-call massage services" be licensed under this chapter; (3) requires that the department of regulatory agencies employ an executive secretary and clerical help to assist the board; (4) provides that a person convicted of a felony or a misdemeanor involving moral turpitude may be denied a license; (5) deletes provisions on officers and specifies that a chairperson shall be elected; (6) increases and separates the various fees; and (7) provides penalties for knowingly employing unlicensed persons to perform massage services.

Your Committee received testimony in favor of this bill from the Honolulu police department and board of massage.

Your Committee has further made various statutory corrections and nonsubstantive, technical changes.

Your Committee has clarified that a massage establishment or out-call massage service is licensed instead of registered, and has deleted references to registration throughout.

Your Committee also has amended section 831-3.1(a), Hawaii Revised Statutes, to prevent conflicting laws.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1995-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1995-80, S.D. 2.

Signed by all members of the Committee except Senators Hara, Young and Yee.

SCRep. 534-80 Ways and Means on S.B. No. 2600-80

The purpose of this bill is to extend the exemption from general excise taxes presently allowed corporations, associations and societies organized and operated exclusively for religious, charitable, scientific, or educational purposes to trusts created for the same purposes. This exemption would only apply to income derived from "exempt" type activities of such trusts as provided in Section 237-23, H.R.S.

Your Committee has received testimony from the department of taxation indicating that the department has no objection to this bill provided that the exempt status granted to trusts by this bill only apply to income directly resulting from exempt type activities. Your Committee believes that this bill does impose such a limitation on the exempt status which it grants to trusts.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. 2600-80, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, Hara, Young and Yee.

SCRep. 535-80 Ways and Means on S.B. No. 2220-80

The purpose of this bill is to require the director of taxation to pay interest at the rate of eight per cent a year on the excessive or nontaxable deposit which must be refunded to a taxpayer whose appeal to a board of review is successful.

The amendment proposed by this bill provides for the payment of interest on such a deposit in a manner similar to that when a taxpayer's appeal to the tax appeal court is successful. An amount of \$100,000 is also appropriated to the department of taxation for the payment of interest on refunds to taxpayers who had successful decisions from a board of review prior to the effectiveness of the provisions under this bill. Under the bill, a taxpayer who has received a board of review decision which is partially or wholly in the taxpayer's favor from and after March 25, 1976 may file claims for the interest not paid under the law at the time of the decision.

This bill proposes to correct the inequity which exists currently between the amount of a refund after a successful appeal by a taxpayer to the tax appeal court as opposed to a successful appeal to a board of review. Interest is provided on the refunded deposit of a taxpayer with a successful appeal from a tax appeal court. Interest, however, is not provided for a successful appeal from a board of review. This bill corrects the inequity by simply requiring interest to be paid on the refund of a successful appeal to a board of review.

Your Committee has also amended section 2 of this bill to provide for a specified period of expenditure and by replacing "director of taxation" with "department of taxation" for uniformity.

Your Committee also notes that the expending agency for the one-time claim under section 2 of the bill is the department of taxation and not the director of finance as provided in section 232-24, Hawaii Revised Statutes. Under this section, the director of finance is required to refund the deposit after a successful appeal. Your Committee, however, does not feel that this is a conflict since:

- (1) Section 2 provides a special one-time payment;
- (2) The payment under section 2 is not derived from interest on the deposit of a taxpayer; and
- (3) The appropriation under section 2 is not paid into a "special deposit" as provided under section 232-24, Hawaii Revised Statutes.

Your Committee has retained the department of taxation as the expending agency because it is better equipped administratively to be such.

Your Committee has also changed the words "from and" to "on or" on line 15 of page 3 of the bill as received. This change has been made to make it clear that the favorable decision on a taxpayer's appeal must have been made on March 25, 1976 or thereafter.

Your Committee has corrected the effective date of this bill so that the whole bill is effective upon approval, instead of just two sections thereof.

Your Committee has also 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. 2220-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2220-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Hara and Young.

SCRep. 536-80 Ways and Means on S.B. No. 2355-80

The purpose of this bill is to require the board of regents and the board of education to exercise fiscal responsibility in establishing their respective departmental budgets and in reviewing the internal organization and management of their respective departments. This bill would accomplish this by requiring the two boards to take into account the state general fund expenditure ceiling and the state debt limit as established by constitutional and statutory law when reviewing and approving their respective proposed departmental budgets. The boards would also be required to consider their departmental long-range plans as well as their respective six-year program and financial plan.

Under this bill, most current budgetary procedures would continue to be followed. The boards will continue to submit their proposed budgets to the governor who in turn will incorporate the budgets into the executive budget with his recommended changes. In submitting the proposed budgets to the governor and later to the legislature, the boards will be required to include proposed changes in programs and operations which would result in greater effectiveness of programs and economy in operations.

This bill would impose an appropriations ceiling on the board's budgets akin to the state expenditure ceiling. In the event that the proposed budgets of each respective department exceeds the previous fiscal year's general fund appropriations by more than the applicable state growth rate, then the respective board would be required to delineate the dollar amount and the percentage by which the ceiling is exceeded and the specific reasons therefor.

Your Committee finds that in light of the constitutional provisions calling for a state general fund expenditure ceiling it is timely for the requirements of this bill to be imposed on the board of education and the board of regents. On too many occasions in the past have the two boards presented the legislature with "shopping lists" as budget proposals without regard to scrutinizing those appropriation requests in light of state fiscal constraints.

Your Committee finds further that the provisions of this bill aid in delineating the respective roles of the board of education, the board of regents, and the legislature in the area of education. Frequently, the areas of educational policy and state fiscal policy overlap and make unclear the proper roles of the legislature, the governing boards of the Department of Education and University of Hawaii.

The willingness of the two boards to exercise closer scrutiny of the internal operations and management of the departments within their respective jurisdiction with a view to the fiscal restrictions imposed upon the State as a whole will contribute to alleviating the need for the legislature to involve itself in areas which tend to border on educational policy-making. The more the governing boards are able to shape their proposed budgets in a manner which takes into account the restraints imposed on government spending, the less the legislature will have to exercise oversight over the fiscal policies of the University of Hawaii and the Department of Education.

Your Committee has amended this bill to include a definition of "state growth" and another technical style change.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2355-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2355-80, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Hara and Young.

SCRep. 537-80 Ways and Means on S.B. No. 2557-80

The purpose of this bill is to authorize the addition of \$100 million to the aggregate principal amount of revenue bonds which may be issued by the Hawaii housing authority.

The Hawaii housing authority has recently successfully marketed and sold a \$100 million revenue bond issue which has resulted in mortgage loans being offered to eligible Hawaii borrowers at an interest rate of 9-1/2 per cent. An additional revenue bond authorization is required to maintain the viability of the program as the 1979 legislature appropriated \$125 million.

Your Committee has amended the bill to clarify that it intends to amend Act 50, Session Laws of Hawaii 1979, and by making nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2557-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2557-80, S.D. 2.

Signed by all members of the Committee except Senators Hara and Young.

SCRep. 538-80 Ways and Means on S.B. No. 744

The purpose of this bill is to provide flexibility in the recruitment of certain essential personnel by the State. The flexibility is provided by: exempting certain personnel who provide services which are essential to the public interest from civil service; allowing the payment of travel and transportation expenses for the recruitment of such personnel; allowing the provisions of prerequisites for such personnel; and providing monetary incentives for recruitment of such personnel.

Your Committee has amended the bill by inserting language in the existing section 76-16, Hawaii Revised Statutes, which is missing in the bill as received. Your Committee has also changed the word "may" to "shall" on line 8 of page 7 in the bill as received. It is the intent of the Committee to prohibit such contracts to which the word refers from exceeding two years. Your Committee has also made other nonsubstantive, technical changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 744, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 744, S.D. 3.

Signed by all members of the Committee except Senators Hara and Young.

SCRep. 539-80 Ways and Means on S.B. No. 1982-80

The purpose of this bill is to require the children's mental health services branch to coordinate delivery of such services, to require the departments of health and education to develop a memoranda of agreement relating to services to children, to require an implementation plan in section 321-175(a)(6), Hawaii Revised Statutes, with specific goals and objectives as well as a plan of action, to require the statewide children's mental health services plan to be developed in five-year cycles, and to require a biennial review of progress made toward such plan.

Your Committee chose not to statutorily determine which agency (department of health or department of education) shall be responsible for the five provisions outlined in section 321-174, Hawaii Revised Statutes, since your Committee expects that this judgment will be duly agreed upon by the respective agencies through the memoranda of agreement in a timely and professional manner.

Your Committee has amended this bill by underlining new statutory material, correcting the statutory language to conform to the Hawaii Revised Statutes, and amending the heading in section 6 of the bill to provide that the new section shall be added to part XV of chapter 321, Hawaii Revised Statutes, since the new section refers to that part.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1982-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1982-80, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Hara and Young.

SCRep. 540-80 Ways and Means on S.B. No. 2914-80

The purpose of this bill is to amend the physical and vocational rehabilitation provisions for a permanently disabled employee under the workers' compensation law. The amendments include the establishment of a rehabilitation unit within the department of labor and industrial relations which shall recommend the referral of a permanently disabled employee to a vocational rehabilitation service of a private provider or the department of social services and housing. The unit shall also be responsible for regulating and certifying a provider of vocational rehabilitation services. Another amendment provides that enrollment in a vocational rehabilitation service is not mandatory upon the permanently disabled employee.

Your Committee feels that this bill provides an improved policy regarding the physical or vocational rehabilitation of a permanently disabled employee under the workers' compensation law. It takes the entire burden of providing the services from the department of social services and housing, which lacks the resources to do a fully effective job, and allows the use of a certified private organization. Your Committee feels that the proposed policy will expedite and make more effective the physical or vocational rehabilitation of a permanently disabled employee who desires to take advantage of such service.

Your Committee has made the following major amendments:

(1) The provision establishing the rehabilitation unit is placed within chapter 386, Hawaii Revised Statutes, which is the workers' compensation law. In the bill as received, the unit was not placed in the Hawaii Revised Statutes. The change is made to make the legislation clearer and easier to find if the provision becomes law;

(2) The terms "qualified" and "rehabilitation agents" on pages 2 and 3 of the bill as received are changed to conform to terminology in the bill. "Qualified" is changed to "certified" to make it clear that the provider organization must be certified by the rehabilitation unit to receive referrals. There is also no definition of "rehabilitation agents" in the bill. As used in the bill as received, this term refers to providers. Thus, it has been changed to avoid confusion;

(3) A new subsection has been added to section 386-25, Hawaii Revised Statutes, to allow the injured employee enrolled in a vocational rehabilitation program to receive temporary total disability compensation even if the employee receives wages under the program. This authorization is contingent upon the amount of wages the employee receives from the program. The International Longshoremen's and Warehousemen's Union has suggested this amendment to provide an incentive for enrollment in a program; and

(4) The section appropriating moneys under this program is deleted from the bill as received. Your Committee intends to include a sufficient appropriation in the supplemental appropriations bill.

In addition, your Committee has made other technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2914-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2914-80, S.D. 2.

Signed by all members of the Committee except Senators Hara and Young.

SCRep. 541-80 Ways and Means on S.B. No. 2163-80

The purpose of this bill is to clarify filing and effective dates for property tax exemptions on low- and moderate-income housing projects and to require the director of taxation to refund a prorated amount of paid property taxes which is attributable to the period after the property has become exempt.

Your Committee believes that this law would clarify when the application for the exemption must be filed with the department of taxation by specifically designating when the grace period shall begin to run. Under current law, the nonprofit or limited distribution mortgagor or the owner of the qualified housing project has sixty days from the date of the qualification. The sixty-day grace period in which the application must be filed appears to be a reasonable length of time for the taxpayer to submit the application.

Your Committee has made technical amendments to this bill to correct redundancies, language apparently dropped while typing the bill, and grammatical errors.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2163-80, as amended herein, and recommends it pass Second Reading in the form attached hereto as S.B. No. 2163-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hara and Young.

SCRep. 542-80 Ways and Means on S.B. No. 2660-80

The purpose of this bill is to require that prior to the submission of any request for an appropriation in the executive budget for any additional position that all necessary procedures, short of recruitment, be completed.

Your Committee believes that this requirement will prevent appropriations being made for positions which fail to be timely filled because of paperwork delays, and thereby this bill will release money for other purposes while such positions are being prepared.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2660-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hara and Young.

SCRep. 543-80 Ways and Means on S.B. No. 2693-80

The purpose of this bill is to accomplish the following:

- 1) Expand the powers and duties of the state foundation on culture and the arts to include responsibility for research and studies in ethnohistory and the humanities, placing materials developed by the foundation in archives and libraries so that they will be accessible to the public, and maintaining a register of such materials.
- 2) Amend the present powers of the foundation to allow the chairman to administer funds which are allocated to the foundation by grant, gift, or bequest, to hold such funds, and to sell, exchange, or otherwise dispose of property which the foundation has acquired as well as property which it has been given or bequeath.
- 3) Give the foundation the responsibility for encouraging the ethnohistorical and cultural activities of the various ethnic groups of Hawaii.
- 4) Require the foundation to include in its annual report the total number and amount of gifts received, its payroll disbursements, its contracts, and the year's progress and accomplishments.
- 5) Require the foundation to develop a six-year plan and budget to be approved by the legislature beginning with an interim plan and budget for fiscal year 1980-81.
- 6) Require the director of the foundation to be qualified in the administration of programs in culture and the arts and familiar with the peoples and cultures of Hawaii.
- 7) Repeal the portion of Chapter 6, Hawaii Revised Statutes, relating to the Hawaii Foundation for History and the Humanities.
- 8) Transfer the historic places review board to the department of land and natural resources, giving the governor the power to appoint the members of the board.

Your Committee agrees with the general intent of this bill to streamline, improve and coordinate the programs of the State which relate to culture and the arts.

It is your Committee's belief that to aid in accomplishing such result, it is necessary for the foundation to develop a long-range program and financial plan for its programs. Your Committee has therefore modified language in the bill and amended it to require that the foundation develop a six-year program and financial plan for its program area.

Your Committee has deleted language in the bill which charged the foundation with the responsibility for encouraging the ethnohistorical and cultural activities of the various ethnic groups of Hawaii. Your Committee believes that this language is too broad and also unnecessary since section 9-3(3), Hawaii Revised Statutes provides that the foundation shall "Stimulate, guide, and promote culture and the arts throughout the State".

The bill has also been amended to provide that the foundation shall conduct research, studies, and investigations in the field of ethnohistory and the humanities with "qualified

organizations". Your Committee believes that work in this area requires that the foundation cooperate with organizations with adequate expertise.

Your Committee received testimony from the department of land and natural resources requesting various amendments to S.B. No. 2693-80, S.D. 1. Accordingly, your Committee has amended section 8 of the bill to specify a term of four years for the members of the historic places review board. The bill has also been amended to provide that the review board evaluate and "recommend" historic properties to the national register of places. Language providing that the review board shall approve and evaluate all designations of historic properties as places of historical review has been deleted.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2693-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2693-80, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Hara and Young.

SCRep. 544-80 Judiciary on S.B. No. 1973-80

The purpose of this bill is to propose an amendment to Article III, section 10, of the Constitution of the State of Hawaii, to permit the senate to convene itself in special session at the written request of two-thirds of its members for the purpose of considering any gubernatorial nomination to fill a judicial vacancy.

The 1978 Constitutional Convention proposed the creation of a new judicial selection process. This proposal which was ratified by the voters on November 7, 1978, and is now Article VI, section 3, of the Constitution provides that the governor shall send his judicial appointments to the senate for confirmation within thirty days. If the senate does not act within thirty days, the appointment is automatically confirmed. There is no specific constitutional provision allowing the senate to convene itself for this special purpose when it is not in session. The senate can only be convened for such special session by the governor at present.

The senate will correct this problem via enactment of a statute, see S.B. No. 2673-80, S.D. 1, to cover the interim period before this proposed amendment takes effect. Although the statute is sufficient to handle the problem without a constitutional amendment, your Committee feels that it is appropriate to include the provision for special session in the Constitution.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1973-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Ushijima and Carroll.

SCRep. 545-80 Judiciary on S.B. No. 2673-80

The purpose of this bill is to provide by statute for special sessions of the senate, upon written request of two-thirds of its members, to consider any gubernatorial nomination to fill a judicial vacancy pursuant to Article VI, section 3, of the Constitution of the State of Hawaii.

Article VI, section 3, requires the senate to confirm gubernatorial nominations for judicial vacancies within thirty days or the nomination is automatically confirmed. There is presently no statute or constitutional provision permitting special sessions of the senate to be convened by the senate itself to consider such appointments when the legislature is not in session.

The statute proposed by this bill is required for the senate to perform its advisory and approval function on judicial appointments and is authorized by the general legislative power of the legislature.

Senate Bill No. 1973-80 proposes a constitutional amendment which will have the same effect as this bill. Once the constitutional amendment is approved by the voters in the November 1980 election, special sessions of the senate, called by the senate, to consider gubernatorial judicial appointments will be convened pursuant to the Constitution. This bill covers the need for authority of the senate to convene itself in special session to consider judicial appointments until the constitutional amendment takes effect. If, for any reason, no constitutional amendment is adopted, the statute proposed by this bill would continue to provide such authority.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2673-80, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Campbell, Ushijima and Carroll.

SCRep. 546-80 (Majority) Judiciary on S.B. No. 3003-80

The purpose of this bill is to restrict the tolling of the statute of limitations in medical malpractice cases for longer than eighteen months.

Under section 671-12, Hawaii Revised Statutes, a claim for medical tort must first be submitted to the medical claim conciliation panel. By section 671-18, the filing of such claim with such panel, presently tolls the statute of limitations "until sixty days after the decision of the panel is mailed or delivered to the parties."

Your Committee has been made aware that in some cases a medical claim conciliation panel has failed to render a decision for a very long period, to the consternation of both parties.

Senate Bill No. 3003-80, S.D. 1, will allow the statute of limitations to be tolled for no more than eighteen months, and allows the party filing the claim to commence a suit after such eighteen-month period but within the balance of the original two-year period of limitation he had before the tolling was commenced.

Your Committee amended the original form of S.B. No. 3003-80 by making a change to section 671-16 to coordinate the provision of the new language of section 671-18 with such section.

This bill has also been amended to correct technical errors.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3003-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3003-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Ushijima and Carroll.

Senator Chong did not concur.

SCRep. 547-80 Consumer Protection and Commerce on S.B. No. 118

The purpose of this bill is to make various amendments to the Hawaii Revised Statutes to provide improvements to the statutory provisions governing certain professional and occupational boards and commissions.

Inasmuch as your Committee has not had ample opportunity to review the boards and commissions up for review under the Sunset Law due to late receipt of the Sunset Evaluation Reports from the Legislative Auditor, your Committee has amended this bill by deleting all material contained in S.D. 1 of the bill, and has provided amendments to Chapter 26H, Hawaii Revised Statutes, to amend the policy statements contained in Section 26H-2 and to revise the procedure by which the Sunset Evaluation Reports are submitted to the Legislature.

The present amendments would require the Legislative Auditor to submit to the Legislature an evaluation of the board, commission, or regulatory agencies that is up for review at least twenty days prior to the Legislative Session of each year. The amendment would also allow the board, commission, or regulatory agencies to comment on the report prior to its submission to the Legislature. Additionally, if the Auditor's report is not received within the allotted time limit, the Legislature need not consider it.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 118, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 118, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima and Saiki.

SCRep. 548-80 Consumer Protection and Commerce on S.B. No. 1519

The purpose of this bill is to amend section 403-53, Hawaii Revised Statutes, to permit

an increase in the number (from four to five) of branch banks or collection offices allowed within each of the zones within the Honolulu district.

Your Committee received testimony from the Department of Regulatory Agencies in support of the general concept of the bill. The Hawaii Bankers Association submitted testimony which stated that although there were differences of opinion among the banks initially, all eight member-banks were in support of the bill.

Your Committee has amended the bill to correct typographical errors.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1519, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1519, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima and Saiki.

SCRep. 549-80 Consumer Protection and Commerce on S.B. No. 1992-80

The purpose of this bill is to clarify Chapter 482, Hawaii Revised Statutes, regarding trademarks and trade names. This bill changes Chapter 482 in the following manner:

- 1) Adds a new Section 482-1 containing definitions of the terms "service mark", "trade-mark", "trade name", and "person".
- 2) Changes the designation of the present Section 482-2 to Section 482-3; repeals the present Section 482-3 and incorporates the substance thereof into the redesignated Section 482-2.
- 3) Adds the term "service mark" as an affected category throughout the chapter.
- 4) Separates "trade name" into two words instead of one word in certain sections where it appears.
- 5) Makes a petitioner seeking revocation of a certificate of registration under Section 482-8 responsible for notifying the person to whom the certificate has been issued of the hearing on the petition for revocation. Under the present statute, the Director of Regulatory Agencies is responsible for giving such notice.
- 6) Makes the notice requirements for revocation hearings for non-use (Section 482-6) and prior ownership (Section 482-8) identical by requiring that notice for hearings under either section be given as provided for by Section 91-9.5, Hawaii Revised Statutes.
- 7) Exempts the Director of Regulatory Agencies from paying damages, attorney's fees and costs for violation of Section 482-4(a).

Your Committee is in agreement that the amendments to Chapter 482 proposed by this bill will clarify the law and provide for more efficient administration of the law by the Department of Regulatory Agencies.

Your Committee has amended the bill by making minor changes for reasons of clarity, drafting style, and to correct typographical errors which have no substantial effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1992-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1992-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima and Saiki.

SCRep. 550-80 Consumer Protection and Commerce on S.B. No. 2069-80

The purpose of this bill is to require that contractors who undertake the erection, construction, completion, addition, alteration, or repair of any residential structure provide a one-year warranty to correct all damages caused by faulty work or the use of improper, defective, or inferior materials, and to correct the faulty work and materials causing the damages. The bill provides that the warranty shall apply to all subsequent owners of the residential structure for one year after completion.

The bill also provides that the contractor shall make the plans and specifications, if any, for the residential structure, available to the purchaser at a reasonable fee.

Your Committee has amended the bill to provide that the warranty cover damages and their causes, except for malicious damages caused by an owner or occupant of the residential structure. Other non-substantive changes have been made without affecting the intent of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2069-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2069-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima and Saiki.

SCRep. 551-80 (Majority) Consumer Protection and Commerce on S.B. No. 2070-80

The purpose of this bill is to remove the statutory requirement that no-fault insurers provide written policies to each public assistance recipient obtaining no-fault insurance coverage.

Under existing statutes, the no-fault insurer must issue a copy of a no-fault policy to each certified public assistance recipient who obtains no-fault insurance coverage. This procedure requires much time and effort on the part of the agents servicing these non-revenue accounts. Current regulations require a commission of \$20 per policy for all new business and \$10 for renewals to be paid to the producer of record.

Under the proposed "certificate plan" in this bill, the Department of Social Services and Housing will certify that a recipient meets the eligibility requirements by issuing a JUP (Joint Underwriting Plan) certificate which shall then be deemed a "policy" upon the issuance of a valid no-fault insurance identification card.

This new system obviates the need for a servicing carrier to issue a policy to each insured certified public assistance recipient, and eliminates producer commissions to the servicing agent since the certificate will be processed directly by the service carriers. An annual estimated savings of \$400,000 can be realized by the service carriers, and ultimately, by the driving public, without changes or deletions in current coverages or services.

Your Committee was forwarded testimony in support of this bill from the Human Resources Committee. Testimony of the Director of Social Services indicated that "upon the urging of [the Senate Consumer Protection Committee Chairman], the Department in close cooperation with the Board of Governors, Hawaii Joint Underwriting Plan, Mr. Charles Jones, President, and the Officer of the Motor Vehicle Insurance Division, Mr. David Ishikawa, Commissioner, have mutually agreed on the workability and acceptability of the plan. In our discussions, representatives of the State's Office of the Attorney General were involved and, hence, we are relatively confident of adequate State safeguards."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2070-80 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Campbell and Ushijima. Senator Carroll did not concur.

SCRep. 552-80 Consumer Protection and Commerce on S.B. No. 2091-80

The purpose of this bill is to extend, under the sunset law, Chapter 447, Hawaii Revised Statutes, relating to the regulation of dental hygienists, to December 31, 1986.

The late receipt of the Legislative Auditor's Sunset Evaluation Report on Dental Hygienists has precluded a thorough evaluation of its findings and recommendations by your Committee.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2091-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima and Saiki.

SCRep. 553-80 Consumer Protection and Commerce on S.B. No. 2092-80

The purpose of this bill is to postpone the repeal of the Collection Agency Board until December 31, 1986.

Upon the convening of the 1979 Regular Session of the Legislature, the Collection Agency Board established by Chapter 443, Hawaii Revised Statutes, was scheduled to be repealed effective December 31, 1979, under Section 26H-4, Hawaii Revised Statutes. Pursuant to the statutory scheme of Chapter 26H, Hawaii Revised Statutes, (Hawaii Regulatory Reform Act), the 1979 session of the Legislature considered the question of whether or not Chapter 443 should be reenacted, modified, or allowed to expire.

As a result of its deliberations, the Legislature enacted Act 76, Session Laws of Hawaii 1979. Section 1 of Act 76 extended the existence of the Collection Agency Board for one year, until December 31, 1980. Section 2 of the Act created a new chapter regulating collection agencies (without providing for a Board) to become effective upon the repeal of the Collection Agency Board on December 31, 1980. However, Act 76 was enacted with an effective date of December 31, 1980, applicable to both Sections 1 and 2 of the Act. Therefore, technically, Section 1 of Act 76 was not effective to extend the existence of the Collection Agency Board at the time of its scheduled repeal on December 31, 1979.

As a result of the form in which Act 76 was enacted, Section 26H-4, Hawaii Revised Statutes, as it appears in the 1979 supplement, contains two repeal dates for the Collection Agency Board (one effective as of December 31, 1979 and the other effective as of December 31, 1980) with appropriate annotations by the Revisor of Statutes. As introduced, this bill only deletes the December 31, 1980, repeal date and your Committee has amended the bill to also delete the December 31, 1979, repeal date from Section 26H-4.

Further, inasmuch as it is your Committee's intent that the Collection Agency Board be continued, the repeal of the Board has been postponed until 1986 as provided in the original draft of the bill, and the bill has been amended to provide that Section 2 of Act 76, 1979 (which, as indicated earlier sets up a chapter governing collection agencies without a Board to be effective December 31, 1980), is repealed.

Your Committee has been informed that under case law relating to statutory interpretation, Act 76, Session Laws of Hawaii 1979, would be interpreted to have extended the existence of the Collection Agency Board to December 31, 1980, in accordance with the legislative intent. To reaffirm this intent, and to ensure technical compliance with drafting procedures, the bill has been amended by adding a new section (Section 3 of the bill, as amended) reenacting Chapter 443 in the form it existed on December 31, 1979, and to state that Act 76 did postpone the repeal date of Chapter 443 until December 31, 1980.

The late receipt of the Legislative Auditor's Sunset Evaluation Report on the Collection Agency Board has precluded a thorough evaluation of the report's findings and recommendations.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2092-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2092-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima and Saiki.

SCRep. 554-80 Consumer Protection and Commerce on S.B. No. 2093-80

The purpose of this bill is to extend, under the Sunset law, Chapter 438, Hawaii Revised Statutes, which regulates barbers, to December 31, 1986.

Your Committee received testimony in favor of the bill from the board of barbers and Leo Williams.

Mr. William's testimony expressed concern that the legislative auditor's sunset evaluation report, which he stated "could easily mislead [your Senate Committee]," was released so late as to not allow enough time for the board, the department of regulatory agencies, and the industry to properly prepare comments to rebut the report. Mr. Williams cited numerous examples of false statements, the exclusion of pertinent information, and the display of information out of its proper context.

Your Committee concurs with Mr. Williams concern, inasmuch as the lateness of receipt of the legislative auditor's report has made it difficult, if not impossible, for those under

review to have considered and developed responses to the findings and recommendations in the reports.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2093-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima and Saiki.

SCRep. 555-80 Consumer Protection and Commerce on S.B. No. 2094-80

The purpose of this bill is to postpone the repeal of the Board of Veterinary Examiners from December 31, 1980 to December 31, 1986.

Your Committee had hoped that the Legislative Auditor's Sunset Evaluation Report on Veterinary Medicine would have been available at an earlier date. The late receipt of the report has precluded a thorough evaluation of its findings and recommendations.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2094-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima and Saiki.

SCRep. 556-80 Consumer Protection and Commerce on S.B. No. 2095-80

The purpose of this bill is to postpone the repeal of Chapter 468J, Hawaii Revised Statutes, regulating travel agencies, from December 31, 1980, to December 31, 1986.

The late receipt of the Legislative Auditor's Sunset Evaluation Report on Travel Agencies has precluded a thorough evaluation of the report's findings and recommendations by your Committee.

Your Committee has amended the bill to delete the provision contained in the definition of "travel agency" in Chapter 468J, which currently excludes air or ocean carriers or their officially appointed agents. This amendment will require all travel agencies in the State to be licensed under Chapter 468J, Hawaii Revised Statutes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2095-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2095-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima and Saiki.

SCRep. 557-80 Consumer Protection and Commerce on S.B. No. 2096-80

The purpose of this bill is to postpone the repeal of the Board of Private Detectives and Guards from December 31, 1980 to December 31, 1986.

Your Committee had hoped that the Legislative Auditor's Sunset Evaluation Report on Private Investigators and Guards would have been available at an earlier date. The late receipt of the report has precluded a thorough evaluation of its findings and recommendations.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2096-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell and Ushijima.

SCRep. 558-80 Consumer Protection and Commerce on S.B. No. 2407-80

The purpose of this bill is threefold: Section 1, the so-called "at rest" provision is designed to implement Hawaii Revised Statutes Section 281-3's ban against liquor importation by persons other than licensed wholesalers. Section 2 closes a loophole in present law which has permitted certain retailers to avoid State liquor taxes by purchasing liquor through military post exchanges. Section 3 provides that Hawaii wholesalers may import liquor only from the "primary source" of supply for such liquor.

Section 1 of the bill amends Section 281-3, Hawaii Revised Statutes, to require that all liquor purchased from out-of-state suppliers "come to rest" at the importing wholesaler's warehouse. Section 281-3 presently makes it unlawful "for any person, not having a valid wholesale license... to import any liquor from without the State...." In practice, however, certain retailers have found ways to circumvent the law. A common procedure is for the retailer to find a wholesaler, who, for a nominal fee, designates the retailer as his "agent." The retailer then purchases liquor from out-of-state suppliers and has it shipped directly to his premises. On paper, the transaction is made to appear to be a purchase and importation by the wholesaler and a subsequent sale by the wholesaler to the retailer. In fact, the wholesaler never sees the liquor and has nothing to do with the transaction other than selling the retailer the use of his wholesale license. Known as "clearing," this practice permits the retailer to, in effect, import liquor into Hawaii notwithstanding Section 281-3's prohibition of such importations.

By amending Section 281-3 to require the wholesaler to take physical control of the liquor and deleting language in Section 281-31 which has been interpreted to permit indent (drop) shipments to retailers from out-of-state suppliers, it is anticipated that the class of clearing which is purely a paper transaction will be eliminated. This should facilitate liquor control and taxation and avoid the development of certain anticompetitive practices such as the "tied house." Twenty-seven of the thirty-four states which have a system of liquor control similar to Hawaii's have adopted some form of "at rest" laws.

Section 2 of the bill amends Section 281-31, Hawaii Revised Statutes, to, first, as described above, eliminate indent shipments and, second, prevent retailers from purchasing liquor from military post exchanges. Since liquor sold by military outlets is exempt from State taxation, such purchases enable retailers to evade State liquor taxes. While it is difficult to estimate the exact dimension of the problem, it appears to be significant.

Your Committee has amended the bill by deleting Section 3 (the primary source provision) of the bill as originally drafted.

Your Committee has also amended S.B. No. 2407-80 to correct typographical errors.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2407-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2407-80, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima Saiki.

SCRep. 559-80 Consumer Protection and Commerce on S.B. No. 2489-80

The purpose of this bill is to amend Section 410-15, Hawaii Revised Statutes, to allow State chartered credit unions to make loans to their members at a maximum rate of eighteen per cent per year. The maximum rate which credit unions may now charge is statutorily fixed at twelve per cent a year.

Your Committee received testimony in favor of the bill from the Hawaii Credit Union League, representing all 159 Hawaii credit unions and their 350,000 members. Their testimony expressed grave concern regarding disintermediation of credit union deposits: since interest rates at other financial institutions are higher than those offered by credit unions, the credit unions do not have the funds to meet loan demands, which remain high due to the relatively low twelve per cent maximum loan rate. Due to the eroding savings base and maximum loan rate, the credit unions face the dilemma of either establishing restrictive loan policies which is a disservice to its members, or making loans at a rate lower than its cost of funds.

Your Committee received testimony stating no objection to the bill from the Department of Regulatory Agencies.

Your Committee has amended the bill by making non-substantive, technical changes, and by adding a four year lapsing clause.

Your Committee is in accord with the intent and purpose of S.B. No. 2489-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2489-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong, Campbell, Kuroda, Ushijima and Saiki.

SCRep. 560-80 Consumer Protection and Commerce on S.B. No. 2514-80

The purpose of this bill is to amend Section 444-23, Hawaii Revised Statutes, to provide that any person who aids an unlicensed contractor or knowingly enters into a contract with an unlicensed contractor shall be fined in specified increasing amounts for each successive violation. The bill also provides that restitution, and revocation or suspension of license may be imposed as additional penalties.

Your Committee received testimony in favor of this bill from the Contractors Licensing Board, the Office of Consumer Protection, and various contractors' associations.

Your Committee has amended language in subsections (a) and (b) of Section 444-23 in the draft of the bill for clarity without amending the substantive intent of this amendment. Subsection (c) has been deleted as being unnecessary as indicated by the testimony of the Office of Consumer Protection.

It is your Committee's intent that the additional penalties of requiring restitution under Section 92-17, and revocation, suspension, refusal of renewal of license under Section 444-17, be imposed at the discretion of the Contractors Licensing Board.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2514-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2514-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima and Saiki.

SCRep. 561-80 Consumer Protection and Commerce on S.B. No. 2515-80

The purpose of this bill is to reduce the inactive period for contractors' licenses from three to two years to coincide with the biennial license renewal period. The bill also amends the procedure for placement of a license on inactive status.

At present, when a contractor wishes to place his license on an inactive status, he may do so for as long as three years. Under this bill, there would be a biennial updating of all licenses, and upon written request of a licensee, an active license may be placed in an inactive status after review by the board.

Your Committee finds that uniformity in the time period for the payment of fees would improve the administration of the licensing procedure.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2515-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2515-80, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima and Saiki.

SCRep. 562-80 Consumer Protection and Commerce on S.B. No. 2517-80

The purpose of this bill is to amend Section 373-10, Hawaii Revised Statutes, which gives the Director of Labor and Industrial Relations the power to make rules and regulations as to the fees employment agencies may charge. This bill will repeal the power of the Director to set fees, and require instead that employment agencies file a schedule of their placement fees with the Director.

The bill provides that the fee schedule may not be changed more than once during a calendar year, and requires that a request for a change be filed with the Director. The bill also requires that the contract between the applicant and the employment agency be in writing, and in bold print in a conspicuous border, and show the gross amount of the fee and time period on which the fee is based.

Your Committee received testimony in favor of this bill from the Hawaii Business League and the Hawaii Association of Personnel Consultants.

In order to meet the needs of the employment agencies as well as be mindful of protecting the consumer, your Committee has amended the bill by requiring the Director's approval

for such fee schedule changes, and by requiring that the Director act to approve or disapprove of the change within a ninety day period.

Other changes have been made without affecting the intent of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2517-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2517-80, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima and Saiki.

SCRep. 563-80 Consumer Protection and Commerce on S.B. No. 2520-80

The purpose of this bill is to prevent the imposition of a retroactive penalty against industrial loan companies, licensed under Chapter 408, Hawaii Revised Statutes, which act in reliance on an interpretation by the Hawaii Supreme Court, or a rule or regulation of the bank examiner that is subsequently amended or nullified.

Testimony submitted by the Hawaii Consumer Finance Association in support of the bill noted that provisions similar to that proposed in this bill are contained in the federal Truth-in-Lending Act and Equal Credit Opportunity Act.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2520-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell and Ushijima.

SCRep. 564-80 Consumer Protection and Commerce on S.B. No. 2674-80

The purpose of this bill is to repeal the present prohibition against the use of length of driving experience in basing any standard or rating plan, and allows a surcharge (not to exceed twenty-five per cent of the rates charged a driver with three or more years driving experience) to be charged to a driver with less than three years driving experience.

Your Committee received testimony from the State Motor Vehicle Insurance Commissioner expressing concern that the bill would affect younger drivers the most, notwithstanding the prohibition of discrimination on the basis of age. The Hawaii Insurers Council expressed the view that the bill would allow a surcharge for all novice drivers regardless of age, and would apply only to drivers of that category who are the principal operator of a motor vehicle during their first three years of driving. The Hawaii Insurance Association presented testimony in favor of the bill, stating that it would provide a more equitable distribution of premiums between those with proven driving experience and those who just received their licenses.

Your Committee has amended the bill to decrease the surcharge to a ten per cent differential, and to apply it only for drivers with less than two years driving experience who have not successfully completed a recognized safe driving course or have not maintained a good driving record.

It is your Committee's intent that these conditions be observed regardless of age of the principal operator. Thus, a driver in this category convicted of a moving traffic violation could be surcharged.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2674-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2674-80, 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. 565-80 Consumer Protection and Commerce on S.B. No. 2681-80

The purpose of this bill is to amend Chapter 464 to change the present use requirements for certain types of buildings which are constructed without plans approved by an architect or engineer.

Presently, the law provides that certain one-story buildings costing not more than \$40,000, and certain two-story buildings costing not more than \$35,000 may be constructed

without certification by a licensed architect or engineer. Additionally, if the buildings are used "primarily as a residence", the building costs are raised to \$50,000, and \$45,000, respectively. The bill deletes the words "primarily as a residence" and substitutes "exclusively as a residence", to provide that homes which will be used in that manner will be allowed the exemption.

Present law requires that new residential buildings which are built without the approval of an architect, engineer, or surveyor, as permitted under the exemption provided in subsection (b), shall be noted and recorded at the Bureau of Conveyances. Your Committee has amended the bill to require that all exempted work (including new buildings, additions, renovations, repairs, and alterations) in excess of an estimated cost of \$5,000 shall be noted and recorded at the Bureau of Conveyances. Thus, the recordation requirement has been expanded to include all work (rather than only the construction of a new building) for all uses (rather than only for primarily residential use), but has been limited to work in excess of an estimated cost of \$5,000.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2681-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2681-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima and Saiki.

SCRep. 566-80 Consumer Protection and Commerce on S.B. No. 2863-80

The purpose of this bill is to amend Section 462A-15, Hawaii Revised Statutes, by deleting the provision which requires the pilot association to "maintain liability insurance coverage which protects the State against liability arising out of or caused by any acts or omissions of an association pilot."

The Hawaii Pilots Association and the Board of Pilot Commissioners testified that prior to enactment of the state pilotage law the pilots were employees of the State, and the State was obligated to carry liability insurance to protect itself against liability arising out of or caused by any acts or omissions of their pilots.

Chapter 462A, as passed by the 1978 Legislature, contained a provision permitting the pilots to form an association in order to provide the necessary arrangements and facilities for the rendering of pilotage services, and requiring such association to maintain liability insurance coverage to protect the State. The amount of insurance was to be specified by the Board of Pilot Commissioners.

The Attorney General of the State of Hawaii, in an opinion dated May 27, 1977, held that if the pilots are no longer State employees, the State of Hawaii would not be liable for any damages caused by a pilot except where the proximate cause of the injury was (1) the conformance by the pilot to standards set by the Board of Pilot Commissioners which are clearly inadequate; or (2) the negligent licensing of an unqualified individual by the Board as a certified pilot. In the history of state pilotage in the United States, there has been no case found where a state or municipality has been successfully sued for the actions of a state licensed pilot.

Because the potential liability of the State is relatively insignificant, your Committee agrees that the liability insurance requirement should be eliminated.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2863-80 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Campbell and Ushijima.

SCRep. 567-80 Consumer Protection and Commerce on S.B. No. 2898-80

The purpose of this bill is to codify the statutory authority of the Division of Measurement Standards presently scattered about in three different chapters of the Hawaii Revised Statutes, into one chapter, and to create more uniformity in terminology, as well as provide procedural flow in the ordering of the new sections in this chapter.

Your Committee received testimony in favor of this Administration "housekeeping" bill (D-3(80)) from the Department of Agriculture. The Department stated that great dependence was placed upon the Attorney General's office in the drafting of this bill in preparation for compliance with Act 216, SLH 1979, which required the redrafting of all administrative rules.

Your committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.b. No. 2898-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell and Ushijima.

SCRep. 568-80 Consumer Protection and Commerce on S.B. No. 3131-80

The purpose of this bill is to provide that prior to the furnishing of funeral services, mortuaries shall provide prospective purchasers of funeral services with:

- (1) A copy of the price list of the services and items which the mortuary offers, which list can be a copy of the list which each mortuary is required to file with the Cemetary and Mortuary Board of the State of Hawaii; and
- (2) An itemized estimate of the charges the prospective purchaser will be incurring.

The bill also requires that the purchaser approve and sign the estimate, and that the mortuary authority not charge a price for the services contracted in excess of the agreed upon price.

Your Committee heard testimony that some mortuaries already provide these items to prospective purchasers, and that all mortuaries are required to provide these items if requested to do so. However, by making this disclosure mandatory, the consumer will have a better opportunity to make an informed choice during this emotional time when he may be too grief stricken or plagued with guilt to ask for a price list or itemized cost. This bill was supported by the Cemetary and Mortuary Board, and no testimony was presented in opposition to it.

Your Committee has amended the bill to clarify language and make some technical changes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. 3131-80, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3131-80, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima and Saiki.

SCRep. 569-80 Human Resources on S.B. No. 571

The purpose of this bill is to amend the Employment Security Law to provide that unemployment benefits paid to an individual shall be charged to the account of the individual's most recent employer.

Your Committee finds that at present, a base period employer's account is charged for benefits paid to a former employee receiving unemployment compensation regardless of reason for job separation. Thus if an individual voluntarily quit his work or was discharged for misconduct connected with work from a base period employer, such individual can qualify for unemployment benefits if he obtains subsequent employment with another employer, works five or more consecutive weeks, and is separated due to lack of work or other nondisqualifying reasons. Under the existing law, unemployment benefits paid to him are charged to the account of that base period employer from whose employment he had voluntarily quit without good cause or for reasons not attributable to the employer, or was discharged for misconduct connected with work. Under this bill, only the most recent employer, who is most responsible for an unemployed's joblessness, shall be charged for the unemployment benefits paid to that individual.

Your Committee further finds that in many instances, the most recent employer may not be the one most culpable among the unemployed's base period employers. Your Committee has therefore amended this bill to provide for the noncharging of base period employers' accounts if an individual became separated from employment under one of the following three circumstances:

- (1) he left work voluntarily without good cause, or
- (2) he was discharged for misconduct connected with his work, or
- (3) he left his work voluntarily for good cause not attributable to the employer.

The above circumstances refer to job separations from a base period employer, that is, an employer that an individual worked for during the four completed calendar quarters

immediately preceding his initial claim for benefits.

Your Committee finds it advisable, in view of the voluntary nature of the job separation in a voluntary quit without good cause or for reasons not attributable to the employer or a discharge for an intentional act of misconduct committed by an employee in connection with work and the lack of employer's fault in causing such job separations, to relieve a base period employer from the burden of having his account charged for benefits paid to a former employee in situations where the former employee's job separation falls within one of the three circumstances enumerated in this bill, as amended. Under the foregoing circumstances, the benefits shall be paid from the unemployment compensation fund, and classified as "noncharges".

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 571, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 571, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 570-80 Human Resources on S.B. No. 2111-80

The purpose of this bill is to amend the Civil Service Law to (1) limit the use of veterans preference in hiring public employees by requiring that for each class of positions, the department of personnel services shall designate a time period directly related to the requirements of the class of positions, during which preference may be given to veterans; and (2) to provide that no preference be given to veterans whose discharge date was before 1955. This bill also provides housekeeping measures that comply with the State's policy on equal opportunity and nondiscrimination.

Your Committee finds that veterans preference is intended to assist veterans returning to civilian life. Under current statutes, the department does not identify classes of positions for which veterans preference is applicable because returning veterans have a wide range of educational and training backgrounds.

This bill requires that the department shall designate a time period directly related to the requirements of each class of positions, during which time preference points for veterans may be applied.

Your Committee has amended this bill by deleting the time period requirement for veterans preference, and any reference to this section. Your Committee finds that revisions to the statutes in 1978 provide an equitable method of certification for veterans and nonveterans for all classes of work or positions. The department currently identifies the top five eligibles without the addition of veterans preference, then adds the veterans preference to all veteran applicants. Veterans whose examination scores after the addition of preference points equal or exceed the examination score of the fifth eligible are also certified in addition to the top five eligibles. In this manner, nonveterans are not displaced by veterans but are considered along with veterans.

Your Committee has also deleted the elimination of preference to veterans who were discharged prior to 1955. Your Committee feels that this discriminates against older veterans.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2111-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2111-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 571-80 Human Resources on S.B. No. 2127-80

The purpose of this bill is to amend certain sections of the Civil Service Law to conform the statute with the principle of equal rights.

Your Committee finds that the current statutes relating to policy and examinations in civil service contain references to only the masculine gender. This bill substitutes references to the masculine gender with a neuter gender.

This bill also stipulates that marital status shall not be a factor in the application of civil service merit principles, and deletes the sex of an individual as the basis for limiting the applicant group being examined for civil service employment.

Your Committee has made the following amendments:

(1) The term "marital status" is deleted from the policy section of this bill. The Equal Employment Opportunity Commission (EEOC) regulations and the Equal Employment Opportunity Act of 1972 which are applicable to State and county governments do not identify marital status per se as a prohibited basis of discrimination, as marital status is considered to be discrimination based on sex when used against married women. Your Committee finds that current sex discrimination statutes provide sufficient protection to affected individuals.

(2) The word "sex" has been restored to the examination section in current civil service statute. This provision relating to the limitation of an applicant group for a position because of sex has rarely been used, and only when the position's duties and responsibilities mandate the services of a male or female, in conformance with EEOC regulations that exceptions to sex discrimination shall be based on bona fide occupational qualifications.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2127-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2127-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 572-80 Human Resources on S.B. No. 2194-80

The purpose of this bill is to amend the State's public employee Collective Bargaining Law:

- (1) to define "essential employee";
- (2) to prohibit an essential employee from participating in a strike;
- (3) to mandate the Hawaii Public Employment Relations Board (HPERB), if an authorized strike has not yet commenced, to establish specific requirements which shall be fulfilled to protect the public health and safety;
- (4) to mandate any affected public employer to petition the appropriate circuit court to enjoin the performance of acts or practices forbidden under section 89-12 (strikes, rights and prohibitions), Hawaii Revised Statutes, or to bring about compliance therewith; and
- (5) to allow each circuit court to enforce section 89-12, HRS without regard to chapter 380, HRS, Labor Disputes; Jurisdiction of Courts.

Your Committee finds that the recent United Public Workers (UPW) unit I strike manifested the need for a thorough review of the State's Collective Bargaining Law. After due deliberation, your Committee concludes that the statutes affecting essential employees and other procedural matters related to the avoidance or removal of any imminent or present danger to the public health or safety in strike situations should be amended.

This bill amends section 89-2, (definitions), and section 89-12, (strikes, rights, and prohibitions) of the Collective Bargaining Law as follows:

(1) Your Committee finds that although there were constant references to "essential workers" or "essential employees" by all parties involved in and concerned with the UPW strike, current statutes do not provide for a definition of nor a procedure for designating an "essential employee". This bill defines "essential employee" to mean any employee in a position designated by the board (HPERB) to be necessary to avoid or remove any imminent or present danger to the public health or safety. However, your Committee feels that this definition is inconclusive relative to the respective roles of the public employer and HPERB in assigning work to and designating an essential employee, and has amended this bill to more clearly accomplish its intent. This bill, as amended, provides definitions of "essential employee" to mean an employee designated by the public employer to fill an essential position; and "essential position" to mean any position designated by the board (HPERB) as necessary to be worked in order to avoid or remove any imminent or present danger to the public health or safety. The public employer shall assign the public employee to the essential position under this bill, as amended. By the preceding amendments, (1) HPERB's authority to ensure that the public health or safety is not endangered is clarified; and (2) the public employer's management right to assign work to its employees is preserved.

(2) This bill expressly prohibits an essential employee from participating in a strike, a prohibition which your Committee feels was an original intent of the Collective Bargaining

Law at its inception. Your Committee has amended this section of the bill to delete the phrase "designated by the board" after the term "essential employee" in line 17, page 1, because this phrase is an unnecessary repetition of a provision already covered by the application of the terms "essential employee" and "essential position".

(3) Under this bill, if an authorized strike has not commenced, HPERB shall establish specific requirements to avoid or remove any danger to public health or safety, including the designation of essential employees, no later than five days after the ten-day strike notice is given by the exclusive representative. Your Committee finds, however, that this bill does not provide protection to the public health or safety if a strike is already in progress. Your Committee has amended this bill to provide protection to the public health or safety whether a strike is imminent or is in progress. Additionally, your Committee has added language to provide procedures for serving notice to an essential employee through various means, including the print media, and to require an essential employee to contact the public employer for a work assignment after the essential employee's receipt of such notice.

(4) This bill mandates any affected public employer to directly petition the appropriate circuit court to enjoin violations of or to bring about compliance with the strike provisions of the Collective Bargaining Law. This is accomplished in this bill by the deletion of the procedure wherein the public employer petitions HPERB for a declaration of an unlawful strike; and the requirement that the affected public employer (instead of HPERB, as in current statute) shall forthwith institute appropriate proceedings in the circuit court in which the violation occurs. Your Committee agrees with the requirement that the public employer shall file for injunctive relief directly with the appropriate circuit court, but finds no need for deleting the petitioning process which the public employer shall pursue with HPERB for a declaration of an unlawful strike. Your Committee has amended this bill to restore the HPERB petitioning process, and to more clearly state the public employer's statutory obligation to directly file for injunctive relief with the appropriate circuit court; thereby preserving HPERB's authority to investigate alleged violations of the strike provisions of the law, and providing the public employer with speedy judicial recourse if violations of these provisions are confirmed by HPERB.

(5) This bill allows each circuit court to enforce section 89-12 without regard to chapter 380, Labor Disputes; Jurisdiction of Courts (commonly known as Hawaii's Little Norris La-Guardia Act). Your Committee finds that chapter 380 provides certain protections to employees and labor organizations during labor disputes. These protections include the necessity for specific findings of fact before the issuance of injunctive orders in a labor dispute; the right to an expedited appeal from a temporary injunction to the Supreme Court; the right to a jury trial; and the right of the defendant to a contempt hearing before a judge other than the one who issued the contempt citation. Your Committee has therefore amended this bill to restore the applicability of chapter 380 to section 89-12; however, your Committee has further amended this bill to prohibit the right to a jury trial in any proceedings brought under section 89-12. Your Committee feels that the right to a jury trial is inconsistent with this measure's intent to provide speedy resolutions of legal matters in public employee strike situations.

Your Committee has made other technical, nonsubstantive amendments to this bill.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2194-80, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 2194-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 573-80 Human Resources on S.B. No. 2204-80

The purpose of this bill is to enable the employment security appeals referee to statutorily establish the fee for attorneys or agents who represent unemployment insurance claimants in proceedings before the referee.

Your Committee finds that under current statute, attorneys or agents who represent claimants can charge a maximum fee of 10 per cent of the benefits the claimant receives if the appeal is won. If the appeal before the referee is lost, the attorney or agent can not charge a fee.

Prior to July 1976, the department of labor and industrial relations (DLIR) penalized individuals by imposing a five-week period of disqualification of benefits. This meant that if a claimant's weekly benefit amount was \$100, and he was disqualified for five weeks, he was penalized a total of \$500 (5 weeks X \$100 per week). If the claimant appealed

this decision and won, the referee approved a maximum fee of \$50 (10 per cent of \$500) for the attorney or agent.

In 1976, amendments were made to the statutes that imposed an indefinite period of disqualification. Consequently, if a claimant wins his appeal, the attorney or agent's fee is 10 per cent of an indefinite amount, determined by the weekly benefit amount times the number of weeks of disqualification. Because the indefinite period of disqualification leads to delay and additional work for the department, the referee's office has used 10 per cent of the maximum total benefits payable as the amount allowable for the attorney or agent fee. For example, if the claimant's weekly benefit amount is \$100 X 26 weeks = \$2,600 maximum total benefits payable X 10 per cent = \$260, a maximum fee of \$260 is approved.

This bill establishes the fee statutorily on the basis of the "average benefit duration", which is computed by DLIR by dividing the number of weeks compensated during a year by the corresponding number of first payments made during the year. For example, the average benefit duration for 1979 was 13.5 weeks. Under this bill, if a claimant's weekly benefit amount was \$100, a fee of \$135 would be approved ($\$100 \times 13.5 = \1350×10 per cent = \$135).

Your Committee finds that no definition of "average benefit duration" is provided in this bill or in current statutes, and has amended this bill to include a definition.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2204-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2204-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 574-80 Human Resources on S.B. No. 2225-80

The purpose of this bill is to recognize recent changes in the health services industry by expanding the authority of the Board of Trustees to contract with health maintenance organization plans that provide and arrange health services for members on a prepaid basis.

Your Committee finds that the current Health Fund Law which was enacted in 1961 favors the Kaiser Health Foundation Plan because it was the only comprehensive prepaid group medical plan in existence at that time. Since 1973, the Federal Health Maintenance Organization Act has encouraged and supported the development of many preventive medicine and health care organizations similar to that of the Kaiser Plan as an alternative to the traditional fee-for-service plans.

This bill provides that the authority of the board of trustees shall be expanded to allow them to contract with other health maintenance organizations whose benefit plans will reduce the total out-of-pocket medical expenses of public employees and their dependents.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2225-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 575-80 Human Resources on S.B. No. 2237-80

The purpose of this bill is to increase from five per cent to ten per cent the preference given to nonprofit corporations and sheltered workshops which bid for government service contracts; provided that these entities are certified by the department of labor and industrial relations.

Your Committee feels that these sheltered workshops and other nonprofit organizations provide a valuable service to the State and for the community, and deserve added preferential consideration in matters involving the contracting of government services.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2237-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 576-80 Human Resources on S.B. No. 2286-80

The purpose of this bill is to amend section 192-21, Hawaii Revised Statutes, relating to the youth employment program, to delete language which is indicative of gender.

Your Committee finds that the use of the term "young men" in statute is inappropriate, and agrees with this bill's purpose in changing the foregoing term to "young persons". Additionally, this bill updates the language of the statute to reflect current conditions relative to the youth employment program.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2286-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 577-80 (Majority) Human Resources on S.B. No. 2956-80

The purpose of this bill is to provide all current employees of the milk control division, department of agriculture, with the benefits and tenure of civil service coverage.

The milk control division was established in 1967 under the department of agriculture. Initially, employees of this division were exempt from civil service classification and coverage in order to allow the flexibility in negotiating the best qualified personnel for the job.

Your Committee finds that in the past, the State has consistently awarded civil service status to exempt employees when a new division through time performs as an integral part of a department. The milk control division has established rapport with the milk industry and has received support from the legislature and the governor. Your Committee feels that awarding of civil service status to employees in the milk control division would be in accordance with the State's past policy in awarding civil service coverage to a new division.

Your Committee further finds that conversion of these employees to civil service status does not require any additional monies from the general fund. Presently, milk control division employees receive wages equivalent to what they would be receiving if they were on civil service status. Additionally, your Committee further finds that the milk industry annually contributes approximately \$150,000 to the general fund for the operation of the milk control division.

This bill also allows the division of milk control to hire employees who shall be subject to civil service coverage.

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

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2956-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2956-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.
Senator Soares did not concur.

SCRep. 578-80 Human Resources on S.B. No. 2987-80

The purpose of this bill is to amend the provisions for whole-package, final-offer arbitration in a dispute between a public employer and bargaining unit 11, firefighters.

Your Committee finds that this bill proposes several changes to the arbitration procedure for firefighters by:

- (1) requiring the Hawaii Public Employment Relations Board (HPERB), to submit a list of five Hawaii residents experienced in grievance arbitration from which the impartial third arbitrator shall be selected;
- (2) requiring items in dispute to be categorized into cost and non-cost items; and
- (3) requiring that in the event of legislative rejection of an arbitration award, cost items shall be resubmitted to both parties for further negotiations.

Under current statutes, the American Arbitration Association (AAA) is required to submit a list of five qualified arbitrators, without regard to residency, from which the impartial third arbitrator is chosen. This bill directs HPERB, instead of AAA, to submit a list of qualified Hawaii residents from which the two previously selected arbitration panel members will choose the third and final panel member.

Your Committee further finds that current statutes provide that in arbitration proceedings, each side shall submit a complete final offer from which the panel of arbitrators selects the more reasonable offer. This bill mandates disputed issues to be categorized into cost and non-cost items. The arbitration panel shall then choose, without modification, either the cost package offered by the employer or the cost package of the bargaining unit. Non-cost items shall be resolved on an issue-by-issue basis by the arbitration panel. In addition, this measure restricts the comparison of wages and conditions of employment to similar positions in the State in the arbitration panel's consideration of the final offers.

Your Committee further finds that presently the legislature is neither bound by nor bound to act upon cost items for collective bargaining agreements even when such items are the result of final arbitration. Courts have determined that failure to act on the part of the legislature constitutes rejection of the cost items. This bill provides that when any legislative body rejects any of the cost items, all cost items shall be returned to the parties for further negotiations.

After due consideration, your Committee has amended this bill as follows:

(1) Your Committee finds that the American Arbitration Association should remain as the body responsible for furnishing the list from which the impartial arbitrator shall be selected. However, your Committee feels that arbitrators who are Hawaii residents are more knowledgeable of the economy, labor conditions, and general affairs of the State, and agrees that the impartial arbitrator shall be one who resides in Hawaii, as provided in this bill, as amended.

(2) Your Committee has deleted any provision requiring the categorization of disputed items as cost and non-cost. For purposes of equity, your Committee feels that the arbitration panel should consider the whole-package offer as mandated under current statute, and as intended by the concept of "whole-package, final-offer" arbitration. Additionally, your Committee has restored the original language of the statute whereby the arbitration panel, in reaching a decision, shall consider, among other things, the conditions of employment of other persons performing similar services, and of other State and county employees in general. Your Committee feels that the arbitration panel should consider a broad scope of factors, as provided in current statute, in reaching a decision.

(3) Your Committee agrees with the intent of this bill to establish statutory procedures following a legislative rejection of cost items contained in a firefighters' arbitrated agreement. Your Committee, however, has amended this bill to provide that if any legislative body rejects the cost items in a firefighters' arbitrated agreement, the entire agreement shall be returned to the parties for further bargaining; if no agreement is reached after fifteen days, HPERB shall reappoint the same panel of arbitrators, and arbitration shall be repeated beginning with the submittal of complete offers by the parties. By the foregoing amendment, a reference point for repeating the arbitration procedure after a legislative body rejects the cost items is established.

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

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2987-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2987-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 579-80 Human Resources on S.B. No. 3026-80

The purpose of this bill is to amend the Temporary Disability Insurance Law's (TDI) definition of "wages" to include tips or gratuities received by a worker in an occupation where tips are customary and expected, or where tips or gratuities are reported to the employer for payroll tax deduction purposes.

Your Committee finds that under current statutes, gratuities and tips are included as wages for TDI purposes only when (1) a set amount is charged a customer as tips or as a service charge by an employer who subsequently disburses an amount to his employees; or when (2) an employer takes tips into account in meeting minimum hourly wage payments,

but any portion in excess of minimum wage payments are not taxable as wages. In any other case, tips and gratuities are specifically excluded as part of an employee's wages.

Your Committee further finds that there are workers in the labor force who, by the nature of their employment, rely on tips and gratuities as a major portion of their income. In this category are many hotel and restaurant workers. Under present statutes, hotel and restaurant workers, when disabled, receive benefits based only on their regular earnings unless tips and gratuities are included under the two aforementioned situations.

In addition, your Committee finds that employees are required by law to report all tips and gratuities received, and to pay State and federal income taxes on these tips. Your Committee feels that if tips and gratuities are taxed as income, and that income is the direct result of employment, then the employee should receive wage replacement benefits based on that income.

This measure, by including tips and gratuities as wages, provides more equitable income replacement benefits, the cost of which a worker alleviates by in turn paying a larger premium contribution.

Your Committee has amended this bill by providing that tips or gratuities must be both expected in a particular type of employment and be reported to the employer for payroll tax deduction purposes before being considered as part of the employee's wages. This measure, as originally worded, made either condition, but not both, necessary before tips or gratuities could be considered as wages.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 3026-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3026-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 580-80 Ways and Means on S.B. No. 1851-80

The purpose of this bill is to reform the present juvenile justice system by establishing a juvenile justice interagency board; amending current laws on release, custody, and detention of juveniles; improving the intake procedure by establishing a juvenile intake agency within the family court; amending laws on curfew violations; establishing totally new provisions relating to Hawaii youth correctional facilities; and appropriating funds for child shelter facilities.

Your Committee recognizes the need for revamping laws relating to various aspects of the juvenile justice system which will protect both juveniles and the community, aid families who are having problems controlling the behavior of their minor children, and fill gaps in the current juvenile justice system with regard to detention facilities for juvenile law violators.

Your Committee has made numerous amendments to S.B. No. 1851-80, S.D. 1, as received, as follows:

1. The bill contained numerous errors such as the deletion of words and paragraphs in the current law, without any apparent intent of so doing. Your Committee has reinserted the omitted language and corrected typographical errors.
2. Your Committee has amended the bill by substituting proper grammatical modifiers or nouns, when necessary, to clarify the bill.
3. The bill is drafted inconsistently in the use of gender specific terms. In some cases, the terms "he" or "his" have been substituted for a gender neutral term such as "child" or "person". Your Committee has made amendments to substitute the neutral terms throughout.
4. Your Committee has revised the structure of the bill for clarity.
5. The bill proposed the addition of a new section 571-31.4, Hawaii Revised Statutes, relating to informal adjustment of juvenile law violations. The proposed new section referred to submission of the problem to neighborhood courts or panels. Although the section stated that the court was to establish procedures for such neighborhood courts or panels to follow, the law failed to define neighborhood court or panel. The current judicial system does not contain any such entities. Your Committee, therefore, has included a general definition of neighborhood courts or panels which is in line with the definition

of neighborhood justice centers which are being established throughout the nation and which handle community problems through mediation or non-binding arbitration, but do not attempt to settle legal issues.

6. Your Committee has not had an opportunity to assess the cost implications involved in the bill and has therefore amended the bill by deleting the appropriations provided.

7. Finally, numerous nonsubstantive, technical style changes have been made for the purpose of complying with the Hawaii Legislative Drafting Manual.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1851-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1851-80, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Hara and Young.

SCRep. 581-80 (Majority) Ways and Means on S.B. No. 2027-80

The purpose of this bill is to raise the compensation for the chairman and each member of the liquor commission in counties having a population of more than 100,000 persons.

This bill amends section 281-11, Hawaii Revised Statutes, by raising the compensation for the chairman to \$50 from \$35 and \$35 from \$25 for each member. It also raises the maximum compensation per month to \$500 from \$350 and \$350 from \$250 for the chairman and members respectively. In view of the general increase in transportation and other costs in recent years, your Committee believes that the increase in compensation proposed in this bill is justified.

Your Committee has amended the bill by making nonsubstantive, technical changes to the bill to conform the style to the Hawaii Revised Statutes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2027-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2027-80, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Hara and Young. Senator Chong did not concur.

SCRep. 582-80 Ways and Means on S.B. No. 2172-80

The purpose of this bill is to require the department of social services and housing to license independent group residences in accordance with federal regulations.

Independent group residences are facilities which allow elderly, handicapped, or disabled persons to live independently in a group arrangement. The federal Department of Housing and Urban Development (HUD) has issued regulations which require state licensure or certification of such residences in order for the residents to qualify for housing assistance payments under HUD's "section 8" program.

Your Committee feels that the section 8 program is an important one for the people of the State, and that conformance to the regulations of the program should be made to ensure maximum participation under the program.

Your Committee has made the following amendments to the bill as received:

(1) The full name of the department of social services and housing is provided on line 10 of page 2 for clarification purposes;

(2) The word "facility" has been changed to "residence" on line 5 of page 4 and lines 1 and 5 of page 5 for uniformity;

(3) "HUD's" is replaced with the words "federal Department of Housing and Urban Development's" on line 11 of page 5 for clarification purposes;

(4) A statutory reference identifying the federal "section 8" program is provided on page 5;

(5) The words "and regulations" in the title of section 346- are deleted as unnecessary and not used in the section; and

(6) Section 3 of the bill is amended to insert standard language for appropriation clauses.

In addition, your Committee has made other technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2172-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2172-80, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Hara and Young.

SCRep. 583-80 Ways and Means on S.B. No. 2193-80

The purpose of this bill as received is to amend section 286-52, Hawaii Revised Statutes, by raising the penalty for late registration of transferred motor vehicles from \$2 to \$10.

Your Committee has amended this bill to raise the penalty from \$2 to \$5 and by deleting the printing directions to the revisor in section 2 of the bill as unnecessary.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2193-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2193-80, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Hara and Young.

SCRep. 584-80 Ways and Means on S.B. No. 2302-80

The purpose of this bill is to establish a temporary commission to study and review Hawaii's workers' compensation law and to prepare a report of findings and recommendations in consonance with the basic objectives of workers' compensation law, with a special emphasis on ways of reducing or stabilizing costs while maintaining benefits at existing levels, or ideally, providing increased benefits or reduced employer costs. The commission will submit a preliminary report to the governor and the legislature prior to the 1981 legislative session, and a final report, within ten days after the convening of the 1982 legislative session. This bill provides that the commission shall cease to exist ninety days after the submission of its final report.

Your Committee is in accord with the intent and purposes of the bill. Your Committee has amended the bill by: (1) deleting sections 8 and 9 of the bill referred to your Committee, which appropriates an unspecified amount for the operation of the commission and delineates the lapsing provision of the appropriation respectively; and (2) renumbering section 10 of the bill referred to your Committee to section 8 in the amended bill. In lieu of appropriating funds for the operation of the commission in this bill, your Committee has decided to incorporate the appropriation in the supplemental budget. Your Committee has placed the commission in the department of labor and industrial relations and also 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. 2302-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2302-80, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Hara and Young.

SCRep. 585-80 Ways and Means to S.B. No. 2537-80

The purpose of this bill is to establish a temporary commission to study the present and projected fiscal stability of the Hawaii public employees' retirement system. The commission will be reporting its findings and recommendations to the governor and the legislature prior to January 1, 1981.

Your Committee finds that since the inception of the Hawaii public employees' retirement system in 1926, there has never been a comprehensive review of the fiscal soundness of the system. Such a study would provide an invaluable aid in evaluating the numerous proposals concerning the system which are considered by the legislature each year.

Your Committee has amended the bill by deleting the appropriation for the operation of the commission (section 5 of the bill referred to your Committee) and renumbering section 6 to section 5 in the new bill. In lieu of appropriating funds for the operation of the commission in this bill, your Committee has decided to incorporate the appropriation

in the supplementary budget. Your Committee has also made nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2537-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2537-80, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Hara and Young.

SCRep. 586-80 Ways and Means on S.B. No. 2551-80

The purpose of this bill is to provide for the formulation of a draft state water code. The department of land and natural resources is required to formulate the draft with the participation of other appropriate state, federal, and county water agencies, water users and surveyors, and the general public. The draft of the state water code is required to address Hawaii's policies, principles, and rights on the subject of water management and the basic administrative framework to carry out the functions assigned under the code. The draft is required to be submitted to the legislature for action.

This bill has been submitted in response to the 1978 constitutional amendment, embodied in Article XI, section 7, which obligates the State to protect Hawaii's water resources.

Your Committee has amended the bill by:

(1) Requiring the department's report and draft to be submitted not later than twenty days prior to the convening of the first regular session, instead of thirty days prior to the convening of the third regular session, following the effective date of this bill. Your Committee feels that the shortened period of time is sufficient since much study and work has already been done on this subject since the ratification of the constitutional amendment; and

(2) Deleting section 6 in the bill as received which provided an appropriation to the department of land and natural resources for the formulation of the draft. Your Committee intends to place an appropriation for this purpose in the supplemental appropriations budget.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2551-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2551-80, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Hara and Young.

SCRep. 587-80 Ways and Means on S.B. No. 1219

The purpose of this bill as received is to require that an estimate of the fiscal impact of each fiscal bill introduced in the legislature be attached to each such bill where the annual effect or the total fiscal effect of the bill over the next six-year period is \$50,000.

Your Committee has amended this bill by making various nonsubstantive, grammatical, and technical changes, substituting the director of taxation for the legislative auditor as one of the agencies responsible for preparation of fiscal notes, amending the term "\$50,000" to read "\$50,000 or more" to make clear that it also applies to bills with more than \$50,000, and amending section 2 to delete the printing directions to the revisor as unnecessary.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1219, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1219, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Hara and Young.

SCRep. 588-80 Ways and Means on S.B. No. 2413-80

The purpose of this bill is to provide the department of health more flexibility in contracting for emergency ambulance services and for advanced life training, technical assistance, consultation, data collection and categorization by allowing the department of health to contract with other organizations or institutions with expertise in providing such services.

Presently, the department of health must contract with the counties if they apply to operate emergency ambulance services within their respective counties, and the department of health has no discretion to contract for such services with other contractors even if they may provide more cost-effective services.

Similarly, the department of health must contract with a professional medical organization for advanced life training, technical assistance, consultation, data collection and categorization, even if other organizations or institutions may have expertise in these areas. The Hawaii Medical Association is the only state-wide professional medical association and thus the department is forced to contract with the Hawaii Medical Association, despite the possibility that other qualified groups may be able to provide more cost-effective services.

Your Committee acknowledges the role that the Hawaii Medical Association has played in the organization and implementation of the state comprehensive emergency medical services system and the role of the counties in providing emergency ambulance services. This bill is not intended to 'affront' the association or counties nor indicate any deficiencies in the quality of existing services as provided by the association and counties.

Accordingly, this bill will not preclude the department of health to contract with the Hawaii Medical Association for advanced life training, technical assistance, consultation, data collection and categorization and with the counties for emergency ambulance services, but will give the department of health the option to contract with other organizations or institutions with expertise in providing emergency medical services.

This bill allows the department of health to assume an equal bargaining position for the contracting of these services rather than be statutorily mandated to contract with certain parties.

Your Committee has amended S.B. No. 2413, S.D. 1 by amended the definition of "State system" in Section 321-222, Hawaii Revised Statutes to mean "state comprehensive pre-hospital emergency medical services."

The purpose of this definitional amendment is to clarify the parameters of the State's area of responsibility. As previously written 321-222 may have been construed to include hospital emergency care as part of the department's responsibility.

Your Committee has amended the bill to exclude the transportation of individuals where emergency medical services are not required from emergency medical ambulance service. The purpose of this amendment is to insure that emergency medical ambulance services will be used for emergency medical service purposes and not as a "convenience" or "taxi" service in non-emergency situations.

Your Committee has also amended the bill by giving the department of health discretion in consulting with the advisory committee in the contracting for technical assistance, consultation, data collection, categorization, and other services described in Hawaii Revised Statutes, Section 321-230.

Your Committee feels that mandatory consultation with the advisory committee in the contracting for the services is not necessary, and the department of health has sufficient expertise to render these decisions.

Your Committee has further amended the bill to establish July 1, 1981 as the effective date of this bill rather than the date of the bill's approval.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2413-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2413-80, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Hara and Young.

SCRep. 589-80 Tourism on S.B. No. 2770-80

The purpose of this bill is to amend Section 203-2, Hawaii Revised Statutes, by eliminating the prohibition that no employee or officer of the State or its political subdivision nor any member of a county advisory committee created under Section 2033 shall serve as a member of the Hawaii Visitors Bureau executive board or committee.

Your Committee finds that there is presently a lack of sufficient government attention given to the operations of the Hawaii Visitors Bureau. Your Committee finds that a more

effective state monitoring system is needed to account for the state funds received by the Hawaii Visitors Bureau.

Your Committee heard testimony from the Department of Planning and Economic Development and the Hawaii Visitors Bureau indicating their support of this bill. The Department, however, indicated that it would not be appropriate for them to be represented on the Hawaii Visitors Bureau executive board, in order to preserve the contracting relationship between them. The Hawaii Visitors Bureau noted that the Department of Planning and Economic Development is invited to attend its board and committee meetings as nonvoting members.

Your Committee has adopted the recommendation of the Department of Planning and Economic Development by amending the bill to prohibit employees and officers of that department from serving on the Hawaii Visitors Bureau executive board or committee. Other governmental employees or officers would not be prohibited from such service.

Your Committee has further amended the bill by making technical changes which have no substantial effect.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 2770-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2770-80, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 590-80 Tourism on S.B. No. 2018-80

The purpose of this bill is to provide that a hotelkeeper shall not be liable for valuables of a guest if the hotelkeeper provides a security box in the guest's hotel room.

Hotels find that most patrons are not willing to take the time and effort of placing their valuables in the office safe. As a result, burglaries in hotels have become a huge problem that is continually growing. According to the Japan Hawaii Travel Association, in 1976, approximately 13% of Japanese visitors to Hawaii were victims of thefts or other crimes.

Your Committee therefore finds that another means of security for hotel room guests should be made available. Testimony indicated that a vast majority of hotelkeepers would like to provide security boxes within hotel rooms of guests, but are reluctant to adopt this in-room security system because of the liability under the present statute. A recent Hotelkeepers Law Survey conducted by your Tourism Committee Chairman also verified this feeling. The Hawaii Hotel Association testified that room safes have been offered to hotels in recent years, but due to the existing law regarding hotelkeepers' liability, most hotels have not taken advantage of this increased security. The Hawaii Visitors Bureau, represented by the Liaison Director of Japanese visitors, supports S.B. No. 2018-80 because most Japanese tourists are accustomed to carrying cash rather than travelers checks or credit cards, thereby increasing risks of burglaries.

Your Committee finds that in order for hotelkeepers to take advantage of security boxes, they must be able to discharge this liability for loss. This bill will assure hotelkeepers that if a security box is offered to the guest for use in the guest's room, the keeper shall not be liable for any loss of valuables.

Your Committee, after discussion with various persons, amended the bill by adding a definition for "security box" to Section 486K-1. Other changes were made to clarify the intent of this bill.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 2018-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2018-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 591-80 Human Resources on S.B. No. 2798-80

The purpose of this bill is to conform state laws relating to employee benefits of vacuum cleaner dealers to reflect a recent ruling made by the Internal Revenue Service.

Under an employee-employer relationship, federal and state laws require an employer to provide employees with various employee-related benefits. In the case of a vacuum cleaner distributor and its dealers, however, the Internal Revenue Service has recently ruled that no employer-employee relationship exists.

Your Committee is in accord with the intent and purpose of this bill. Your Committee has amended sections 2, 4, and 5 of the bill by deleting these sections in their entirety and replacing these sections with new sections 2, 4, and 5. Your Committee finds that sections 2, 4, and 5 of the bill referred to your Committee amended the definition of "employer" in the Hawaii employment security law, the temporary disability law, and the Prepaid Health Act, respectively, to provide that no employer-employee relationship exists between a vacuum cleaner distributor and its dealers. Your Committee finds, however, that the more appropriate sections to amend the law to reflect the recent Internal Revenue Service ruling are the "Excluded Services" sections of the Hawaii employment security law, the temporary disability law, and the Prepaid Health Act. Accordingly, the new section 2 amends section 383-7, Hawaii Revised Statutes; the new section 4 amends section 292-5, Hawaii Revised Statutes; and the new section 5 amends section 393-5, Hawaii Revised Statutes, to reflect the recent federal ruling. Your Committee believes that these amendments are necessary to conform the bill to the framework and style of the Hawaii Revised Statutes.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2798-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2798-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie and O'Connor.

SCRep. 592-80 Ways and Means on S.B. No. 2797-80

The purpose of this bill is to raise the per diem allowances for legislators and state officials.

The proposed increases are as follows:

- (a) Allowance for non-Oahu legislator during session: raised from \$20 to \$40.
- (b) Allowance for expenses while traveling on official legislative business during a session within the State: Oahu legislator -- raised from \$30 to \$40; outer island legislator -- raised from \$20 to \$40.
- (c) Allowance for expenses while on official legislative business away from the island of residence during periods of recess and interim official legislative business: raised from \$30 to \$40.
- (d) Allowance for expenses while traveling on official legislative business without the State: decreased from \$45 to \$30, with the State to pick up lodging and travel expenses.
- (e) Traveling expenses of state officials: raised from \$40 to \$60 for travel abroad; raised from \$30 to \$50 for interisland travel. Upon application and approval of the governor, the above rates can be increased up to \$70 a day.

Your Committee finds that inflation and the rising costs of food and lodging have rendered the existing per diem allowances wholly inadequate. This bill would alleviate the above problem by adjusting the per diem allowances upward to a more realistic level.

Your Committee has amended the bill at page 4 by substituting the words "actual and reasonable" for "all" in line 6 and deleting the word "fully" in line 7 of the bill as received.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2797-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2797-80, S.D. 1.

Signed by all members of the Committee.

SCRep. 593-80 Ways and Means on S.B. No. 1939-80

The purpose of this bill is to establish a Hawaii state health authority. The authority shall serve to address the health care costs and needs of Hawaii by, among other things: establishing rate review of health services; making grants for health services development; suspending certain state regulations of the health delivery industry when considered appropriate; and establishing a system of uniform accounting and financial reporting for hospitals. In addition, the state health planning and development agency is placed under the authority for administrative purposes with its current powers intact.

Your Committee has amended the bill by deleting section -61 in the new chapter established by the bill as received. This amendment is made because such permanent

appropriation authorization appears to be unconstitutional under Article VII, section 11 of the state constitution. Even if such a permanent authorization is constitutional, your Committee considers it inimical to responsible policy making. Because of this amendment, section -12(a) of the new chapter established by the bill as received is amended to conform to the change.

Your Committee has also amended section -1 of the new chapter established by the bill as received to make it clear that one of the four appointments under that paragraph must be made from each of the categories stated. The same section is amended to delete the compensation of board members. As amended, the bill does not provide compensation to such members but provides for reimbursement of expenses.

Your Committee has also amended the bill by deleting section 7 in the bill as received. This section provided an appropriation for the authority. Your Committee intends to make a similar appropriation in the supplemental budget.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1939-80, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1939-80, S.D. 3.

Signed by all members of the Committee.

SCRep. 594-80 Agriculture on S.B. No. 1979-80

The purpose of this bill is to amend Hawaii's Meat Inspection Act to comply with the 1978 amendments to the Federal Meat Inspection Law which require humane slaughter of livestock.

Your Committee received testimony from the Board of Agriculture which indicated that compliance with the Federal Law is necessary to ensure continued receipt of federal matching funds.

Your Committee has amended the bill to correct typographical and bill drafting errors.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1979-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1979-80, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 595-80 Ways and Means on S.B. No. 2643-80

The purpose of this bill is to make safety improvements at Honolulu International Airport and to designate sites for satellite general aviation airports.

Your Committee finds that the present mix of aircraft at the Honolulu International Airport creates a high potential for aircraft accidents in the air and on the ground. The solution proposed by the state administration, the construction of a new general aviation airport at Poamoho on Oahu to relieve the Honolulu International Airport of some general aviation traffic, will not be operational for at least four years.

From the foregoing, it is apparent that a twin problem exists: (1) pending the acquisition, construction, and utilization of a reliever general aviation airport or airports, to make the present mix of aircraft at Honolulu International Airport as safe as possible; and (2) to designate the site or sites of reliever general aviation airport or airports and build it within the shortest possible time to relieve the Honolulu International Airport of most general aviation activity.

This bill proposes to resolve both problems as follows:

First - support the Federal Aviation Administration's recent implementation of an informal runway use program at Honolulu International Airport which has resulted in greater segregation of turbojet and propeller aircraft, maintain one of the runways for general aviation use, and determine how one of the existing runways can be improved and extended for full and exclusive commercial aircraft use.

Second - designate Dillingham Airfield as the first satellite general aviation airport and construct the necessary improvements at Dillingham so that some general aviation activity can be diverted to this location from Honolulu International Airport.

Third - designate Bellows Airfield as the second satellite general aviation airport and construct necessary improvements at Bellows so that more general aviation activity can be diverted to this location from Honolulu International Airport.

Fourth - alternatively, if Bellows Airfield cannot be obtained, designate Ford Island Auxiliary Landing Field as the second satellite general aviation airport and construct facilities for enlarged general aviation operations and develop improved access to Ford Island.

Your Committee has amended this bill to delete provisions concerning Bellows Airfield. Accordingly, subsection (f) and subsection (h)(3) of section 1 and the appropriation in section 4 of the bill referred to your Committee were deleted. Your Committee believes that environmental considerations and the recreational value of the Bellows Airfield area make airport development in the area undesirable.

Your Committee has also made other nonsubstantive amendments including the renumbering and redesignating of various sections, subsections, and paragraphs to conform the bill to the appropriate form.

Your Committee finds that the department of transportation presently has the ability to immediately reduce the number of general aviation flights into and out of Honolulu International Airport through its authority to determine landing fees. The development of a more realistic landing fee schedule for general aviation landings rather than the present 50 cents landing fee would result in significant relief. Your Committee remains unconvinced by the department of transportation's contention that it is powerless to restrict flights at Honolulu International Airport since the department possesses the ability to establish an economic disincentive which would have the result of limiting the present volume of flights out of the airport.

Your Committee believes that the combination of an adoption of a realistic landing fee schedule together with the improvements proposed by this bill will result in a significant step towards alleviating the present critical situation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2643-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2643-80, S.D. 2.

Signed by all members of the Committee.

SCRep. 596-80 Ways and Means on S.B. No. 2977-80

The purpose of this bill is to authorize the chief executives of the State and counties and the chief justice of the supreme court to develop an appropriate pay structure for excluded managerial positions covered under chapter 77, Hawaii Revised Statutes (Compensation Law), in accordance with chapter 89C, Hawaii Revised Statutes (relating to employees excluded from collective bargaining).

Presently, all public employees covered under chapter 77, Hawaii Revised Statutes, are subject to the pay structures therein. For employees covered by collective bargaining ("included" employees), the pay rates in those structures are established through negotiations. For employees not covered by collective bargaining ("excluded" employees), the pay rates in those structures are established by the chief executives of the State and counties and the chief justice of the supreme court under chapter 89, Hawaii Revised Statutes.

Your Committee finds that for salary-setting purposes, excluded employees are divided into two groups (1) nonmanagerial employees whose work is closely related to, and in some cases, identical to, that of included employees; and (2) managerial employees whose work is different in its essential nature from that of excluded nonmanagerial employees and included employees. Your Committee believes that managerial employees are unique by virtue of their responsibility to recommend and implement policies, and conduct programs; therefore, these employees warrant salary schedules with different pay structure characteristics. Your Committee further finds that the establishment of such a pay structure will enhance career management service. This bill permits the chief executives of the State and counties and the chief justice of the supreme court to establish pay structures, including the number of salary ranges and the number of steps in each range, for excluded managerial employees, in accordance with chapter 89C, Hawaii Revised Statutes.

Your Committee further finds that excluded nonmanagerial employees should continue to be subject to the same pay structure as their included counterparts. This bill continues this relationship by providing that the same pay structure shall apply to both excluded nonmanagerial employees, and included employees. Additionally, this bill deletes the

obsolete pay rates set forth in current salary schedules for white collar public employees. These pay rates are obsolete because they were established before enactment of the Collective Bargaining Law, and these rates have been changed through the negotiation and renegotiation of public employee contracts which supersede statutes. Furthermore, the deletion of these obsolete white collar pay rates is necessary to accomplish the intent and purpose of this bill.

The state director of personnel services testified in favor of this bill but suggested amending the second sentence of section 77-13(b), on page 3, line 2 of the bill as received, to read "nonmanagerial" employees in order to more clearly distinguish managerial from nonmanagerial employees.

Your Committee has amended this bill accordingly and has corrected the statutory language and made other nonsubstantive, technical, and grammatical changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2977-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto, as S.B. No. 2977-80, S.D. 2.

Signed by all members of the Committee.

SCRep. 597-80 Transportation on S.B. No. 871

The purpose of the short form bill is to deal with problems relating to land transportation.

Your Committee received testimony pertaining to permanent registration of fleet vehicles. The purpose is to allow companies with a fleet of 25 or more clearly-marked commercial motor vehicles, commercial trailers, or passenger automobiles to apply for permanent fleet vehicle registration upon payment of normally required fees.

Your Committee also heard testimony from the Hawaiian Telephone Company, the Hawaiian Electric Company, and the Hawaiian Sugar Planters Association, stating that this bill will eliminate the timeconsuming annual vehicle registration procedure and replace it with a permanent registration procedure, including registration controls and fees, as determined by the Directors of Finance of the various counties. Your Committee finds that a permanent registration procedure will provide overall cost-savings for both government and business.

Your Committee has accordingly amended this bill by inserting appropriate language in place of the short form version.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 871, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 871, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 598-80 Transportation on S.B. No. 2634-80

The purpose of this bill is to reduce the consumption of gasoline by instituting incentives to the public to utilize energy saving methods of transportation.

Your Committee finds that ridesharing and carpooling is an efficient and economic method of reducing energy consumption and traffic congestion. Your Committee further finds that significant fuel savings can be realized by the institution of ridesharing programs at relatively small cost to the State.

Accordingly, your Committee has amended this short form bill by adding provisions mandating the Department of Transportation to develop and promote "ridesharing programs" and granting the department the authority to contract with private organizations to manage and operate any such programs.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2634-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2634-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 599-80 Transportation on S.B. No. 3074-80

The purpose of this bill is to redesign the motor vehicle ownership certificate and add certain desirable information relating to the motor vehicle.

Your Committee heard testimony from the City and County of Honolulu that a new redesigned motor vehicle ownership certificate will make it easier for the vehicle owners to properly complete the certificate when selling their automobiles or transferring titles of ownership. Additionally, the redesigned certificate will require that the owner fill in the odometer reading of the vehicle on the date of the transfer and will eliminate the need for completing an "Interim Certificate of Accuracy" as presently required.

Your Committee made style changes which do not affect the substance of the bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 3074-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3074-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 600-80 Higher Education on S.B. No. 1871-80

The purpose of this bill is to require that certain safety requirements be met before the Research Corporation of the University of Hawaii or any agents of the corporation charters or uses any research or other ocean-going vessels.

Your Committee heard testimony from the University of Hawaii, the Research Corporation of the University of Hawaii, and the Propeller Club of the United States (Port of Honolulu). The testimony presented was in support of the substance of this bill. However, the University of Hawaii and the Propeller Club recommended that the subsection on safety standards be simplified by requiring that the vessel meet the standards recommended by the university national oceanographic laboratory systems guidelines. Your Committee has amended the bill accordingly.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1871-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1871-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 601-80 Higher Education on S.B. No. 1872-80

The purpose of this bill is to require that the members of the Board of Regents include a recent retired faculty member and a recent university graduate, and that both have a two-year term.

Your Committee heard testimony from the University of Hawaii, the Associated Students of Kauai Community College, Mr. William Veeck (faculty member at Kauai Community College) and students from the University of Hawaii at Hilo. The testimony presented by students and faculty was in support of the bill. It was further suggested that two additional regents be added to the Board of Regents to include a recently retired faculty member from the community colleges and a community college graduate. The President of the University of Hawaii testified that the Board of Regents believes that designating specific categories of membership imposes an unwarranted membership restriction and that such restrictions should not be set forth in statute. The President further noted that it is even more inappropriate to have a board member representing a particular constituency. However, your Committee is aware that particular constituencies are currently represented since selection of some members is based on political party affiliation and on geographic representation. Further, your Committee believes that the purpose and intent of the bill is to address problems which occur when recommendations are made in committee reports of the Legislature but not in the statutes approved by the Legislature.

Your Committee has amended the bill to require that the recent university graduate shall be a graduate of an accredited institution of higher education, and has made style changes.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1872-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1872-80, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 602-80 Ecology, Environment and Recreation on S.B. No. 1574

The purpose of this bill is to amend the Hawaii Revised Statutes relating to the Pacific War Memorial System.

Under current law, the Pacific War Memorial Commission is responsible for the establishment and maintenance of war memorials commemorating the veterans of this State and those who sacrificed their lives for our country. In accordance with Section 52 of Act 214, SLH 1979, the Department of Budget and Finance conducted a study on the duties and functions of the Commission. The report stated that the Commission has completed its goals for establishing such projects and is currently involved in the maintenance of these projects and consultation with private, state, and federal organizations with similar objectives. Further, the report recommended transferring the duties and functions of the Commission to the Department of Land and Natural Resources.

Your Committee finds that this recommendation is warranted and has amended this bill accordingly.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1574, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1574, S.D. 1, and be placed on the calendar for Second and Third Readings.

Signed by all members of the Committee.

SCRep. 603-80 Ecology, Environment and Recreation on S.B. No. 2005-80

The purpose of this bill is to allow junkyards that lawfully existed as of May 4, 1966 and located in an industrial area to be exempted from the requirement for screening from visibility.

Current law requires all junkyards visible from a main traveled way of any federal-aid or state highway to be screened.

Testimony submitted by the Department of Transportation discussed the difficulty in policing the few junkyards that were in existence as of May 4, 1966. The operation of junkyards in industrial zoned areas is compatible with the surrounding land use and are permitted by federal laws.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2005-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 604-80 Ecology, Environment and Recreation on S.B. No. 2691-80

The purpose of this bill is to protect the due process rights of private property owners whose property has been nominated to the Hawaii and national registers of historic places without the consent of the property owners or on the basis of inaccurate factual data, or both. This bill adds a new section to Chapter 6, Hawaii Revised Statutes, in order to give aggrieved property owners the means by which they may challenge the Hawaii Historic Places Review Board.

Your Committee received testimony from private citizens who believe the current procedures for nominating and naming private property as historic properties discriminate unfairly against the private property owner. Although your Committee believes a more comprehensive review of the procedures is warranted, this bill is intended to relieve the present situation.

Your Committee has amended the bill by:

- 1) Adding to the purpose clause "knowledge or" to indicate that not only have private property sites been nominated to the Hawaii and national registers without the consent of the property owner, but also sometimes without his knowledge;
- 2) Adding in all subsections that the Board shall determine whether the property under review was also recommended for nomination;
- 3) Amending subsection (b) to add that a request for review can also be brought on the basis of violation of constitutional guarantees, and that the request for review shall be brought within one year after the aggrieved party has been notified that the property is entered in the Hawaii register or nominated for the national register, or one year after the effective date of this section, whichever is later;

- 4) Requiring the withdrawal as well as removal from the Hawaii register;
- 5) Requiring the State Historic Preservation Officer as well as the Board to withdraw or request the removal of any property from the national register;
- 6) Adding a subsection as a saving clause to preserve other legal remedies available to the aggrieved property owner, and the statutes of limitations applicable to such remedies.
- 7) Making grammatical and style changes which do not affect the substance of the bill.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2691-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2691-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 605-80 Ecology, Environment and Recreation on S.B. No. 3085-80

The purpose of the bill is to exclude the requirement of any environmental impact assessment when state or county funds are used for the acquisition of unimproved property.

Current law requires an environmental assessment for such uses of funds.

Your Committee received testimony from the Environmental Quality Commission, the Environmental Center and the Office of Environmental Quality Control concurring with the purpose of this bill.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 3085-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 606-80 Health on S.B. No. 2788-80

The purpose of this bill is to provide for regulation of residences for persons with developmental disabilities.

Testimony from the Department of Health and the Developmental Disabilities Council support the need for a zoning ordinance that would permit developmentally disabled persons to live in a normal residential setting.

Your Committee recognizes that deinstitutionalization of the developmentally disabled is a prime concern, and that a major factor in this process is the availability of suitable housing within the community. The Developmental Disabilities Council stated that this has proven to be a problem, partly because of restrictive covenants on deeds and zoning ordinances limiting the definition of single-family residences.

Your Committee has accepted the Department of Health's testimony and has amended the bill to define developmental disabilities under the federal definition and to limit the provision of the bill to those residences built under federal funding.

It is the intent of your Committee that these amendments will specify the types of residences for developmentally disabled persons to be regulated by the Department of Health, and allow for an increase in the number of residents in homes under Section 202 of the HUD regulations.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2788-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2788-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 607-80 Health on S.B. No. 2924-80

The purpose of this bill is to allow State hospitals to purchase supplies or commodities from vendors other than those contract suppliers listed on the Department of Accounting and General Services' Price List.

Your Committee heard testimony from the Department of Accounting and General Services that presently, bids are solicited for hospital and medical supplies, and awarded in the form of contracts to the lowest responsible bidder. A price list reflecting these awards is then published for use by the hospitals. The contracts include a provision entitled "State's commitment" which provides that the hospitals shall buy all of their requirements for supplies from the successful bidder's price list. This bill now provides that a hospital may purchase supplies from vendors other than those listed on the price list if the supply is of the same type and quality and the cost is lower.

Your Committee also finds that the present laws do not allow hospitals to participate in a group purchasing program enjoyed by some of the State's private hospitals. During the past year, private hospitals throughout the State have purchased their goods, supplies, and services on a joint contractual arrangement and have realized a substantial cost savings.

Your Committee has amended the bill by giving the hospitals the authority, under such rules as promulgated by the Department of Accounting and General Services, to enter into contracts and to make arrangements with privately owned hospitals, any medical school, or other health related facilities to jointly purchase goods, supplies and services in the interest of cost savings.

Your Committee has also amended the bill by making minor changes relating to style which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2924-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2924-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 608-80 Housing and Hawaiian Homes on S.B. No. 2267-80

The purpose of this bill is to allow for the construction of a second dwelling unit on previously zoned single family lots of 3,600 square feet or larger in size. This would allow for maximum utilization of land and for flexibility to home owners, especially those who may own houses on large lots which are inefficiently used.

Favorable testimony was received from the Kokua Council for Senior Citizens, the Construction Industry Legislative Organization, Inc., and the Oahu Tenants Coalition.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2267-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 609-80 Housing and Hawaiian Homes on S.B. No. 2558-80

The purpose of this bill is to amend Chapter 359G, Hawaii Revised Statutes, in the following ways:

(1) Section 359G-9.4(c), Hawaii Revised Statutes, presently provides that where there is a restriction on the transfer of property for a period of time the period is calculated from the date of the original purchase. This bill would require that the period of restriction on transfer be calculated from the date of purchase by the present occupant. Under Section 359G-9.2, the first occupant is restricted for a ten year period from selling his dwelling unit without providing the Authority with the first option to purchase the unit at a price as specified by a statutory formula. However, if the unit is conveyed to a second purchaser during the sixth year, for example, under present law, the second purchaser is subject to the same restriction on transfer for a time period calculated from the original sale by the Authority (approximately four years more). This bill would require the second purchaser to be subject to the transfer restriction for the ten year period.

(2) Section 359G-9.3, Hawaii Revised Statutes, has been amended to allow the Authority to waive the owner-occupancy requirement in the same manner as the "buyback" may be waived. Additionally, where the property is transferred to another owner, the restriction will be automatically extinguished.

Favorable testimony was provided by the Hawaii Housing Authority.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2558-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 610-80 Housing and hawaiian Homes on S.B. No. 3096-80

The purpose of this bill is to add development of moderate income housing to the present authority of the county governments to develop low income housing. This measure would provide more flexibility to the county efforts in dealing with the housing shortage for moderate income families.

Favorable testimony was received by the Construction Industry Legislative Organization, Inc. and the Department of Housing and Community Development, City and County of Honolulu.

Your Committee has amended the bill to correct technical errors.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 3096-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3096-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 611-80 Housing and Hawaiian Homes on S.B. No. 3098-80

The purpose of this bill is to correct the Constitutional deficiencies in Chapter 516, Hawaii Revised Statutes, as outlined by Judge Samuel P. King, of the U.S. District Court, in his decision in Mielkiff v. Tom and Wai-Kahala Tract "H" Association (May 9, 1979). The amendments are as follows:

- (1) The definition of "owner's basis" is amended from "current fair market value" to the value that would apply if the lessor's leased fee interest were normally traded on an open market. The value may be determined by either of the two stipulated methods or by any method which is normally used by qualified appraisers.
- (2) Chapter 516, part IIA, HRS, is amended to allow for preliminary negotiation between lessor and lessee with final decision of condemnation falling to the Hawaii Housing Authority. The present provision calling for mandatory arbitration upon the failure of negotiations was deemed unconstitutional.
- (3) Sections 516-52 to 516-55, HRS, providing procedures for the mandatory arbitration have been deleted since this mandatory arbitration has been deemed unconstitutional.

Favorable testimony was received from the Hawaii Housing Authority.

Your Committee has amended the bill by changing the language of the proposed amendments to Section 516-51. The changes are for clarity and do not affect the substance of the proposed amendments to the section as originally drafted except for an increase from thirty to sixty days in the time period before final offers are submitted.

Your Committee has made other technical amendments to the bill which have no substantive effect.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 3098-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3098-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 612-80 Economic Development on S.B. No. 1744

The purpose of this bill is to authorize the counties to provide for cluster development in agricultural and rural districts in accordance with uniform state standards. As envisioned by this bill, small agricultural or rural cluster development, at the existing base densities applicable within those districts, will minimize public service costs, assure lower land costs per housing unit, and provide for contiguous acreages of land permanently set aside for actual agricultural production. To ensure that cluster developments in these districts will not be used as a mechanism for promoting urban expansion, two protective restrictions are incorporated in the bill. The first is a requirement that the major contiguous portion of a parcel proposed for cluster development be dedicated and maintained for actual agricultural production. The second is a requirement that dwelling units within the cluster developments be occupied only by those pursuing agricultural production.

within the dedicated portion of the parcel.

Your Committee is in accord with the general intent and purpose of S.B. No. 1744. Your Committee has made several amendments to the bill to ensure that all portions of the bill conform to the intent and purpose of the bill to allow cluster developments in rural and agricultural districts. Accordingly, your Committee:

(1) Added the phrase "including cluster developments," to page 5, line 3, of the bill referred to your Committee and added a new section 3, to amend section 205-4.5, Hawaii Revised Statutes, relating to permissible uses within the agricultural districts, to include cluster development as a permissible use within agricultural districts; and

(2) Added the phrase "including cluster developments;" to page 7, line 18, of the bill referred to your Committee to include cluster development as a permitted use within rural districts.

Your Committee also amended the bill by renumbering sections 3, 4, and 5 of the bill referred to your Committee, to sections 4, 5, and 6, respectively.

Your Committee further amended the bill by specifying that in the basic density calculation for the maximum cluster development dwelling unit potential (page 9, paragraph (4) of the bill referred to your Committee), the base density shall be two single-family dwelling units per acre in rural districts and one single-family dwelling unit per acre in agricultural districts. Your Committee also added a new paragraph (5) to further clarify and delineate the cluster development limits as follows:

"(5) In grouping the dwelling units and other structures accessory to farming activities in a concentrated area in the cluster development, the minimum lot size for each structure shall be 5,000 square feet; provided that no more than four single-family dwelling units may be consolidated into one structure; provided further that there shall be no more than one dwelling structure or other structure accessory to farming activities per 5,000 square feet."

Your Committee believes that allowing structures on a minimum lot size of 5,000 square feet and multi-unit structures, limited to no more than four family units per structure, in the cluster development would promote economy of services and utilities, result in lower cost dwellings, as well as promote the most efficient use of the remainder area of the parcel of land for agricultural pursuits.

Your Committee has made other nonsubstantive, language, and style changes to the bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1744, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1744, S.D. 1.

Signed by all members of the Committee except Senator George.

SCRep. 613-80 Economic Development on S.B. No. 2208-80

The purpose of this bill is to allow the board of land and natural resources to directly award leases of public lands by negotiation for periods not to exceed five years.

Under the present statute, the board of land and natural resources can issue revocable month-to-month permits for the determined use of public lands or sell leases at public auction. There are situations where it is not feasible to sell leases at public auctions and the revocable permits are too short to warrant improvements on these lands. S.B. No. 2208-80 would allow leases of public lands by negotiations for periods not to exceed five years and requires the lease rental to be determined by a disinterested appraiser. This bill, therefore, would fill the gap between the short term revocable permit and an auctioned long-term lease.

Your Committee has adopted the following recommendations of the department of agriculture for the purpose of furthering the development of agriculture in Hawaii:

(1) Amended section 171-59(a)(2), Hawaii Revised Statutes, to require Department of Agriculture to establish selection criteria for the lessee in cases where the intended land use is agriculture.

(2) Amended section 171-59(b), Hawaii Revised Statutes, to add agricultural processing as an operation for which the disposition of public lands may be negotiation without regard

to certain statutory limitation; to add agricultural industries to the proviso requiring that the disposition of such lands encourages competition within certain specified industries; and to add a proviso delineating that "agricultural processing" means the processing of agricultural products grown or raised in Hawaii.

Your Committee has further amended the bill by amending section 20 of the bill, the Ramseyer section, to add a statement of the effect of bracketing.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2208-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2208-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 614-80 Economic Development on S.B. No. 2550-80

The purpose of the bill is to amend chapter 177, Hawaii Revised Statutes, presently known as the Ground-Water Use Act, to broaden the scope of the Act by requiring (1) that any new development of surface and ground water supplies in the State be regulated by permit, and (2) all existing water sources and supplies be registered with the department of land and natural resources (DLNR).

There was general agreement among those who testified that there was a need for the registration of all existing water sources and supplies to assist in water resource planning. However, the Hawaiian Sugar Planters Association felt that registration will add a significant burden on to the administrative workload of the plantations and that registration will be difficult to enforce with respect to small farmers including taro growers who take water from springs and streams to irrigate.

The other aspect of the bill involving the regulation by permit of all surface and ground water supplies in the State received unfavorable reaction from not only the Honolulu Board of Water Supply, but also from the department of water supply of the county of Maui and the Hawaiian Sugar Planters Association. It was pointed out that the expanded regulatory scope of the bill as written represented a substantial change in philosophy from the present law under which stringent regulation and control of water development and use were only imposed in areas where water resources were in critical supply or were approaching a critical stage. It was generally expressed that in areas where water resources were in abundant supply, rigid regulation and control under chapter 177, Hawaii Revised Statutes, as proposed by the bill, were not warranted.

In light of the testimony presented at the Committee hearing and taking into account discussions/coordination between the Committee staff and representatives of DLNR and the Honolulu Board of Water Supply, your Committee has made the following changes to the bill as referred to your Committee:

a. Revised Section 1 by rewriting the last sentence (lines 7-13, page 1) to limit the scope of the application of the regulatory feature of the bill as follows:

"In order to provide greater control of water development and water use within an endangered area, and to assist in long-range water resource planning, it is the purpose of this Act to amend the Ground-Water Use Act to broaden the regulatory scope of the Act by requiring (1) the regulation of surface as well as ground water development and supplies in any designated water control area in the State, and (2) the registration of all existing water sources and supplies."

b. Added under Section 2, page 2, a new paragraph 4 to amend the term "designated ground-water area" to read "designated water control area" and to amend the definition of the term to conform to the amendments made in the bill.

c. Renumbered sequentially all paragraphs following the newly-inserted paragraph 4 in Section 2 of the bill.

d. Renumbered paragraph 5 to 6 and rewrote the underscored proposed amendments between lines 22-24, page 3, and lines 1-4, page 4, to read as follows:

"Water development and the use of surface and ground water in any designated water control area of the State are subject to regulation under this chapter. After the effective date of this Act, no person shall develop any water source or water supply or make any use of the surface or ground water of any designated water control area of the State except in compliance with this chapter."

e. For consistency with the new definition under b. above, changed the term "ground-water area" to "water control area" at the following places:

- (1) Line 18, page 5.
- (2) Line 5, page 6.
- (3) Line 7, page 7.
- (4) Lines 3, 6, and 18, page 9.
- (5) Lines 2, 12, and 15, page 10.
- (6) Line 11, page 11.

f. Renumbered paragraph 9 to 10 and rewrote the underscored portion (lines 7 through 10, page 10) to read as follows:

"After the effective date of this section all water development within a designated water control area, other than in the course of normal maintenance, shall be in accordance with a water development permit issued by the board."

The department of health presented testimony in support of the bill, but recommended a change to section 177-8, Hawaii Revised Statutes, (page 9 of the bill) to except the department's authority to enforce drinking water standards under chapter 340E, Hawaii Revised Statutes. Accordingly, your Committee has amended the bill (page 9, new paragraph 8, starting from line 15) to provide such an exception.

Your Committee has made other nonsubstantive, technical, and conforming amendments.

Your Committee on Economic Development is in accord with the intent and purpose of SB. No. 2550-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2550-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 615-80 Economic Development on S.B. No. 3019-80

The purpose of this bill is to amend sections 205-2 and 205-4.5, Hawaii Revised Statutes, to allow the establishment of wind energy facilities as a permitted use in agricultural districts.

As the State develops the use and production of non-fossil fuel energy, it is appropriate to remove unnecessary technical and institutional barriers. According to the inventory and assessment of the wind resources of the State, the best wind sites are usually on agricultural or conservation land rather than residential land. This is consistent with the practice of industry avoiding the building of homes or other structures at locations where winds are high. Further, testimony indicated that modern wind energy systems do not require large ground space for each machine, but do require several hundred feet spacing between systems. Hence, crop, grazing, and other agricultural activities are compatible with wind systems. For these reasons, your Committee believes wind systems are compatible with agricultural land uses and urge the passage of this bill.

Your Committee notes that the counties have the primary responsibility in the enforcement of land use district regulations including the enforcement of the restriction on use and the condition relating to agricultural districts under section 205-4.5, Hawaii Revised Statutes.

Your Committee has amended the bill to insure the integrity of agricultural use by adding the following phrase to the end of section 205-4.5(12), Hawaii Revised Statutes:

"provided that such facilities and appurtenances are compatible with agriculture uses and cause minimal adverse impact on agricultural land."

The bill was further amended to allow for different uses of wind machines constructed on agricultural land by inserting the words "for public private, and commercial use;" after the words "wind generated energy production" on line 7 of page 4 of the bill referred to your Committee.

Your Committee has also made other nonsubstantive language and technical amendments to conform the bill to the Ramseyer format.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 3019-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3019-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 616-80 (Joint) Economic Development and Public Utilities on S.B. No. 1900-80

The purpose of this bill is to maximize the use of locally available non-fossil fuels by recognizing the value of such fuels to be at least equal to the cost of fossil fuels to be displaced.

This bill is intended to encourage the immediate production by the private sector of electricity generated from non-fossil fuel sources. While nearly 100 per cent electrical energy self-sufficiency will be technically possible in the near future, there are other barriers to alternate energy development, including high capital risks and the presence of only a single buyer for the product of electricity, the utility. Under the present law, if the public utility and the supplier fail to reach an agreement on the rate, the rate is prescribed by the public utilities commission. This broad provision can lead to open-ended arbitration before the commission, as exemplified in the Waialua case, which has been before the commission for twelve months. This type of length rate-setting procedure does not serve the interest of the supplier, the public utility, or the public-at-large. In fact, this procedure tends to encourage the treatment of power supplied by a cogenerator as surplus power, or secondary to the operations of the supplier and, therefore, discourages capitalization and other commercialization efforts to produce "new" power.

This bill gives specific guidelines to the commission in setting a rate should a supplier and a public utility fail to reach an agreement. By doing so, the bill encourages commercialization of "new" power by cogenerators and small power producers by insuring a minimum rate at which the energy is to be provided to the public utility. This information is indispensable to the decision-making process of a high-capital venture such as alternate energy development.

The question has arisen whether there would be a conflict between the rate provisions of this bill and the Public Utilities Regulatory Policies Act (PURPA) and the regulations now promulgated by the Federal Energy Regulatory Commission (FERC) to implement law to take effect in November of 1978, that FERC has just completed promulgating regulations. Further, the regulations allow one year for local regulatory authorities, e.g. the public utilities commission, to comply with specific rules. Your Committees contend that even providing for prompt action on the part of FERC, no legal or exemption challenge by any utility, and immediate compliance by the public utilities commission, there would be a significant time of little or no guidance to the commission that would detrimentally affect or delay the delivery of electricity generated from non-fossil fuel resources to the public utility. Your Committees note that at least one of the utilities has requested an exemption under PURPA from FERC. Further, there are at least six cases involving cogenerators scheduled to be negotiated in the next twelve months.

Time delays notwithstanding, your Committees find no conflicting provisions between this bill and PURPA regulations as noted in "Order No. 69: Final Rule Regarding the Implementation of Section 210 of the Public Utility Regulatory Policies Act of 1978" (Docket No. RM79-55). Further, this bill addresses possible exemptions under PURPA. PURPA allows the state regulatory authority to prescribe less than the avoided cost for "old capacity", defined as construction commenced before November 9, 1978; provided that it is just and reasonable to the electric consumer of the electric utility and in the public interest, does not discriminate against qualifying cogeneration and small power production facilities, and is sufficient to encourage cogeneration and small power production. Your Committees note that these three caveats are similar to existing guidelines to the public utilities commission, and have not been sufficient to encourage production in fact, although so found by the commission. In the past calendar year, production by existing facilities has decreased by ten per cent.

Your Committees find this bill to be an appropriate statement of public policy of this State in mandating that money now paid for imported fuel be paid instead to locally generated energy.

Several amendments have been made to the bill referred to your Committees to clarify intent and purpose as follows:

Your Committees recommend that the rate provision in section 269-27.2(c), Hawaii Revised Statutes, relating to "interruptable" power should be expressed as a base rate

to permit a higher rate when warranted by relatively high cost savings to consumers. The highest savings to consumers on interruptable power occur when a cogenerator or small power producer agrees to deliver such power during a public utility's peak load periods, which is when the utility is operating at its highest cost or using its least efficient units. This is provided by amending the bill to add the words "not less than" between the words "be" and "the" on line 22 of page 2 of the bill as received.

This bill prescribes the rate for interruptable power to be the average fuel cost the public utility would incur in its most efficient unit operating at optimum efficiency. Assuming that optimum efficiency is intended to mean the most efficient operating point, then the word "average" is unnecessary. This discreet, most efficient operating point does not involve the concept of averaging. Therefore, your Committees deleted the word "average" on line 22 of page 2 of the bill as received. For further clarification, the words "base load" are added between the words "fuel" and "unit" on line 2 of page 3 of the bill as received.

Your Committees find that mandating a higher rate for firm power will encourage non-fossil power generators to make firm power commitments to the greatest extent practicable for the producer. If a higher rate for firm power is not mandated, then there will be a significant economic risk in making firm power commitments in the event the commission does not prescribe a higher rate. Therefore, your Committees amended the section dealing with firm power, lines 3 through 6 on page 3, by changing the word "may" to "shall" on line 4 of the bill as received.

The bill specifies public interest as a guideline for the commission in directing the public utility to arrange for the acquisition of non-fossil fuel electricity. Your Committees amended section 269-27.2(b), Hawaii Revised Statutes, of this bill to provide more guidance to the commission in determining the public interest by adding the following sentence to the end of the paragraph on line 14, page 2 of the bill as received:

"In determining the public interest, the public utilities commission shall take into consideration, among other factors, the circumstances under which the electricity will be available from the producer, and the opportunities to displace imported fossil fuels, to replace public utility generating capacity, to defer expansion of public utility generating capacity, or to permit public utility maintenance and repairs."

Your Committees on Economic Development and Public Utilities are in accord with the intent and purpose of S.B. No. 1900-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1900-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Hara, Anderson, George and Soares.

SCRep. 617-80 (Joint) Economic Development and Ecology, Environment and Recreation
on S.B. No. 2495-80

The purpose of Senate Bill No. 2495-80 is to enable the Board of Land and Natural Resources to directly lease, for residential use, lands within a state park or forest reserve and other lands set aside under executive order. In order to qualify for award of a lease under this bill, a person, on date of approval, must have either held a recreation-residence lease or had, or whose predecessors in interest, or the combination of both, occupied such land for an aggregate period of not less than thirty continuous years. The bill further amends the law by eliminating the ability of the Board to issue recreation-residence leases in the future.

Your Committees are in accord with the provision of the bill which authorizes the Board to grant long-term leases of not more than sixty-five years for residential use of such lands. Your Committees, however, have strong reservations concerning the elimination of the recreation-residence lease. This provision would allow certain people who are currently leasing state lands under the recreation-residence lease (which under the present law is limited to not more than twenty years), and who are currently utilizing such lands principally for recreational purposes and not residential purposes, to convert their leases to a full-blown residential lease of sixty-five years. Your Committees believe this action to be undesirable and would not be in the public interest.

Your Committees have amended the bill in the following manner:

- (1) Reinstated provisions for issuing recreation-residence leases for not more than twenty years;
- (2) Amended the criteria that a person must meet to qualify for a residentia lease by requiring that the person be currently and lawfully residing on such land and has made substantial improvements thereon and that the person is residing within a county with population in excess of 200,000 people;
- (3) Made other nonsbustantive, technical changes; and
- (4) Amended Section 2 of the bill by deleting the instruction to the Revisor of Statutes concerning the brackets, bracketed material, and the underscoring.

Your Committees on Economic Development and Ecology, Environment and Recreation are in accord with the intent and purpose of S.B. No. 2495-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2495-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Cayetano, Toyofuku, Yamasaki, Young, Carroll and George.

SCRep. 618-80 (Joint/Majority) Education and Transportation on S.B. No. 1930-80

The purpose of this bill is to give authority over the school bus transportation system to the Department of Education.

Your Committees find that school bus transportation problems have arisen because no one department has had overall responsibility for coordinating the efforts of the several departments which are involved. Your Committees find that this responsibility should rest with the Department of Education because the Department of Education has the expertise and perspective to focus on the needs of children.

Your Committees have amended this bill to give the Department of Education the responsibility to coordinate the school bus transportation program to assure that proper communication and coordination is maintained. The amended bill will not require any transfers of personnel, records, equipment, files, or appropriations, and will not add additional costs to the program.

Your Committees are in accord with the intent and purpose of S.B. No. 1930-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1930-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Kawasaki, Anderson, Saiki and Soares.
Senator George did not concur.

SCRep. 619-80 (Majority) Ways and Means on S.B. No. 2813-80

The purpose of this bill is to amend the laws relating to income taxation and general excise taxes. This bill also provides for a tax rebate for 1980 if the state general fund balance at the close of the 1980 fiscal year exceeds five percent of the general fund revenues for the same fiscal year.

More specifically, this bill provides for the following:

1. Reduction in income taxes. The first \$4,000 of taxable income for joint returns (and the first \$2,000 for single taxpayers) would be exempt from state income taxes. Moreover, state income tax brackets would be widened to conform with federal brackets.
2. Increase in personal exemption amount. In conformance with the federal income tax, the state income tax personal exemption would be increased from \$750 to \$1,000.
3. Exclusion of up to \$400 of interest and dividend income for joint returns (and \$200 for single returns). The exclusion is similar to the recent provisions of the "Windfall Profits Tax."
4. Tax credit for first time new home buyers. A tax credit for purchasers of new homes not exceeding \$100,000 in value is proposed.
5. Exemption of food and drugs from general excise tax. The present 4% general excise tax on food purchased for home consumption and prescription drugs would be eliminated.

6. General excise tax. A 1% increase in the general excise tax on all goods is proposed to make up for the loss of revenue resulting from the elimination of the tax on the first \$4,000 of income (and the first \$2,000 for single taxpayers), the exemption of food and drugs from the general excise tax, the increase in the personal exemption amount, the interest and dividend exclusion and the new tax credit for new home buyers. Existing general excise and renter's tax credits for resident taxpayers would continue.

7. Tax rebate. A one time tax rebate is proposed for 1980 provided that there is a sufficiently large general fund surplus at the close of the 1980 fiscal year.

Tax Reform and Tax Relief

Your Committee finds that among the 50 states and the District of Columbia, Hawaii ranks seventh in per capita tax collections, but it is the first in per capita state personal income tax collections and has occupied that position for a number of years.

As inflation continues to diminish real income, government taxes continue to take larger bites from paychecks. Larger bites in the absolute sense if not larger proportionately.

Your Committee finds that the proposal contained in this bill would reduce taxes for virtually every individual resident taxpayer, especially those taxpayers with low and moderate incomes. For example, according to data furnished by the Department of Taxation, about 99% of the taxpayers would pay less in income taxes, and less than 1% would pay more. The Department of Taxation testified that married taxpayers earning an annual adjusted gross income of up to \$90,000.00 would probably pay less taxes. The Department also testified that the additional income tax liability to married taxpayers earning more than \$90,000.00 would be nominal. For example, married taxpayers with an adjusted gross income of \$100,000 would pay only \$34.00 in additional state income taxes. Your Committee finds further that this bill proposes to accomplish this reduction in taxes for resident taxpayers without the resulting necessity for reduction of the level of government services currently being provided.

Your Committee finds that the net effect of the bill will result in an overall decrease of about \$1 million dollars in state tax revenues. However, because the bill shifts some of the tax burden to tourists, the net effect on resident taxpayers as estimated by the Department of Taxation is a reduction in state taxes totalling about \$42 million. Thus, the bill provides tax reforms that will result in significant savings to resident taxpayers.

Elimination of the general excise tax on food and drugs.

The present general excise tax on food and drugs has long been criticized as a regressive tax in that it imposes a relatively heavier burden on individuals with lower incomes. Indeed, Ebel & Kamins in their report, "Who Pays Hawaii's Taxes? A Study of the Incidence of State and Local Taxes in Hawaii for 1970" concluded (even adjusting for the tax credits enacted in 1974): "Generally, Hawaii's families in lower income groups were shown to bear a Hawaii tax burden, relative to their economic resource, greater than that experienced by upper income bracket families." Although the maximum tax credit was increased in 1976 by \$10 per exemption the impact of inflation on excise tax burdens since that time buttresses Ebel and Kamins conclusion that "inflation is likely to increase Hawaii's tax regressivity." The existing excise tax credit allowed against state income taxes provides a meager and inefficient relief for the regressive aspects of the general excise tax.

Your Committee explored the possibility of increasing excise tax credits as a means of reducing the regressivity of the present system. However, the tax credit system has several inherent inequities. They include the fact that the credit is rarely equal to the tax paid as consumption and thus tax liability varies according to personal preference, age, health, sex, etc. For example, the elderly are estimated to purchase three times the average amount of prescription drugs.

Other deficiencies of a tax credit system include the inability to deal with the situation wherein over 20,000 military retirees/dependents with commissary and medical privileges do not pay excise taxes comparable to those without such privileges, yet under a tax credit system they would receive the same credits. In addition in a tax credit system the tax is collected, held for many months and then returned (without interest) and often without any relationship to the tax actually paid.

While proposals for eliminating the general excise tax on food and drugs are not novel, few advocates of such proposals have offered concrete and sound proposals for dealing with the resulting revenue loss. For example, one seemingly plausible and politically palatable approach is to use the current state surplus to eliminate the general excise tax on

food and drugs. However, such an approach would result in a deficit of \$86 million by FY 1983 which would grow to a \$487 million deficit by FY 1985. Moreover, it would not afford any income tax relief to Hawaii taxpayers who, as noted previously rank first in per capita state personal income tax payments. The revenue loss to the State from eliminating the excise tax on food and drugs, without any corresponding revenue adjustments, would necessitate curtailment of numerous government programs, a consequence for which there is little public support. It is therefore necessary to generate new revenues to make up for the loss in revenues resulting from eliminating the excise tax on food and drugs so that current governmental services can be continued.

Shifting of the Tax Burden.

The operative effect of the amendments proposed by this bill is that there will be a significant shift of the tax burden from the resident taxpayer to the non-resident taxpayer i.e., tourists and other transients who enjoy the benefits of this State and pay no tax except the general excise tax. This result is accomplished through the combined effects of eliminating the general excise tax on food and drugs and increasing the general excise tax on all non-exempt goods and services by one per cent. The effect of eliminating the tax on food and drugs is sufficiently great so that most taxpayers will find themselves paying less in excise taxes than under the current structure. For example, the department of taxation testified that families of four with income levels up to \$45,000 will pay less in excise taxes than they do under the current system. However, higher income persons and tourists will pay more.

The Department of Taxation estimates that approximately 31% of the general excise tax is currently "exported", i.e., accounted for by sales of goods and services to tourists. However, some concern has been expressed that the elimination of the excise tax on food and drugs would enable tourists who stay for many months to reduce their tax liability. Your Committee notes that in 1979 less than 1% of the tourists stayed more than a single month. Moreover, these long term tourists would have actually paid more in taxes because they spent relatively little on food purchases for home consumption and more on dining out, in addition to such taxable expenditures as entertainment, gifts and souvenirs, etc. Most importantly, the other 99% of tourists would all contribute more in taxes than they do now. The additional revenues thus generated from the increase in the excise tax will allow tax relief to the residents of this State in the form of substantially lower state income taxes.

Income Tax Relief.

The bill provides a number of reforms designed to result in significant income tax relief. The first \$4,000 of taxable income on a joint return (\$2,000 on a single return) will be exempt from income taxes. In addition, the personal exemption will be increased from \$750 to \$1,000, interest and dividend income up to \$400 will be excluded (\$200 for a single return), and the tax brackets will be widened.

Although this bill proposes to shift the tax burden from the resident population to the tourists and transients, your Committee finds that it accomplishes this result in a far more acceptable fashion than a "tourist tax". Unlike a "tourist tax", this bill does not propose to single out any group in a discriminatory fashion. Rather, the changes proposed by this bill apply to all consumers equally. It is only because of the uniqueness of expenditure patterns as between residents and non-residents, that tourists and transients will be carrying a higher burden. This increased burden on the average tourist, however, amounts to approximately 54¢ a day, an amount which your Committee finds as being unlikely to have any significant effect on a visitor's decision to visit Hawaii.

The extent of the income tax relief was noted by the Tax Foundation of Hawaii and the Department of Taxation in testimony. Both concur that single taxpayers with up to \$35,000 net taxable income, married taxpayers with up to \$70,000 net taxable income, and heads of households with up to \$50,000 net taxable income will all receive income tax relief under this bill.

Under the changes proposed by this bill, because people who actually live in Hawaii are the primary consumers of food and drugs, they will receive virtually all of the benefits of the food and drug exemptions from general excise taxes and all the income tax relief. On the other hand, because tourists are heavy consumers of taxable goods and services, they will carry a larger burden of the increase in the general excise tax. In fact, the Department of Taxation estimates that under this bill, resident taxpayers will pay around \$42 million less in state taxes.

Overall Benefits To Resident Taxpayers.

The net effect of both the income and excise tax amendments will be to afford significant tax relief across a broad spectrum of income. For example, based on the Community Services Administration's and U.S. Bureau of Labor Statistics data for Hawaii, each of the families of four shown below will derive significant tax benefits.

TAX RELIEF IMPACT ON FAMILIES OF FOUR
AT VARIOUS INCOME LEVELS

	(\$7,710) POVERTY LEVEL	(\$14,870) LOW LEVEL	(\$23,099) MIDDLE LEVEL	(\$35,602) HIGH LEVEL
SAVINGS				
Excise Tax	\$ 28	\$ 82	\$ 77	\$ 61
Income Tax	147	263	345	443
TOTAL SAVINGS	\$ 175	\$ 345	\$ 422	\$ 504
PERCENT SAVINGS	40%	32%	21%	15%

Your Committee notes that while the dollar amount of savings increases with income, the percentage savings decreases. Thus, the regressivity in the tax structure will be reduced. As noted previously, the tax benefits do not stop at \$35,602 but are available to those at much higher income.

Waiting for the Tax Review Commission Recommendations.

It has been suggested that no tax reform measures should be enacted by the legislature until the recommendations of the yet to be appointed tax review commission are presented to the legislature in 1982. Your Committee finds that the primary reason why the 1978 Constitutional Convention provided for such a commission was not that such a commission might be considered to be more competent in proposing tax changes or more capable of making the necessary public policy decisions in proposing tax measures, but rather, that the legislature and the executive branch have for too long failed to examine the tax structure of this State. The legislature can delay and defer to the recommendations of the tax review commission in 1982, but it cannot ignore the fact that the ultimate responsibility for making public policy decisions with respect to tax reform cannot be delegated to a team of technocrats. Your Committee believes that the tax relief proposed by this bill is long overdue and that to wait until 1982 before acting on tax reform is to only unnecessarily prolong the present high tax burden on the taxpayers of this State.

Administrative Problems of Exempting Food and Drugs.

Much apprehension has been voiced concerning the problems to be encountered by retail merchants in administering sales and distinguishing between exempt food and drug items and non-exempt goods. It is suggested that merchants, and particularly smaller merchants, will encounter considerable inconvenience and expense in having to calculate the applicable tax on purchases of food and non-food items.

Your Committee does not believe that the exemption of food and drugs provided by this bill will result in any significant problems for merchants. Admittedly there may be problems in initially having to adjust to a new system of charging the applicable excise tax on purchases and training employees. However, it should be noted that 24 states in the union presently exempt food from sales or excise taxes and merchants in these states have adapted to the distinction without significant problems. Furthermore, according to the DSSH 98% of the eligible stores in Hawaii participate in the USDA Food Stamp Program. These merchants already segregate food & non-food items and are more than willing to do so because of the large proportion of food stamp sales. Even the large supermarkets outside of the low-income areas sell as much as 30 to 40 percent of their sales to food stamp purchasers.

The contention that the exemption of foods and drugs from the excise tax will increase the administrative costs of the Department of Taxation has been allayed by the testimony of the department. The department testified that it would have little trouble administering the exemption and with little or no additional costs. Your Committee has been informed

that while there may be slight increases in costs during the time a "track-record" of food and drug sales vs. other sales is being developed subsequent costs will be minimal.

Influencing Consumer Choices.

It has been suggested that exempting food and drugs from the general excise tax would have the effect of influencing consumer choices and encourage greater purchases of food and drug items over non-exempt items. While theoretically this argument may be plausible, in reality, consumers will only purchase as much food and drugs as they require. People are unlikely to increase their food consumption solely because the excise tax on food has been eliminated nor will they shift their available income from other purchases. It is quite possible that people will purchase food of a higher quality and therefore greater cost, however, such a result is socially desirable where it results in improved nutrition.

The net effect of the proposal contained in this bill is to increase the disposable income of resident taxpayers. Thus, it can be anticipated that residents will have more money (\$42 million) available to spend in the consumer market. Furthermore, since Hawaii is an ocean-locked state, it is improbable that consumers will journey to a neighboring state where there is no excise or sales tax to make purchases solely to avoid the local tax.

The bill as received by your Committee has also been amended to provide for an exclusion of income derived from interest in savings accounts and from dividends. This exclusion would exclude \$200 of such income for an individual and \$400 of such income on a joint return from any income tax. Your Committee believes that such an exemption is timely and aimed at encouraging savings and investment.

Your Committee notes that these provisions concerning dividend and interest exclusions have similarly been enacted by Congress in the law popularly known as the "Windfall Profits Tax Act" as amendments to section 116 of the Federal Internal Revenue Code. Your Committee directs the department of taxation to submit conforming amendments under section 235-2.3, Hawaii Revised Statutes, to the legislature in the bill submitted under that section and to delete any unnecessary provisions found in section 235-7(a), Hawaii Revised Statutes, as amended in this bill.

Your Committee has amended this bill to revise the income tax schedule. The maximum tax rate is set at fourteen per cent (14%) and the income brackets are at a maximum of \$100,000 on joint returns; \$50,000 on individual returns; and \$76,000 for returns by heads of households.

Your Committee has amended the bill to change the effective date of the increased personal exemption from after December 31, 1979 to after December 31, 1980. This change makes the year in which the personal exemption is increased consistent with the effective date of the changes proposed by this bill.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2813-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2813-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Senators Hara, Toyofuku and Soares did not concur.

SCRep. 620-80 Ways and Means on S.B. No. 1889-80

The purpose of this bill is to encourage the development and commercialization of geothermal energy resources by providing for the waiving of royalty payments to the State during the period July 1, 1980 to June 30, 1990, on leases for geothermal energy production. The bill further provides that in the event production is disrupted by acts of God, royalty payments, in proportion to the loss of the well field capacity, shall not be required for five years from the date of revenue loss.

Your Committee is in favor of this bill but has reduced the period of waiver to 1985 giving a five-year waiver which is similar to other similar exemptions granted by the State.

Your Committee has further 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. 1889-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1889-80, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Hara, Young and Yee.

SCRep. 621-80 Ways and Means on S.B. No. 1899-80

The purpose of this bill is to reduce the general excise tax assessment on electricity generated from non-fossil, renewable energy sources and sold to public utilities for resale to the public.

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. 1899-80, S.D. 1, as amended herein, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as S.B. No. 1899-80, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Hara and Young.

SCRep. 622-80 Ways and Means on S.B. No. 1906-80

The purpose of this bill is to provide a tax incentive to encourage the use of gasohol by exempting all the gross proceeds arising from the sale of gasohol by retail dealers from the state excise tax for a period of ten years.

Your Committee estimates that the State will lose \$1.1 million in excise tax revenues in 1981 under this bill, therefore, your Committee feels that the exemption period for purposes of creating incentives can be reduced to five years without defeating its purpose.

Your Committee has amended the bill to terminate the exemption period on July 1, 1985 and added a provision that the director of taxation may terminate the exemption earlier by rule if the director determines it is no longer needed as an incentive.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1906-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1906-80, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Hara and Young.

SCRep. 623-80 (Majority) Ways and Means on S.B. No. 1933-80

The purpose of S.B. No. 1933, S.D. 1 is to strengthen existing programs in the Department of Education to identify and follow potentially troubled students throughout their school careers.

The intent of the bill is to identify and follow these students in order to provide full and complete programs and services for the purposes of rehabilitation. Full cooperation and support of the Family Court, Department of Health, Department of Social Service and Housing and the University of Hawaii including its community colleges is to be obtained.

Your Committee has amended said bill by indicating that this act be implemented as a pilot program for a period of two years with a progress report to be made by the Department of Education to the legislature one year after the inception of the program.

Your Committee also has amended the bill to include a nominal appropriation amount of one dollar to be changed accordingly as may be appropriate.

The purpose of these amendments to the bill is to provide the fiscal mechanism for future funding of the program. Because no current funding is necessary, your Committee feels that the designation as a pilot program would not hinder the implementation of the program, while the proviso that plans, procedures and guidelines be developed before the program's implementation would insure coordination of the program with existing programs. Furthermore, the requirement of the progress report would aid the legislature in evaluating the effectiveness of the program.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1933-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1933-80, S.D. 2.

Signed by all members of the Committee except Senators Abercrombie, Hara, Young, Ajifu and Yee.
Senator Kawasaki did not concur.

SCRep. 624-80 Ways and Means on S.B. No. 1924-80

The purpose of this bill is to provide tax incentives to encourage the commercial development of geothermal energy. The bill provides general excise exemptions to persons engaged in the construction of any facility or structure used in the drilling or development of a geothermal well for commercial production for a period of five years; provides excise tax exemptions on all gross proceeds received from the sale of geothermal power for a period of ten years; and provides that in the event production is disrupted by acts of God, excise tax exemptions shall be granted until a positive revenue flow is attained but not more than five years.

Your Committee has amended the bill by reducing the exemption to six years from ten years and by providing that the director of taxation can terminate the exemption earlier by rule if the director determines that it is no longer needed as an incentive.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1924-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1924-80, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Hara and Young.

SCRep. 625-80 Ways and Means on S.B. No. 2376-80

The purpose of this bill is to provide authorization for the department of budget and finance to issue special purpose revenue bonds for an energy project to assist an electric or gas utility in the local furnishing of electric energy or gas.

Consumers have been paying more and more for electricity no matter how much they individually conserve. Apparently up to this time the public utilities commission has been satisfied that the increases are needed to meet the rising costs of the utilities. Consumers have so far paid higher rates without undue complaining.

With the current state of oil prices and the certainty of continued escalation, it is imperative for a state which is over ninety per cent dependent on fossil fuel to develop alternate energy sources. We cannot afford to let any opportunity to provide incentives for utility companies to decrease their dependence on fossil fuel slip away.

Your Committee has amended this bill by deleting the word "new" from page 2, line 11, of the bill as received to clarify that the appropriation shall not be used for any fossil or nuclear fuel generating plant except for Maui. Your Committee has also made nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2376-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2376-80, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Hara and Young.

SCRep. 626-80 Ways and Means on S.B. No. 2665-80

The purpose of this bill is to establish a community residential treatment system to provide alternatives to institutional settings for mental health patients. The alternatives under the system are varied to meet the different degrees of the mental health conditions of patients.

Your Committee has amended the bill as received by:

(1) Deleting the words "of health" whenever they are used to denote the department of health or director of health in the proposed chapter 334, part VII, Hawaii Revised Statutes. The deleted words are not necessary since the existing section 334-1, Hawaii Revised Statutes, provides that the terms "director" and "department" are sufficient to denote the director of health and department of health.

(2) Replacing the words "chapter" and "section" with the word "part". This has been done on lines 8, 9, and 13 of page 2 and line 2 of page 9 in the bill as received. In these instances, "part" is the correct reference.

(3) Clarifying the proposed section 334- entitled "program elements" on page 5 by explicitly stating that the funds for which applicants apply are for the program elements.

In the bill as received, there was no connection between the funds and the program elements.

(4) Adding provisions under section 334- entitled "advisory committee" on page 8 to state that "consumers" mean consumers of mental health services; members of the advisory committee need not be confirmed by the senate; the committee shall be within the department of health; terms of the members shall be determined by the director of health; and members shall serve without compensation but shall be reimbursed for expenses.

(5) Deleting the appropriation and lapsing provisions.

In addition, your Committee has made other technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2665-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2665-80, S.D. 2.

Signed by all members of the Committee except Senators Abercrombie and Hara.

SCRep. 627-80 Ways and Means on S.B. No. 2800-80

The purpose of this bill is to eliminate discrepancies in compensation between employees subject to collective bargaining and those excluded from collective bargaining under the Civil Service Law, the department of education, and the University of Hawaii who are employed on a comparable basis; and to provide that certain employees in excluded positions be paid no more than five per cent more than the highest paid employee supervised by that excluded employee.

Currently, Hawaii law limits salaries of its civil service, department of education, and University of Hawaii employees, whether subject to or excluded from collective bargaining to ninety-five per cent of the salary of the first deputy or first assistant to the department head. Collective bargaining agreements, however, take precedence over the statutory limitations. Therefore, an employee subject to collective bargaining could conceivably be paid more than a worker performing identical work, but who is excluded from collective bargaining. In order to give department heads discretion to adjust an excluded employee's salary to a level equal to persons performing comparable work, it is necessary to remove all ceiling limitations.

This bill eliminates the ceiling of ninety-five per cent of the first deputy or first assistant's salary which is currently placed on civil service, department of education, and University of Hawaii employees; requires the adjusted salary of an excluded managerial, administrative, professional, or technical employee to be no more than five per cent more than the salary of the highest paid employee supervised by that employee; and repeals section 78-18, Hawaii Revised Statutes, which requires the first deputy or assistants' salaries to be less than that of the department head and other employees' salaries to be less than that of the first deputy or assistant.

Your Committee has amended this bill to delete the requirements that the adjusted salary of an excluded managerial, administrative, professional, or technical employee shall be no more than five per cent more than that salary of the highest paid employee supervised by that excluded employee. Your Committee finds that this provision does not allow for equitable adjustments to be made in the compensation of those excluded employees currently salaries at a rate which exceeds the five per cent limitation imposed under this measure. Instead, your Committee has amended this bill to provide that there may be an additional upward adjustment in compensation for an excluded managerial, administrative, professional, or technical officer or employee; provided, that this additional adjustment shall not exceed five per cent of the compensation of the highest or most senior employee or officer supervised by that excluded officer or employee. Your Committee feels that making the adjustment optional serves the intent and purpose of this bill without unduly jeopardizing the concept of equitable adjustments embodied in chapter 89C. Additionally, your Committee feels that excluded employees affected by this measure deserve to be compensated at a rate which is reasonably higher than that of their most senior or highest paid subordinate due to the management nature of their work.

Your Committee is in accord with the intent and purpose of S.B. No. 2800-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2800-80, S.D. 2.

Signed by all members of the Committee except Senators Abercrombie and Hara.

SCRep. 628-80 Ways and Means on S.B. No. 2972-80

The purpose of this bill is to allow public employers and public employees, through their respective exclusive representatives, to jointly reduce the number of steps in the appropriate salary ranges.

This bill proposes to delete obsolete provisions in current law and replace them with more appropriate provisions conducive to the current collective bargaining process.

Your Committee has made technical, nonsubstantive changes to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2972-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2972-80, S.D. 2.

Signed by all members of the Committee.

SCRep. 629-80 Health on S.B. No. 2226-80

The purpose of this bill is to provide the Department of Health the flexibility of placing school nurses at a level commensurate with the services required at a given school.

Under current law, the Department of Health is limited to providing registered professional nurses for a school health complex who are at the entry or next level. The amendment proposed by this bill will remove the restriction on the experience of nurses who are placed as school nurses.

Your Committee heard testimony to the effect that because of new laws and changing circumstances, the responsibilities of school nurses have increased greatly during recent years. Your Committee finds that by eliminating the limitation placed on the level of nurses in our schools, the State will realize improved utilization of registered nurses and provide better and more comprehensive health care for school children.

Your Committee further finds that the school Health Advisory Committee established by Section 321-244, Hawaii Revised Statutes, has performed a useful function in helping to coordinate, guide, and evaluate the school health services program. Therefore, your Committee recommends that the Department of Health extend the existence of the Committee past the scheduled expiration date.

Your Committee has amended the bill by making changes relating to style and drafting format which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2226-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2226-80, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 630-80 Health on S.B. No. 2994-80

The purpose of this bill is to bring the Hawaii State Health Planning Act, Chapter 323D, Hawaii Revised Statutes, into compliance with federal requirements for state planning as required by P.L. 96-97 adopted by Congress in October, 1979. The bill also makes certain legislative changes in the Certificate of Need Program which are based on established rules, regulations and procedures presently in operation.

Because the federal government under P.L. 93-641 provides the funding for state health planning efforts in Hawaii, and because amendments to this law embodied in P.L. 96-79 specify that state programs must be brought into compliance with federal law and regulation by January 16, 1981, this bill is considered an emergency measure by the administration.

A hearing was held by your Committee on March 5, 1980, and testimony was received from the SHPDA administrator. Your Committee on Health reviewed all the changes proposed and finds no problem with any of the proposed modifications.

Your Committee has amended the bill by making technical changes.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2994-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2994-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 631-80 Intergovernmental Relations on S.B. No. 2186-80

The purpose of this bill is to amend Section 249-7, Hawaii Revised Statutes, by providing that all vehicles owned by the State of Hawaii, the City and County of Honolulu, the Board of Water Supply, and official representatives of foreign governments be issued registrations which only need to be renewed in the new plate issue year.

Your Committee amended the bill by expanding the coverage thereof to all vehicles owned by the counties.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2186-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2186-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 632-80 Intergovernmental Relations on S.B. No. 2861-80

The purpose of this bill is to clarify the language of Section 286-56.5, Hawaii Revised Statutes, relating to special license plates for consul or office representative of government.

The bill provides that in the case of a U.S. affiliated territory, a letter evidencing official representation signed by the Chief Executive is sufficient for the purpose of obtaining the special license plates. An "exequatur" will not be necessary in such case.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2861-80, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 633-80 Intergovernmental Relations on S.B. No. 3082-80

The purpose of this bill is to amend Section 46-4, Hawaii Revised Statutes, relating to County zoning powers, by providing a requirement that notice be sent by certified mail to the assessed owners of any real property which may be affected by a zoning action by the county.

Your Committee received testimonies in support of the bill from the Hawaii Association of Realtors, the Land Use Research Foundation of Hawaii, the Construction Industry Legislative Organization, General Contractors Association of Hawaii, and Development Association of Hawaii, the Director of Land Utilization of the City and County of Honolulu submitted testimony in opposition to the bill.

Your Committee has considered the City's concern of excessive costs involved in certified mailings, the question of whether all condominium owners in a particular building need to be notified, and other matters.

Your Committee, after due deliberation, has amended the bill by requiring regular mail instead of certified mail; by limiting the notice to properties "adversely" affected by zoning; and by permitting one notice in care of resident manager of an affected condominium project.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 3082-80, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 3082-80, S.D. 1, and that it be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 634-80 Consumer Protection and Commerce on S.B. No. 1171

The purpose of this bill is to make numerous changes to Hawaii's Landlord-Tenant Code.

During the 1979 interim session, your Committee requested the Office of Consumer Protection to study the State's Landlord-Tenant Code, and submit a report on proposed legislative changes to the Code. Your Committee received the report, and drafted S.B. No. 1171, S.D.1, based on the recommendations contained in the report.

Your Committee received testimony in favor of the bill from the Oahu Tenants Coalition, the Waikiki Senior Citizen Members of the Waikiki Community Center, the Hawaii Association of Realtors, the Windward Action Group, the Kokua Council for Senior Citizens, and the Office of Consumer Protection. Many persons who testified addressed specific technical points in the bill.

Your Committee has included in this Committee Report a summary of proposed amendments to the Landlord-Tenant Code as prepared by the Office of Consumer Protection. Amendments which have been made by your Committee are included in the summary.

1. SECTION 521-8

- (a) Deletes the definition of apartment building.
- (b) Adds new definition for the term "guest," defined as a nonpaying person who shares the unit with the tenant on a transient basis for a period not more than 15 days and does not use the premises as a principal place of abode. This amendment, together with proposed amendment 521-37(d), is intended to clarify a problem area involving the landlord's right to limit occupancy and the tenant's right to enjoyment of the premises by allowing occasional overnight guests to share the unit for a reasonable length of time.
- (c) Deletes the numbers before terms defined to facilitate future amendments to this section.

2. SECTION 521-21

- (a) Amends title to include "apportionment, increase and late charges."
- (b) Clarifies subsection (c) by requiring rent to be divided by the number of days in the term. Disallows present practice of some landlords, who apportion rent according to a fixed formula, regardless of the actual number of days in a particular month.
- (c) Adds new subsection (f), which is a companion to proposed amendment 521-22 and 521-71(c), which provide that lease agreements automatically continue on a month-to-month basis after expiration. Under this amendment, if the landlord intends to increase the rent after the expiration of the lease, he must give at least 45 days written notice.
- (d) Adds new subsection (g) to recognize that a landlord is entitled to assess reasonable late charges for untimely payments of rent. The amendment expressly allows late charges not exceeding two per cent as long as the tenant is notified prior to his entering into the agreement.
- (e) Adds new subsection (h) to transfer existing subsection regarding rent receipts from 521-43 to 521-21.
- (f) Adds new subsection (i) to transfer existing subsection 521-44(e) to 521-21.

3. SECTION 521-22

- (a) Provides for automatic continuation of lease agreement on a month-to-month basis after its expiration if no notice is provided for leases with original term of at least 90 days.

4. SECTION 521-37

- (a) Amends title to include "occupancy."
- (b) Many rental agreements presently contain provisions limiting occupancy to those tenants named on the rental agreement. While such a provision is useful to a landlord in maintaining control over the number of people living in a rental unit, this same provision has been used by numerous landlords to prohibit or monitor tenants who wish to have occasional over-night guests. Subsection (d) specifically allows guests.
- (c) Adds subsection (e) to allow reasonable charges against tenants for overnight guests. Your Committee has amended the bill to provide that this reasonable change be allowed if the amount to be charged is included in the written agreement.

5. SECTION 521-42(a)

- (a) Deletes requirement that single family residence need not be provided a supply of running water when not required by law.
- (b) Requires adequate lighting to assure safety for pathways in single family residences.

6. SECTION 521-43

- (a) Deletes subsection (e) (subsection (e) now found in proposed amendment 521-21(h)).

7. SECTION 521-53

- (a) Amends subsection (a) to prohibit landlords from requiring tenants to leave the premises while the landlord is conducting an "Open House."

8. SECTION 521-64

- (a) Title is amended to include "emergency repairs and replacement."
- (b) Deletes existing subsection (a) and (b). Existing subsection (c) is now relettered (a), with proposed amendment 12 calendar days instead of 12 business days.
- (c) Adds new subsection (b), remedy of emergency repairs, and imposes duty upon landlord to commence repairs within 48 hours of notification by the tenant. Defines a condition requiring emergency repairs as any condition which substantially affects the fundamental needs of the tenant to use and occupy the dwelling unit.
- (d) Adds new subsection (c) to provide that where landlord fails to perform repairs, allows tenant to immediately do the repairs and deduct \$400 or one month's rent, whichever is greater, for actual expenditures. Also increases amount of allowable deduction from flat \$200 to \$400 or one month's rent, whichever is greater.
- (e) Adds new subsection (d) to allow tenant remedy of replacement for defective conditions which cannot be repaired or are impractical to be repaired.
- (f) Adds new subsection (e) to provide that where the landlord fails to replace, allows deduction of \$500 or one month's rent, whichever is greater.

9. SECTION 521-66

- (a) Deletes "return receipt requested" requirement for mailing of returned deposit to tenant. Certified mail still required.

10. SECTION 521-67

- (a) Amends section 521-67 to provide new remedy for tenant upon landlord's failure to comply with disclosure requirements in 521-43. Allows tenant to deduct \$20 per day for each day of noncompliance, up to one month's rent.

11. SECTION 521-68

- (a) Amends subsection (a) to change the requisite period of notice for nonpayment of rent as five calendar days instead of five business days.

12. SECTION 521-69

- (a) Amends subsection (a) to change the requisite period of notice for tenant's non-compliance with 521-51 as ten days instead of fifteen days.

13. SECTION 521-71

- (a) Amends subsection (a) to increase the notification period of termination of a month-to-month tenancy from twenty-eight days to forty-five days.
- (b) Adds new subsection (c) to provide that where a tenancy is under at least a 90 day lease agreement, it will automatically continue on a month-to-month basis after its expiration, unless either party gives 45 days written notice.
- (c) Redesignates existing subsection (c) to subsection (d), and allow landlord to pursue the greater of double rent or actual damages sustained as a result of tenant's holdover.

14. SECTION 521-72

- (a) Amends subsection (a) to change requisite period of notice for tenant's noncompliance with house rule as ten days instead of fifteen days.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1171, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1171, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carroll.

SCRep. 635-80 Consumer Protection and Commerce on S.B. No. 1493

The purpose of this bill is to amend section 431-563 of the Hawaii Revised Statutes, to provide for the issuance of variable life insurance policies.

Variable life insurance is a type of insurance policy that varies in terms of death benefits and cash value, but in which the premiums remain fixed and level. Variable life insurance policies combine traditional life insurance coverage with the potential growth of equity investments. Under a variable life insurance policy, assets supporting policy benefits are held in a separate account and invested primarily in common stocks and other equity securities and the death benefit increases or decreases depending on investment results. However, the death benefit will never fall below a guaranteed minimum equal to the face amount of insurance specified in the policy. This is the primary difference between such a policy and traditional insurance where the death benefit is predetermined at the time the policy is sold or purchased.

Presently, issuance of variable annuity contracts are allowed under our statute. Under this bill the concept is being extended to life insurance.

Your Committee received testimony from the Department of Regulatory Agencies and has adopted their recommendation by amending the bill as received in the following respects:

1. On page 1 line 3 the word annuity is deleted.
2. On page 1 line 15 after the phrase "Except as" the following is added, "may be provided with respect to reserves for guaranteed benefits and funds referred to in paragraph (3) of this subsection" and also deleting the phrase "hereinafter".
3. On page 3 line 15, after the word "amounts," the following phrase is added: "If and to the extent so provided under the applicable contracts,".
4. On page 6 line 11 after the word "contracts," the following sentence is added: "The state of entry of an alien company shall be deemed its place of domicile for this purpose."

The purpose of the amendments to the bill is to clarify and ensure that the variable life insurance provisions are applicable to section 431-563 of the Hawaii Revised Statutes. Other technical, non-substantive amendments have been made.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1493, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1493, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carroll.

SCRep. 636-80 Consumer Protection and Commerce on S.B. No. 1960-80

The purpose of this bill is to amend the Hawaii No-Fault Law (Chapter 294, Hawaii Revised Statutes) by limiting the no-fault requirements of motorcycles, motor scooters, and other vehicles with less than four wheels to providing only no-fault benefits or liability coverage for accidental harm to a pedestrian and bicyclist. Additionally, the bill reinstates tort liability for owners and operators of such vehicles with respect to accidental harm of any person other than a pedestrian.

Your Committee heard testimony from several persons and organizations supporting the intent of this bill, and other similar measures. Additionally, a supportive report from the Senate Interim Subcommittee to Investigate the Motorcycle No-Fault Insurance Issue was received. The crux of all the testimony was that present premium rates for

motorcycles, motor scooters, and vehicles which have less than four wheels were inordinately high due to the mandatory insurance requirements of the no-fault insurance legislation. However, the Motor Vehicle Insurance Division of the Department of Regulatory Agencies testified that it is concerned the bill as presently written would defeat the purposes of the no-fault legislation.

Upon consideration of the problem to which this bill is addressed, your Committee finds that the reduction in rates which this bill is designed to effect is better achieved by the following measures:

- 1) By allowing a owner-operator of a motorcycle or similar vehicle to obtain a reduced premium rate by reducing the no-fault benefits as they apply to the owner-operator.
- 2) By providing insurers reduced premiums when they have certain types of mufflers, complete a safe driving course, or wear a safety helmet.

Accordingly, your Committee has amended the bill by deleting the entire content of the bill as introduced and substituting therefor appropriate amendments to Chapter 294 to put the foregoing measures into effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1960-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1960-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carroll.

SCRep. 637-80 Consumer Protection and Commerce on S.B. No. 1990-80

The purpose of this bill is to effect a number of changes to the no-fault insurance law.

Section 294-2(10)(C)(iii) is deleted to clarify the original intent of the Legislature with regard to the amount of monthly earnings loss payments.

Presently, several insurance carriers have taken the position under this section that a claimant who suffers monthly earnings loss caused by a motor vehicle accident is not entitled to earnings loss benefits provided under a basic no-fault insurance policy coverage if the claimant earned an amount equal to or over \$800 a month. For example, if a claimant was earning \$1,600 per month but as a result of the accidental harm, his earnings were reduced to \$800 per month, the question is raised as to whether the claimant is entitled to receive \$800 to make up the loss in his monthly earnings.

Your Committee believes that the claimant under the above circumstances is in fact entitled to the \$800 per month earnings loss benefits, and to rule otherwise would be incongruous with the intent of the no-fault statute. If the amount, if any, the claimant actually lost during a monthly period is equal to or less than the amount of applicable coverage, it is our intent that the no-fault carrier is required to pay for such monthly earnings loss.

Section 294-10(b) and (c), is amended to clarify the methodology to be used by the commissioner in determining the annual medical-rehabilitative limit (tort threshold) to eliminate 90% of the medical-rehabilitative claims in the no-fault term year as the statute requires. The present statutory language is ambiguous and could cause the effectiveness of the variable threshold to be diminished. For example, since the statute makes reference to both claims "made" or "paid," and to benefits "paid" or claims "filed," it is possible to have the same claim included in different tabulations, once as filed and again as paid. The treatment of claims with periodic payments over more than one year is also ambiguous under this language, although the proper intent is to include the entire amount in one tabulation. This amendment removes the ambiguous terms and clarifies the law to clearly indicate that the commissioner must accumulate experience data on a yearly basis to determine the 90% tort threshold dollar figure as was intended under the Hawaii No-Fault Law.

With regard to the changes in Section 294-10(b), your Committee has amended the bill by deleting the words "those years" in line 12, page 4 and adding in place thereof the words "the next no fault policy term year". The amendment conforms the sentence with deletions made in the sentence and clarifies that the tort threshold figure arrived at is to be applied to the next policy term year.

Section 294-39, which provides penalties for the violation of the no-fault law, is amended to close a loophole provided under the present penal code to escape the minimum mandatory fine of \$100. Further, testimony presented by the No-fault Insurance Commissioner indicated

that some of the District Court judges have raised a technical question relating to the penalty provisions under this section. The last sentence of subsection 294-37(a) can be interpreted to mean that the court has an option to impose a monetary fine, render a jail sentence, suspend the offender's motor vehicle operator's license, demand forfeiture of his motor vehicle certificate of registration, or any combination of such penalties. Inasmuch as the intent of the Legislature when it passed Act 91, SLH 1978, was to establish a mandatory fine of at least \$100, which cannot be suspended, to be imposed by the judge for any violation of the compulsory provisions of the no-fault law, subsection 294-39(a) has been amended accordingly.

Section 294-39(a) has been further amended to impose additional mandatory penalties for multiple offenders, although the Courts may use discretion in imposing additional penalties for first-time offenders.

Section 805-13, motor vehicle insurance violation, is amended in consonance with the amendment to subsection, 294-39(a).

A new section to Chapter 294, is proposed to clearly indicate that the Commissioner is expressly authorized to conduct administrative hearings, in conformity with Chapter 91, to review the denial of any claim for no-fault or optional additional insurance benefits in which the disputed amount does not exceed \$5,000. Under present law, it is uncertain whether statutory authority exists to conduct administrative hearings relating to a denial of a no-fault claim by an insurer. Further, the commissioner's jurisdictional authority in this area has in the past been questioned by some members of the insurance industry as well as some attorneys representing the companies. This amendment clarifies the existing law and expressly authorizes the commissioner to conduct administrative hearings which are an integral part of the function of the commissioner in the discharge of his duties relating to disputed claims arising from motor vehicle accidents.

In addition to the amendment previously mentioned, your Committee has made further amendments to the bill for reasons of style and clarity, and to conform to the Ramseyer method of bill drafting. These amendments have no substantive effect on the measure.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1990-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1990-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Kuroda and Carroll.

SCRep. 638-80 Consumer Protection and Commerce on S.B. No. 2077-80

The purpose of this bill is to eliminate the no-fault insurer's rights of subrogation whenever any person effects a tort liability recovery for accidental harm, whether by suit or settlement, and to add another provision to extend the running of the statute of limitations for suits brought on contracts providing no-fault benefits or to recover tort damages arising out of a motor vehicle accident.

Under the present statutory provisions, whenever any person effects a tort liability recovery for accidental harm, whether by suit or settlement, which duplicates no-fault benefits already paid, the no-fault insurer may be subrogated to fifty percent of the no-fault benefits, up to the maximum limit specified by law, paid to such person.

Your Committee heard testimony from the insurance industry that the elimination of subrogation rights would result in an increase in automobile insurance premiums. Your Committee agrees that it has a duty to the consumer to keep the cost of automobile insurance at reasonable rates. However, your Committee finds that in most instances where there is a tort recovery the insured bears the burden of attorneys fees and related costs while recovering for the insurer a portion of the no-fault benefits that were paid to the insured. Your Committee feels that since the insurer is deriving a benefit from the insured's action, the insurer should also share in the cost of recovery.

Accordingly, the bill has been amended to retain the subrogation rights of insurers but to provide a cost sharing of attorneys fees and related costs when there is a tort recovery which includes no-fault benefits. The bill now provides "that the share of recovery by the no-fault insurer shall be reduced by an amount equal to the proportion which the subrogated amount bears to the total recovery multiplied by the insured's attorney fees and cost."

For example, if the insured person receives \$10,000 in no-fault benefits and then recovers

\$100,000, which includes \$10,000 for losses for which no-fault benefits have been paid, the insurer would be subrogated to 50% of \$10,000 or \$5,000. Assuming that legal fees and costs are \$30,000, then under the amended bill the subrogated amount (\$5,000) would be reduced by the following formula:

$$\frac{5,000}{100,000} \times \frac{30,000}{1} = \$1,500$$

which represents the amount of legal fees and costs which are deducted from the amount. The insurer would be entitled to \$3,500 (\$5,000 less \$1,500).

Your Committee has retained the provision of this bill which extends the running of the statute of limitations for suits brought for tort recovery or on a contract for no-fault benefits, when medical insurance benefits are being paid to the insured. However, your Committee has amended the bill to add a requirement that the insured must be supplied evidence that these benefits have been paid within 60 days after the insured receives each payment.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2077-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2077-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carroll.

SCRep. 639-80 Consumer Protection and Commerce on S.B. No. 2285-80

The purpose of this bill is to amend Section 410-15, Hawaii Revised Statutes, to allow state chartered credit unions to make residential mortgage loans at any rate of interest above the present 12% ceiling which is imposed on other types of credit union loans under that section.

Your Committee received testimony in favor of the bill from the Department of Regulatory Agencies and the Hawaii Credit Union League.

Your Committee has amended the bill to require that such residential mortgage loans made under this Act be limited to 18% per year. Additionally, an amendment has been made which provides that this Act will expire on June 30, 1984.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2285-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2285-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 640-80 (Majority) Consumer Protection and Commerce on S.B. No. 2518-80

The purpose of this bill is to provide that no person, copartnership or corporation shall act as a real estate broker unless properly licensed.

The intent of the bill was to clarify that a real estate broker may incorporate and hang the license of his new real estate corporation with another real estate corporation. Testimony was received by your Committee, indicating that these individuals are incorporating for tax purposes and to establish a high level pension plan. The current statute is unclear on this matter and has resulted in some confusion in attempts by real estate brokers to incorporate and continue to maintain their association with another real estate corporation. Your Committee believes that the public interest will be served by the resolution of this situation, since real estate brokers may have to resign their positions of responsibilities with their current real estate firm, to become separate independent contractor-type corporations in order to resolve their tax situation. This will result in a less experienced real estate broker, who does not yet have a similar tax situation, assuming a position of responsibility.

Your Committee believes that the bill, as drafted, is still unclear and therefore has amended the bill by adding a new section to Chapter 467, Hawaii Revised Statutes. The amendment states that any real estate corporation may be licensed with another real estate corporation and may act as a real estate broker for both corporations. The amendment also provides that the Real Estate Commission shall regulate the relationship, duties and liabilities between each corporation and its licensees by adopting rules to assure that the public is adequately protected.

The bill will further permit the "principal broker" of a real estate corporation, to act as a "principal broker" or "broker-in-charge" of another real estate corporation. It is your Committee's intent that this bill, as amended, does not relieve or shield any of the individuals or real estate corporations from any duties, responsibilities or liabilities under Chapter 467, Hawaii Revised Statutes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2518-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2518-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Yim and Saiki. Senator O'Connor did not concur.

SCRep. 641-80 Consumer Protection and Commerce on S.B. No. 2682-80

The purpose of this bill is to amend Chapter 466, Hawaii Revised Statutes, to add an experience requirement for new certified public accountancy candidates, to provide that a candidate may commence earning the additional thirty semester hours of college study besides the baccalaureate degree, prior to his graduation with a baccalaureate degree (but after he has completed at least one hundred five semester hours toward the B.A. degree), and to modify the reciprocity provisions for out-of-state CPAs to those requirements in existence in Hawaii at the time the CPA was certified in the other state.

Your Committee received testimony in favor of this bill from the Board of Accountancy, the Hawaii Society of Certified Public Accountants (which recommended the changes embodied in the bill through its Study Commission appointed in response to H.R. No. 714-79 and S.R. No. 442-79), and Gary Nishikawa, a partner in the firm of Deloitte Haskins and Sells.

Your Committee has amended the bill by making changes relating to drafting style and by making technical changes. These amendments have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2682-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2682-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carroll.

SCRep. 642-80 Consumer Protection and Commerce on S.B. No. 3106-80

The purpose of this bill is to require towing companies to notify the registered and legal owners of vehicles towed, and to require motor vehicle repair companies to notify owners of the whereabouts of their vehicles.

Your Committee received testimony from the Hawaii Bankers Association, the Hawaii Automotive and Retail Gasoline Dealers Association, and the Hawaii Business League in support of the bill.

Your Committee has amended the bill to provide that the time requirement for notification be extended to 15 days, and be uniformly applied in all cases involving unclaimed, abandoned, or unattended vehicles.

Your Committee has also amended the bill to provide that the towing company or motor vehicle repair company be allowed to charge storage charges in an amount of \$3 per twenty-four hour period commencing on the day that the vehicle is put in storage if the towing company or motor vehicle repair company notifies the owners within the fifteen day period. If the notice is not mailed within the fifteen day period, the company may charge storage fees only from the date the notice is mailed, and not for the prior period.

Your Committee has amended the bill to require that the State Department of Transportation and the respective county Division of Motor Vehicle Licenses provide the towing companies and the repair shops with the name and address of the registered and legal owner; and to specify that the disclosure of that information is not a violation of the State Privacy Act.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 3106-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3106-80, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda and Carroll.

SCRep. 643-80 Consumer Protection and Commerce on S.B. No. 1993-80

The purpose of this bill is to delete the exception from the provisions of chapter 465, Hawaii Revised Statutes, for a person performing any professional psychological services under the direction of an excepted person. The intent of the bill is to delete the loophole which allows a person who falls into one of the "excepted" categories from directing another uncertificated person in the performance of any professional services for which a certificate is required.

Your Committee received testimony in favor of this bill from the Board of Certification for Practicing Psychologists, and the Hawaii Psychological Association.

Your Committee has made technical changes to the bill without amending the substantive intent.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1993-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1993-80, S.D.2.

Signed by all members of the Committee except Senators Chong, Campbell, Kuroda, Ushijima and Saiki.

SCRep. 644 (Majority) Consumer Protection and Commerce on S.B. No. 2202-80

The purpose of this bill is to provide for two categories of licensees under Chapter 446J, Hawaii Revised Statutes, relating to radiologic technology.

Under Chapter 446J, Hawaii Revised Statutes, radiation therapy technologists who perform therapeutic services are required to be licensed as radiologic technologists. The radiologic profession feels this is unnecessary because radiation therapy technologists provide services which are distinct from those services provided by radiologic technologists. Radiologic technologists are providers of services for diagnostic purposes while radiation therapy technologists provide only services for therapeutic purposes. However, since radiation therapy technologists are mandated to be licensed as radiologic technologists, they must have the same education and training. The radiologic community feels this is unnecessary and contributes to the shortage of radiation therapy techologists.

The bill also expands the Board of Radiologic Technology to nine members, with one of the new members appointed from those persons who practice radiologic technology for therapeutic purposes, and the other new member appointed from the general public. The bill also amends the requirement that two of the existing board members (who currently must be certified in radiology) be certified by the American Board of Radiology.

Your Committee received testimony in support of the bill and finds that this bill is in the interest of the general welfare of the State.

Your Committee has made the following minor amendments:

- (1) Amended the definition of "radiologic technology" to include the application of "ionizing radiation" to human beings within the meaning of that term.
- (2) Amended the definition of "radiation therapy technologists" to specifically state that the term means persons who apply ionizing radiation to human beings for therapeutic purposes.
- (3) Amended Section 466J-5(1) to clarify that in order to qualify for a license, a radiation therapy technologist must complete an approved training program.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2202-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2202-80, S.D. 2.

Signed by all members of the Committee except Senator Carroll.
Senator Kuroda did not concur.

SCRep. 645-80 (Majority) Consumer Protection and Commerce on S.B. No. 2490-80

The purpose of this bill is to regulate the conversion of existing rental housing units under single ownership to condominium status.

The intent of the bill is to discourage the withdrawal of rental housing units from the decreasing rental housing inventory.

Hawaii's rental housing market is in the midst of a crisis due to a rapidly depleting rental housing inventory as evidenced by low vacancy rates, the lack of new construction of rental housing, and increasing rental rates.

More than half of Hawaii's families rent their homes, and the maintenance of a substantial rental inventory is critical to the well-being of the total housing market. Between 1970 and 1979, the rental housing stock has shrunk relative to the total housing inventory and growth in the number of households.

This depletion of Hawaii's rental housing inventory through conversions and lack of production is occurring at a time when the State is experiencing the lowest vacancy rate within this decade. The vacancy rate for Honolulu owner-occupied and rental units fell to 1.1 percent in April 1979 and is considered to effectively constitute a no-vacancy situation.

Your Committee received testimony in favor of this bill from the Oahu Tenants Association, and the Kokua Council for Senior Citizens. Testimony in opposition to the bill was received from the Building Industry Association of Hawaii, the Land Use Research Foundation of Hawaii, the Hawaii Association of Realtors, and Chaney, Incorporated. The Real Estate Commission recommended that a study be done to review the necessity of creating a condominium conversion board to govern conversions. The Hawaii League of Savings Associations expressed various concerns on specific items contained in the bill, and suggested that the suspension of conversions for a specific time period would allow adequate time to regulate conversions and equitably solve the problems this bill addresses.

Your Committee has amended the bill to delete all the provisions contained in the original draft of this bill, and has substituted a section which institutes a moratorium on condominium conversions until July 31, 1981.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2490-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2490-80, S.D. 1.

Signed by all members of the Committee except Senator Yim.
Senators Ushijima, Saiki and Yee did not concur.

SCRep. 646-80 (Majority) Consumer Protection and Commerce on S.B. No. 2679-80

The purpose of this bill is to amend Chapter 205, Hawaii Revised Statutes, to limit the rental of units on a transient vacation use basis to areas zoned for hotel use.

Your Committee is aware that the short-term rental of non-hotel units in areas not zoned for hotel use causes problems such as inconvenience to long-term tenants, shortage of resident rental units, and related social problems. Your Committee is also aware that such vacation rental uses of units in non-hotel areas create inflationary pressures on prices of units in the buildings, and that this practice is widespread, possibly involving 5,000 to 10,000 units. Your Committee is also aware that many contracts for rental of these units are drafted to circumvent the paying of State general excise taxes, and that this vacation rental practice is at present totally unregulated.

Under the present zoning ordinances, which have traditionally addressed only the specific physical configurations of these housing units in non-hotel areas without addressing actual usage, the practice is not technically in violation of the zoning laws per se.

Your Committee is also aware that two of the major issues to be addressed regarding time-sharing are the purchaser disclosure aspects, and the limiting of time-sharing to specific geographic or zoned areas. Inasmuch as the need to limit time-sharing to specific areas has been recognized as a major issue, the allowance of transient use through vacation rental units in non-hotel zoned areas appears incongruous.

Your Committee has completely rewritten and recodified the bill, and has provided more substantive procedures for the regulation of transient rentals in permitted cases, and has banned transient rentals in non-hotel zoned areas.

The bill, as amended, allows transient rental uses only in areas where the county zoning ordinances permit hotel use. Hotel use includes hotel districts, hotel-apartment precincts, and resort areas.

The bill, as amended, allows transient rental use in any new condominium only where the declaration of condominium and the abstract required to be given to the purchaser

include a reference that transient rental use will be permitted in the building. In existing condominiums and cooperative housing corporation buildings, transient rental use is allowed only where all the owners agree to allow it.

The bill, as amended, provides that the offeror submit a disclosure statement to the Real Estate Commission, and that the Real Estate Commission conduct an investigation, if necessary, and then prepare and file a public report of its findings, all in a manner similar to the regulatory procedure through which a condominium project is established. The bill also provides that the managing agent of a transient rental project be registered, and that he submit information as the Director of Regulatory Agencies requires. The bill also provides penalties for violation of the chapter.

The bill, as amended, requires the counties to amend their zoning codes to limit transient rental uses only to those districts where hotel use is allowed.

The bill, as amended, also provides that an existing transient rental use may continue under certain circumstances.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2679-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2679-80, S.D.1.

Signed by all members of the Committee except Senators O'Connor, Ushijima, Carroll and Yee.

Senator Campbell did not concur.

SCRep. 647-80 Consumer Protection and Commerce on S.B. No. 2791-80

The purpose of this bill is to amend Section 445-9, Hawaii Revised Statutes, by changing the penalty for failure to notify the county treasurer within thirty days of the close out, transfer, or assignment of the business for which a license is held. The bill changes the penalty from a fine of \$100, to a fine "not to exceed \$100," to allow discretion to fine chronic and obvious offenders the maximum fine if justified, yet fine minor violators a smaller fine.

Your Committee received testimony in favor of this bill from the Department of Finance, City and County of Honolulu.

Your Committee has made a technical amendment to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2791-80, as amended herein, and recommends it pass Third Reading in the form attached hereto as S.B. No. 2791-80, S.D.1.

Signed by all members of the Committee except Senators Chong, Campbell, Ushijima and Saiki.

SCRep. 648-80 Consumer Protection and Commerce on S.B. No. 2923-80

The purpose of this bill is to enable a podiatrist to perform limited surgical treatment on muscles and tendons of the leg only as they enter the foot. The bill also imposes as an additional requirement for eligibility to take the licensing examination that the applicant has not violated any provision of Section 463E-6. The bill also adds "being convicted of a felony relating to the practice of podiatry or of a crime of moral turpitude" as a possible ground for revocation or suspension of license.

Under current law, podiatrists are restricted from providing surgical treatment of the muscles and tendons governing the function of the foot.

Testimony was received in support of the bill. This bill will conform to current medical practice enabling podiatrists to surgically treat the muscles and tendons governing the function of the foot only as they enter the foot.

Your Committee finds that this medical practice is currently performed and the law should be conformed to provide proper supervision by the Board of Medical Examiners.

Your Committee has deleted Section 2 of the bill because there was no change in that section of the Hawaii Revised Statutes. Non-substantive changes have been made that would not affect the intent and purpose of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2923-80, S.D. 1, as amended herein, and recommends that

it pass Third Reading in the form attached hereto as S.B. No. 2923-80, S.D. 2.

Signed by all members of the Committee except Senator Carroll.

SCRep. 649-80 Transportation on S.B. No. 866

The purpose of this bill is to promote safety where air traffic congestion occurs at or around the State's airports by: (1) charging the Department of Transportation with clear responsibility to do everything within its power to enhance the safe use of the State's airports and to alleviate safety hazards resulting from air traffic congestion; (2) requiring the Department of Transportation, in cooperation with appropriate federal authorities and other affected parties, to examine and conduct research into the causes of and solutions for safety problems at the State's airports, especially problems associated with air traffic congestion; (3) directing the Department of Transportation to take appropriate follow-up action on the results of its examination and research; and (4) authorizing the Director of Transportation to adopt rules and regulations as may be necessary to further the objectives of this legislation.

Your Committee finds that air traffic congestion, particularly that including a mixture of large and small aircraft, constitutes a serious safety problem whenever and wherever it may occur. At present, this problem seems to be most acute at the Honolulu International Airport, but at some future time may become serious at other airports.

Your Committee further finds that, while the development of additional airports may offer a solution to the problems involved, this is not always the only, most feasible, or most complete solution. Due to economic factors, the difficulties of finding suitable locations for other airports, obstacles preventing exclusive use of certain airports or the required relocation of certain aviation uses from one airport to another, the time lag involved in building new facilities, and similar reasons, all alternatives need to be carefully explored when trying to find solutions to the problem of air traffic congestion and to related problems. Too often, however, full concentration has been focused upon developing additional airports and these other alternatives have been neglected.

Your Committee is of the opinion that this situation should not be allowed to persist and that the Department of Transportation should be directed to move forthwith toward a comprehensive approach to enhancing airport safety. For example, there appear to be a number of things which might be done at Honolulu International Airport to improve the present situation by bringing about a greater segregation of large and small aircraft and by reducing peak periods in the usage of the airport. With or without the building of a reliever airport, these alternative measures may well be worthwhile.

Your Committee recognizes, however, that this is a complicated matter where adequate information may still be lacking and where proposed solutions may need to be carefully examined and tested before any definitive actions are taken to put them into effect. At the same time, your Committee does not want alternatives to be automatically rejected just because information is not immediately available or because no one has ever done it before. For this reason, the proposed legislation includes provisions calling upon the Department of Transportation, in cooperation with federal authorities and other affected parties, to examine and conduct research into various alternatives that might be taken to promote safety at the State's airports and to reduce air traffic congestion and associated safety hazards at and around these facilities.

Among the alternatives that should be explored are ones involving the regulation of flights at congested airports through such devices as landing surcharges or differential landing fees, the assignment of particular runways for particular uses, and the establishment of limits on the number and types of aircraft allowed to use public airports.

Once the advantages of alternative courses of action become apparent, your Committee feels that the Department of Transportation should be able to effectuate them through appropriate action as soon as possible. Accordingly, the measure includes authorization for the Director of Transportation to adopt necessary rules and regulations.

Your Committee has amended this short form bill to incorporate the foregoing ideas in a new section to be added to chapter 261 of the Hawaii Revised Statutes.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 866, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 866, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 650-80 Ecology, Environment and Recreation on S.B. No. 2292-80

The purpose of this bill is to amend Chapter 339 of the Hawaii Revised Statutes by removing the prohibition on the sale of beverages in plastic containers.

Judge Arthur Fong of the First Circuit Court, State of Hawaii, in his opinion on September 13, 1979 in the case of JUICE TREE HAWAII, INC. vs. GEORGE YUEN, Civil No. 58218, held that Section 339-7(b) is invalid, void and unenforceable because it was in violation of the Constitution of the State of Hawaii and the Constitution of the United States. The ruling has not been appealed. This bill is a housekeeping measure to conform the chapter to the ruling.

Your Committee adopted the recommendation of the Department of Health that the definition of "beverage container" contained in Section 339-1(2) need not be changed and therefore deleted Section 1 and renumbered the remaining sections.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2292-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2292-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 651-80 Government Operations and Efficiency on S.B. No. 2512-80

The purpose of this bill is to clarify the requirement that all printing, binding, and stationery work for the State and counties be performed within the State and to provide a penalty for manufacturers who do not abide by the terms of bids or contracts which stipulate that all such work be performed within the State.

Under current law, all printing, binding, and stationery work for the State and its political subdivisions are required to be performed within the State, except where such work cannot be performed within the State or would cost fifteen per cent more than the price charged by a mainland manufacturer.

This bill adds language to the law which makes it clear that the word "work" as used in the law, includes all preparatory work, presswork, bindery work and any other related work.

The bill further adds a provision subjecting any manufacturer who violates the requirement that all work be done in the State to a fine equal to three times the value of the job.

Your Committee has amended the bill by:

- (1) Adding the word "production" before the word "related" on page 1, line 7 of the bill to clarify the type of work covered.
- (2) Deleting the provision which requires a notarized statement that the work will be performed in Hawaii. Your Committee believes that the proposed provision is unnecessary as the law presently requires that all bids and contracts stipulate that the work will be performed within the State.
- (3) Subjecting violators to a "civil penalty" rather than a "fine" and reducing the amount of the penalty to the value of the job rather than three times the value of the job as originally proposed.

Your Committee notes that the Department of Accounting and General Services testified in favor of the bill.

Your Committee on Government Operations and Efficiency is in accord with the intent and purpose of S.B. No. 2512-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2512-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carroll.

SCRep. 652-80 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.

As received by your Committee this bill contained numerous appropriations for specific capital improvements throughout the State. Your Committee has deleted these appropriations and amended the bill to make an appropriation of \$1 for general capital improvements.

This bill as amended provides a vehicle for making appropriations for capital improvement projects.

It is the intent of your Committee to approach the matter of appropriating funds for capital improvements in a fresh and forward-looking manner. Due to the fiscal constraints imposed on State government by the constitutional amendments of 1978, it is necessary that past practices of appropriating funds for capital improvements be re-evaluated.

In light of the stringent debt service limitation and the limits on bond authorizations now imposed on the State, your Committee finds that capital improvement projects initiated by the legislature should be reviewed more stringently. This bill provides the framework for such a review.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3, S.D. 3.

Signed by all members of the Committee except Senators Kawasaki, Toyofuku, Yamasaki, Soares and Yee.

SCRep. 653-80 Ways and Means on S.B. No. 711

The purpose of the bill is to provide for appropriate services to handicapped children by addressing a cooperative effort between the Departments of Health and Education, and by designating responsibilities between the two departments.

Currently, only the above-six-years of age group of handicapped children are required to be served within the existing Department of Education statutes. However, the Attorney General's Consent Decree of March 1977 stated that appropriate public education shall be available for each exceptional child between the ages of three and twenty in the State no later than September 1, 1980. The decree assigned the primary responsibility to the Department of Education, and requested the Departments of Social Services and Housing and Health to assist the Department of Education in fulfilling its mandate.

Your Committee recognizes that both developmental and educational training programs are necessary for the handicapped child in an effort to maximize that child's potential to lead a productive life. It is the intent of your Committee to clarify the statutes by defining the need for the Departments of Health and Education to administratively cooperate in support of the common goal--to provide instruction, special facilities, and special education, developmental and training programs to all handicapped children residing in the State.

Further, it is the intent of your Committee that both departments recognize the importance of private agencies in support of services to handicapped children. For example, the Department of Health is providing developmental programs for approximately 800 children age three through five years of age. Approximately one-half of these services are being provided through contracts with private, non-profit agencies by the Department of Health. These private agencies are providing a large and essential portion of services to handicapped preschool children that would otherwise have to be provided by the Department of Health.

Your Committee finds that a collaborative and cooperative effort involving a variety of professional disciplines is necessary since the areas of health and education need to be integrated when considering the handicapped child's needs. Your Committee further finds that clarifying the role of departments regarding the care of the handicapped child can promote a greater understanding and more effective communication among all institutions and agencies, both public and private.

Your Committee has amended the bill as follows:

(1) Chapter 301, part II, Hawaii Revised Statutes, has been amended by deleting reference to the handicapped child. Previously, "exceptional" referred to both handicapped as well as gifted children. Your Committee heard testimony that these two groups of children require different levels of services, and should therefore be addressed separately.

(2) Chapter 301, Hawaii Revised Statutes, has been amended by adding a new part addressing handicapped children. This new part calls for the Department of Education

to be responsible for and provide services for handicapped children; provided that the Department of Health shall assist the Department of Education in health matters for persons six through twenty years of age. Your Committee heard testimony that if the Department of Education was mandated to be responsible for health-related matters for handicapped children below age six years, then added expense would be required to staff additional personnel, and equipment, which already exists in the Department of Health.

(3) Chapter 321, Hawaii Revised Statutes, has been amended by adding a new part delineating the Department of Health duties for handicapped children. The new part calls for the Department of Health to be responsible for those children three through five years who deviate below the normal person, and for those children under six years of age who are certified to be emotionally maladjusted or intellectually incapable of profiting from ordinary training methods.

(4) All appropriations made or held by the Department of Education in relation to providing services to handicapped children ages three through five years old shall be transferred to the Department of Health.

(5) 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. 711, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 711, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Toyofuku, Yamasaki, Soares and Yee.

SCRep. 654-80 Ways and Means on S.B. No. 2173-80

The purposes of this bill are to (1) provide general excise tax exemptions to any person who contributes to the development, construction, or occupancy of government assisted housing; and (2) to provide that for a non-profit organization qualified under federal housing law, the income earned and obligations issued which are declared to be exempt from federal taxation shall also be exempt from all state taxation.

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. 2173-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2173-80, S.D. 2.

Signed by all members of the Committee except Senators Toyofuku, Yamasaki, Soares and Yee.

SCRep. 655-80 Ways and Means on S.B. No. 2554-80

The purpose of this bill is to support the commercial development of ethanol to be used in producing gasohol. This support would take the form of support payments to cover start-up losses of an alcohol facility and grants to off-set operating losses of the producer until the price of unleaded gasoline equals the cost of alcohol in the gasohol blend. This support would come from a Hawaii self-sufficiency fuel fund, a revolving fund, which would be funded through a special tax on gasoline in lieu of the excise tax. The fund would be administered by the energy resources coordinator who would also set the interest rates for loans made from the fund as well as determine the repayment period for the loans.

Your Committee has made extensive amendments to S.B. No. 2554-80, S.D. 1. These amendments include:

1. The section of the bill creating a new Hawaii self-sufficiency fuel tax has been deleted.

2. Section 3 of the bill has been renumbered as section 2 and provides that the Hawaii self-sufficiency fuel fund shall be funded through moneys appropriated by the legislature and from any repayment of principal and interest on any loan made from the fund. The language stating the purpose of the loan has also been amended to read that the "purpose of the loans is to provide financial assistance to the alcohol producer to cover start-up losses of an alcohol facility".

3. A termination date for the fund has been set for July 1, 1982 and all fund balances including outstanding loans shall lapse into the general fund.

4. Provisions for grants to off-set operating losses have been deleted.
5. An interest rate for loans made from the revolving fund has been specified at eight per cent simple interest.
6. Language which would provide that no payments on the loans need be made while the alcohol producer is operating at a cash deficit has been substituted with language which states that "no payments on the outstanding principal of the loan shall be required for a period of five years."
7. An appropriation clause has been added to the bill but no specific appropriation amount has been specified. Your Committee finds that further study and review of this matter are required as no commitment by any producer to engage in the development of alcohol in this State through the use of biomass feedstock has been made. Pending such a commitment and further indication of the competitiveness of gasohol as a motor vehicle fuel, your Committee withholds making any appropriation at this time.
8. Section 4 of the bill as received by your Committee which provided for an exemption from the general excise tax for gasoline and gasohol has been deleted.
9. The effective date of this bill has been amended to July 1, 1981 with an expiration date of June 30, 1982.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2554-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2554-80, S.D. 2.

Signed by all members of the Committee except Senators Toyofuku, Yamasaki and Yee.

SCRep. 656-80 Ways and Means on S.B. No. 2635-80

The purpose of this bill is to provide for the issuance of special purpose revenue bonds to assist industrial enterprises.

Article VII, section 12, of the Constitution of the State of Hawaii, as amended by the Constitutional Convention of 1978, provides that the legislature, by a two-thirds vote of both houses, may enact enabling legislation for the issuance of special purpose revenue bonds separately for each special purpose entity, and by similar vote and by separate legislation, may authorize the State to issue special purpose revenue bonds for each single project or multi-project program of each special purpose entity. Such bonds may be authorized or issued to assist, among other things, manufacturing, processing, or industrial enterprises; however, the legislature must find the issuance of the bonds to be in the public interest.

Among other things, the bill allows the department of budget and finance to issue special purpose revenue bonds to finance industrial enterprises; requires the State to be reimbursed for all expenses associated with entering into any agreement concerning such bonds for industrial enterprises; provides that any industrial enterprise shall contract with the department to pay sums sufficient to cover the principal and interest on such bonds, to maintain a reserve as required, and to pay all fees and expenses of the State; provides that such bonds shall only be paid from revenues derived from payments made to the department by such industrial enterprise, and that such bonds shall be secured solely by industrial enterprises; provides that such bonds shall not be a general obligation of the State and shall not be secured by the full faith and credit of the State, and that no state revenues or taxes shall be pledged to the payment of such bonds; and provides that such bonds, and the income and interest therefrom, shall be exempt from all state, county, and municipal taxation, except inheritance, transfer, and estate taxes.

Your Committee has amended the bill to more clearly retain legislative control over bond authorizations and to limit the rather broad powers of the department of budget and finance with regard to this bill. The amendments, with line and page references to S.D. 1 are as follows:

- (1) The words "section 103-7 and" on line 20 of page 4 have been deleted.
- (2) The word "governor" on lines 8 and 11 of page 6 have been deleted and replaced by the word "legislature".
- (3) Lines 12, 13, and 14 on page 6 have been deleted.

The bill has also been amended to remove apparently erroneous language by deleting lines 19, 20, and 21 of page 14 and inserting the following: "purchaser of such bonds. For the purpose of this subsection, the term CUSIP identification numbers means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association".

At the request of bond counsel, the words "The law authorizing the" on line 17 and the words "may provide that the special purpose revenue bonds" on line 18 at page 22 have been deleted.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2635-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2635-80, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Hara, Toyofuku, Yamasaki and Yee.

SCRep. 657-80 Ways and Means on S.B. No. 3112-80

The purpose of this bill is to expand utilization of the State Higher Education Loan Fund (SHELF) by making funds available to residents of the State of Hawaii attending a university or community college outside the State.

At present, SHELF loans are limited to needy students who have been residents of the State for at least one year, who attend the University of Hawaii or a state community college and are enrolled in a degree program.

Your Committee finds that a significant portion of this State's students, for diverse reasons, desire to attend educational institutions outside the State but are prevented or hindered from doing so due to financial restrictions. Your Committee further finds that it is in the best interests of the State that such students be aided in their pursuit of higher education.

In today's highly specialized and technology-oriented world, course studies in particular academic fields are often limited to a small number of educational institutions. If the State is to take its rightful place in modern times, its scholars must have available the best in educational programs, faculties and facilities wherever they are located. In addition, Hawaii has long recognized the benefits to the State derived from exposure to the social, cultural, business and academic influences of other places and peoples. For these reasons your Committee feels that student financial aid should not be made contingent upon or limited to study within the State. Present statutory language has been therefore amended to permit the granting of student loans to those qualifying who wish to attend institutions outside the State.

Your Committee has, for administrative purposes, removed responsibility for overseeing the loan fund from the Board of Regents and placed it in the office of the State Post-Secondary Education Commission. This was done to insure impartiality in the granting of loans to both out-of-state and in-state student applicants. Your Committee notes that the commission is, at present, responsible for federal funding regarding higher education and includes in its membership the Board of Regents and representatives of the general public.

Your Committee has increased the residency requirement for loan qualification from one year to three years, anticipating that removal of the in-state study requirement will increase pressure on the fund. A severability clause has been included to assure continuation of the fund should the residency requirement be successfully challenged in the future.

Eligibility for loans for out-of-state study has been limited to enrollees of programs at institutions meeting federal law accreditation standards. This was done to ease administrative difficulties for the commission and to protect the State's federal higher education funding.

The commission has been authorized to establish a group credit life insurance plan to protect the fund against losses occasioned by the death or permanent total disability of student borrowers.

Recognizing that the cost of living in Hawaii in some instances is higher than elsewhere, your Committee has amended the bill to provide that students attending an institution within the State may receive up to \$200 per month to defray room and board expenses.

The bill has been further amended to permit the State Post-Secondary Commission the power to adopt rules necessary for the administration of this program.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3112-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3112-80, S.D. 2.

Signed by all members of the Committee except Senators Chong, Toyofuku, Yamasaki, Soares and Yee.

SCRep. 658-80 Ways and Means on S.B. No. 1514

The purpose of this bill is to amend section 246-10, Hawaii Revised Statutes, by repealing the deferred roll back tax imposed when agricultural property is reclassified at the request of the owner.

Under the law presently, a deferred or roll back tax is imposed on owners of real property assessed as agricultural when the land is reclassified as urban or rural subsequent to petition of the owner for such reclassification or when the owner subdivides the property. The tax applies retroactively but is limited to a carryback of 10 years. The tax is based on the difference in assessed value between the highest and best use and the agricultural use at at the tax rate applicable for the respective years.

The purpose of the deferred or roll back tax is to encourage property owners to keep land in agricultural use. This tax represents an effort by the legislature to protect agricultural lands from the effects of Hawaii's rising land values by requiring that land actually in agricultural use be assessed at its value in that use and allowing certain agricultural lands to be taxed at 50% of value if the owner dedicates the land.

Your Committee finds that while the purpose of the deferred or roll back tax is still valid, situations may arise where lands which no longer remain economical for agricultural production are therefore proposed to be converted to urban or other use. The result is that the penalty imposed by this tax is passed on to the ultimate consumer as in the case of residential development, the homebuyer, in higher housing costs.

Your Committee has amended this bill to provide for such situations by providing that the governor may excuse the imposition of the deferred or roll back tax if the owner or the land or the lessee agrees that the land upon which the tax is forgiven will be used for the development of residential public housing units and that no less than ten per cent of such units shall be for families of low income and not less than fifteen per cent of such units shall be for families of moderate income. The bill has also been amended to specify that as used in that section, "families of low income" are defined as an intermediate budget family of four as determined by the Bureau of Labor Statistics of the United States Department of Labor and "families of moderate income" are defined as a high budget family of four as determined by the Bureau of Labor Statistics of the United States Department of Labor.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1514, as amended herein, and recommends that it pass Second Reading in the form attached here to as S.B. No. 1514, S.D.1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Soares and Yee.

SCRep. 659-80 Ways and Means on S.B. No. 1869-80

The purpose of this bill as referred to your Committee is to strengthen the legislative information capabilities by appropriating funds for the design and implementation of a legislative data processing system. Your Committee has amended the purpose of this bill to appropriate funds for a new comprehensive index to the Hawaii Revised Statutes.

Your Committee finds that changes at the electronic data processing division of the department of budget and finance make the appropriation of funds of a legislative data processing system of less immediacy than the appropriation of such funds for a new index to the Hawaii Revised Statutes.

Your Committee notes that the last index prepared for the Hawaii Revised Statutes was published in 1969 and that the present supplement to that index has grown to almost one-half the size of the basic index. In addition to the bulk of the present supplement many legislative changes have since been made which makes the basic index volume almost totally obsolete. Your Committee also notes that in order to prepare a proper comprehensive index necessitates competent persons with experience not present in

the State. Finally, your Committee notes that the preparation and publication of a new index to the Hawaii Revised Statutes is estimated to take approximately twenty months which means that if the contract for such an index is let during 1980, the new index will be available in early 1983.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1869-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1869-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, Hara, Toyofuku, Yamasaki, Soares and Yee.

SCRep. 660-80 Ways and Means on S.B. No. 2795-80

The purpose of this bill is to conform the Hawaii Revised Statutes to the provisions of Article VII, Sections 8 and 9, of the State Constitution as amended by the Constitutional Convention of 1978 and ratified by the voters on November 7, 1978.

Your Committee acknowledges the mandate of the general public as expressed in their overwhelming approval of the constitutional amendments calling for a limitation on government spending. Your Committee finds that the public has declared that the government should control its spending to be more in line with the growth of the state's economy. Your Committee further finds that such limitation on public spending is desirable in the long run since it imposes a stringent requirement upon government officials to scrutinize current expenditures from the general fund and to exercise prudence in proposing further expenditures.

More than a year has elapsed since the constitutional amendments of 1978 were ratified and it is therefore incumbent upon this legislature to enact legislation which would establish the expenditure ceiling called for by the State Constitution. Furthermore, to demonstrate the legislature's responsiveness and intent to comply with the spirit and intent behind the constitutional amendments, it is appropriate for any expenditure ceiling formula which is enacted by this legislature to treat the fiscal year during which the relevant amendments were ratified as the base appropriation year for determining the expenditure ceiling. This bill proposes to do this by declaring that the base expenditure ceiling from which the expenditure ceiling for future fiscal years will be determined is set as the total general fund appropriations for fiscal year 1978-79.

This bill proposes that "state growth" or the rate at which general fund appropriations will be allowed to increase within the expenditure ceiling be determined by averaging the annual percentage change in total state personal income for the three calendar years immediately preceding the calendar year before the session of the legislature making appropriations from the general fund.

Under this bill, the expenditure ceiling for each fiscal year will be determined by increasing the prior year's expenditure ceiling by the applicable state growth rate.

The expenditure ceiling for each fiscal year as determined under this bill sets the limit of general fund appropriations which the legislature is authorized to appropriate from the general fund. In the event that the legislature should choose to exceed the expenditure ceiling this bill would first require the legislature to secure a two-thirds vote of each house of the legislature approving such excess appropriations; set forth the dollar amount and the rate by which the appropriations allowed exceeds the expenditure ceiling; and set forth the reasons for exceeding the expenditure ceiling in each act which will cause appropriations from the general fund to exceed those allowed under the expenditure ceiling.

This bill also would require the executive and judicial branches to comply with certain requirements when proposing general fund appropriations for their respective branches of government. Specifically, this bill would require the governor and the chief justice to keep their proposed general fund expenditures within an appropriation ceiling determined by increasing the actual appropriations from the general fund for the preceding fiscal year for each of their respective branches by the rate of state growth. In the event that the governor or the chief justice proposes that appropriations for his respective branch be in excess of the proposed appropriations limit provided for in the bill, then the governor or the chief justice must set forth the dollar amount and the percentage change in excess of the appropriations limit and the reasons for proposing appropriations in excess of that limit.

The director of finance would be charged with the responsibility under this bill of determining state growth and the expenditure ceiling and reporting this information

to the governor, chief justice, the legislature and the public.

The bill has been amended to change the base appropriation year for determining the expenditure ceiling from the 1979-80 fiscal year to the 1978-79 fiscal year.

Your Committee has amended this bill to require that the governor submit a plan of proposed appropriations to the legislature which includes the executive budget, proposed grants to private entities, and any specific appropriation measures to be proposed by the executive branch and also estimates of the aggregate proposed appropriations of the judicial and legislative branches of government. In the event that the total proposed appropriations in the plan exceeds the expenditure ceiling, then the governor is required to set forth the dollar amount, the rate by which the expenditure ceiling would be exceeded, and the reasons for proposing appropriations in excess of those allowed under the expenditure ceiling.

Your Committee has also amended this bill to require that the plan of proposed appropriations to be submitted by the governor and the chief justice shall include the budget for their respective branches as well as any specific appropriation measures to be proposed by each branch and proposed grants to private entities. Your Committee believes that this modification is necessary to make clear that the plans of proposed appropriations to be submitted shall include all recommended appropriations of each branch rather than only the executive or judiciary budget.

Your Committee has amended this bill to eliminate the requirement that the governor submit to the legislature the projected total state personal income for the calendar year in progress and the estimated total state personal income for the latest completed calendar year. Your Committee believes that such information is not readily available and would otherwise require that the governor make projections which could be subject to dispute.

The bill has also been amended to add a section providing for a reserve amount fund. This fund would be comprised of a reserve amount which would be the difference, if any, between the amount actually appropriated from the general fund by the legislature and the amount which the legislature could have appropriated without exceeding the expenditure ceiling. Such a reserve amount would be accounted for and appropriated to a reserve amount fund from which the legislature may appropriate moneys for such purposes which it should deem appropriate. The moneys in the reserve amount fund would be treated as being part of the general fund balance at the end of each fiscal year for purposes of complying with section 6 of article VII of the state constitution. Your Committee believes that creation of such a reserve amount fund would provide the legislature with an incentive not to appropriate funds up to the limit allowed under the expenditure ceiling. At the same time, it would provide the legislature with needed flexibility should contingencies arise.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2795-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 2795-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Hara, Toyofuku, Yamasaki, Soares and Yee.

SCRep. 661-80 Judiciary on S.B. No. 2870-80

The purpose of this bill is to codify existing law regarding the authority of police officers to make arrests for misdemeanors not committed in their presence.

Under common law, an arrest could not be made for a misdemeanor not committed in the arresting officer's presence. This law is archaic and has been eliminated by more recent case law. However, some courts still harp back to the old law with absurd results.

This bill makes it clear that officers can arrest for misdemeanor violations not committed in their presence, just as in the case of any other offense. The word "crime" is intended to mean any felony, misdemeanor, or petty misdemeanor. See section 701-107, Hawaii Revised Statutes.

A definition of "probable cause" has been included in the bill by your Committee for clarity. The definition is based on Hawaii case law, see *State v. Texeira*, 50 Haw. 138, 142, 433 P.2d 593, 597 (1967), and is not intended to be "fixed in concrete" but is intended to be as flexible as the term is used by the courts on a case-by-case basis.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2870-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2870-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 662-80 Judiciary on S.B. No. 2618-80

The purpose of this bill is to amend section 76-52, Hawaii Revised Statutes, so that any civil servant who knowingly falsifies a report or statement for the purpose of either giving or receiving a benefit or payment shall be chargeable with a crime.

The bill adds language to the end of section 76-52 to accomplish the above. Both commissions of false statements and omissions of material facts for the purpose of conferring a benefit valued at less than \$200 constitutes a misdemeanor offense. Those with a value over \$200 shall constitute a class C felony.

Your Committee altered the bill slightly to more closely conform its amendment to the deducible intent. This intent is to penalize and thus deter civil servants who seek to confer valuable benefits either on themselves or on others by way of false statements or reports.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2618-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2618-80, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Saiki.

SCRep. 663-80 Judiciary on S.B. No. 2780-80

The purpose of this bill is to amend section 298-9, Hawaii Revised Statutes, so that under certain enumerated conditions, minors may not be compelled to attend school.

Your Committee believes that requiring compulsory attendance at school for minors is generally in the best interests of all concerned as provided for in section 298-9. However, it is acknowledged that certain exceptions to this attendance rule are valid. To this end, S.B. No. 2780-80 amends section 298-9 to include an additional exception based on "bona fide religious training or belief."

Certain religious training or beliefs may discourage regular attendance at school. In such cases where both the minor and the respective parents conscientiously object to compulsory attendance, your Committee believes their objection may be accommodated. A competent tutor is deemed an acceptable substitute if proper instruction is provided and approved by the superintendent of education.

For purposes of this section, bona fide religious training or beliefs is intended to encompass those religions recognized and practiced by a significant percentage of persons. Such religion may not have as one of its purposes, either directly or indirectly, inclusion within the exceptions to the general school attendance rule of section 298-9.

To accomplish the above purpose, paragraph (6) is added by this bill to the list of acceptable exceptions in section 298-9.

Alterations to the bill were necessary to include in the new religious exception paragraph the requisite substitute of a tutor for regular attendance at school.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2780-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2780-80, S.D. 1.

Signed by all members of the Committee.

SCRep. 664-80 Judiciary on S.B. No. 1837-80

The purpose of this bill is to limit the availability of bail for persons charged with criminal offenses under certain specified conditions. Section 804-3, Hawaii Revised Statutes, already denies pre-trial bail in the case of an offense punishable by life not subject to parole, "when the proof is evident or the presumption great." This bill would delete the latter requirement and also deny bail to a defendant who had previously

been convicted of a similar offense. Section 804-3, Hawaii Revised Statutes, denies post-trial bail pending appeal to defendants who can be sentenced for "at least twenty years." This bill changes the requirement to "at least ten years" and deletes any discretion in the court to allow such bail. The bill also allows a court to deny bail under Section 804-7.1, Hawaii Revised Statutes.

This bill received questions and outright opposition based on its possible unconstitutionality. The view was expressed that a defendant is presumed innocent until proven guilty and that bail should only relate to his present charge and the probability he will appear, rather than his past record. Issues regarding equal protection, due process, and constitutional right to bail were raised.

Your Committee's research indicates that these concerns are generally without foundation based upon existing cases recently decided across the country in both state and federal courts. Robertson v. Connecticut, 501 F.2d 305 (2nd Cir. 1974), United States v. Fields, 466 F.2d 229 (2nd Cir. 1972), Hamilton v. New Mexico, 479 F.2d 343 (10th Cir. 1973), Bloss v. Michigan, 421 F.2d 903 (6th Cir. 1970), Parker v. Roth, 278 N.W.2d 106 (Neb. 1979), Gallie v. Wainwright, 362 So.2d 936 (Fla. 1978), Gold v. Shapiro, 400 N.Y.S.2d 906 (N.Y. App. 1978), Rendel v. Mummert, 474 P.2d 824 (Ariz. 1970), State v. Garrett, 493 P.2d 1232 (Ariz. App. 1972), Ex Parte Smith, 548 S.W.2d 410 (Tex. Cr. App. 1977), Ex Parte Miles, 474 S.W.2d 224 (Tex. Cr. App. 1971), Scott v. Ryan, 548 P.2d 235 (Utah 1976). See also Duker, "The Right to Bail; a Historical Inquiry," 42 Alb. L. Rev. 33 (1977).

These cases stand for the proposition that there is no guaranteed constitutional right to pre-trial bail in all cases, and there is definitely no constitutional right to bail after a conviction pending appeal. Parker v. Roth, *supra*, discusses the entire history of bail from its roots in England to the Bill of Rights and points out that the Eighth Amendment to the Constitution of the United States does not guarantee bail in all cases, but only guarantees no excessive bail in cases where the law allows bail.

The Hawaii State Constitution, Article I, Section 9, follows the language of the Eighth Amendment. In Hawaii, the right to bail in all cases, except where the punishment can be life without parole, is only guaranteed by statute, specifically Section 804-3, Hawaii Revised Statutes, which the legislature is free to change upon reasonable grounds. Such legislative changes have been made in several states, notably Arizona, Michigan, Nebraska, Texas, Utah, and the District of Columbia.

The bill has been amended by your Committee by adding SECTION 1 stating the purposes of the bill. First, we intend to deal more harshly with persistent offenders who have abused the bail privilege in the past and present a clear danger to society. Second, we desire to end the long delay between conviction and punishment caused by appeals, thereby increasing the effectiveness of punishment.

What was originally designated "SECTION 1" of this bill denies pre-trial bail to a defendant who has previously been convicted of an offense similar to that with which he is charged. This exemption is similar to Texas law which denies bail to a defendant convicted of any two prior felonies. This law was approved by the Texas Criminal Appeals Court in Ex Parte Smith, *supra*.

Your Committee has completely rewritten this section of the bill which is now designated as "SECTION 2" of the amended bill. This section denies bail to a person charged with a "serious crime" (see discussion of definition of "serious crime" below) where "the proof is evident and the presumption great" on that charge and (1) the offense is punishable by life without parole or (2) the defendant has been convicted of a "serious crime" in the last ten years, or (3) the defendant is already on bail on any felony charge (see Rendel v. Mummert, *supra*, and Scott v. Ryan, *supra*).

In effect, bail is denied to one charged with a "capital" offense or a persistent offender. "Serious crime" is defined as a class A or B felony except for forgery in the first degree and failing to render aid. All class A or B felonies, with the two exceptions noted, involve harm to a person, or the threat of harm, or the use of a weapon, or serious drug offenses. Burglary in the first degree in a dwelling involves a serious possibility of harm to people if a burglar is discovered. While failure to render aid can involve harm to a person, the wide range of possibilities made inclusion of this offense inappropriate.

The requirement that "the proof is evident and the presumption great" is retained since no state statute or constitutional provision was found which did not have this or a similar requirement. Your Committee also feels that this is appropriate as a matter of fairness, and your Committee is encouraged by the fact that existing Hawaii case law construes this requirement, giving guidelines to the trial courts. See Bates v.

Hawkins, 52 Haw. 463 (1970), Bates v. Ogata, 52 Haw. 573 (1971), and Sakamoto v. Chang, 56 Haw. 447 (1975).

The original "SECTION 2" of this bill has been amended by your Committee and is now "SECTION 3" of the amended bill. The original section denied bail after conviction where the sentence can be ten years or more. The amended section retains this exception to bail and adds exceptions in cases where bail was not allowed or denied or revoked before conviction.

The bill is also amended by adding a reference to section 641-14(a) which is a recent amendment allowing a court the discretion to execute a sentence pending appeal.

SECTION 3 of the bill as amended (SECTION 2 of the original bill) amends the present law to allow a court to deny bail in the enumerated circumstance, rather than merely set conditions. There is little question of the court's power to impose such conditions and, your Committee believes, to deny bail if it can be shown by sufficient evidence that such conditions will not be met even if imposed. This section of the bill has been further amended to make it clear that the court can deny bail if a condition of bail is breached.

There is no constitutional right to bail -- it is a statutory privilege and always has been. The abuse of the bail system, the danger posed by repeat offenders, and the need of swift effective punishment upon conviction (which is also an excellent deterrent for others) have resulted in this bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1837-80, as amended herein, and recommends that it pass Second Reading as S.B. No. 1837-80, S.D. 1, in the form attached hereto, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 665-80 Judiciary on S.B. No. 2877-80

The purpose of this bill as originally drafted was to completely revise the Penal Code offenses relating to sex-related crimes. Your Committee has completely rewritten the bill, incorporating some of its best ideas for change into the existing Code provisions.

The definition of "sexual intercourse" and "forcible compulsion" have been amended. The definition of "female" has been deleted since it only appears in the definition of rape which was amended last year to refer only to "persons." This 1979 amendment had the effect of eliminating spousal immunity for rape. Your Committee considered reenacting spousal immunity but decided not to do so due to extensive testimony against the idea of spousal immunity.

The "prompt complaint" limitation was extended from one to three months to avoid the undesirable result of immunity from prosecution in serious cases due to an unreasonably short limitation period. This limitation was also amended to exclude time during which reporting of a crime was impossible or seriously hampered due to the physical or mental incapacity of the complaining witness. Obvious injustice might result without such an exclusion.

The crimes of "necrophilia," sexual intercourse or sexual contact with a human corpse, and "causing another to engage in bestiality" have been added to the Penal Code.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2877-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2877-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong and Mizuguchi.

SCRep. 666-80 Judiciary on S.B. No. 3097-80

The original purpose of this bill was to create the concept of the "development agreement" which would allow a developer to enter into a contract with a county to provide certainty for the future use and investment in land to preclude changes in allowed zoning or land use by government after a developer had expended considerable money and effort in reliance on that zoning or land use.

The basic intent of the bill was excellent as the intent was to provide stability in the financial and business end of land ownership and development which has not existed

in this State due to uncertain law regarding the vesting of property rights in the landowner.

However, careful technical review reveals defects in this proposed system. First, the government right of eminent domain or condemnation is contained in both the United States and the state constitutions and cannot be impaired by statute. Secondly, in Hawaii, a state mandate allowing a contract which would impair the basic county right to control its own process is contrary to the state constitutional mandate allowing these rights to the county.

It is very important that there be a law of general application in the State which provides landowners with a certain time when existing zoning and use for the land vests and they can rely upon it for the future use of their land, or be properly compensated by government if that right is taken from them after vesting.

Your Committee finds that an objective step by which to measure the reliance by the landowner of his existing zoning or land use is through the issuance of any permit to him which depends in part upon that particular zoning or land use for its issuance. Obviously, effort and money expenditures will be required to reach that point, and such effort is a good faith demonstration that the landowner is relying on that zoning or permitted use.

If the government is later required to take all or a part of the property, or to impair its zoning or use for a public purpose, then fair market value shall be paid for that taking or impairment.

Your Committee believes that this bill settles any ambiguity on the vesting of these rights and provides the certainty and assurance to the landowner which is now lacking.

Additionally, an 18-month review system is retained to ensure continuing effort to have good faith compliance with the permit.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3097-80, as amended herein, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as S.B. No. 3097-80, S.D. 1.

Signed by all members of the Committee except Senators Chong and Mizuguchi.

SCRep. 667-80 Judiciary on S.B. No. 2881-80

The purpose of this bill is to authorize and encourage the police to transport victims of spouse abuse to a safe place by amending section 709-906, Hawaii Revised Statutes.

As originally submitted to your Committee, this bill mandated the police to transport such victims upon request. Your Committee received testimony from the Honolulu Police Department opposing the requirement on the basis that other county and social agencies perform these functions and that requiring the police to do so would hamper the department's ability to respond to other calls for police services.

Your Committee recognizes the potentially onerous burden on the police and has therefore amended the bill to authorize, but not require, the police to provide such transportation. We will, for now, rely on the investigating officers' good judgment and expect that they will provide transportation in every case in which it appears reasonably necessary and no effective alternative transportation is available. We also encourage the police to develop a domestic violence referral card, which lists appropriate community resources, as an adjunct to police services in spouse abuse cases.

Your Committee gratefully acknowledges the assistance of the Victim/Witness Kokua Center, Office of the Prosecuting Attorney, City and County of Honolulu, in this matter.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2881-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2881-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 668-80 Judiciary on S.B. No. 2525-80

The purpose of this bill is to provide for registration of persons soliciting funds for charitable organizations exempted from chapter 467B, Hawaii Revised Statutes.

Your Committee finds that the public has been defrauded by persons misrepresenting their identities as solicitors for charitable organizations. This bill requires registration for all such solicitors for nonprofit organizations who do not have to register under chapter 467B. Any interested person could inquire of the local city attorney if such person had any question as to a solicitor's authority or truthfulness.

Your Committee intends that this bill basically provide for registration, and that restrictions on any solicitation activities would not go below constitutional minimums relating to reasonable time, place, and manner, according to rules and regulations adopted by the various county attorneys. See International Society for Krishna Consciousness of Western Pacific, Inc. v. Griffin, 440 F.Supp. 414 (D. Ohio 1977), Libeman v. Schesventer, 447 F.Supp. 1355 (D. Fla. 1978), Poulous v. New Hampshire, 345 U.S. 395 (1953).

This bill has been amended to clarify the language pertaining to the permit required to be worn by all solicitors and to correct typographical errors.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2525-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2525-80, S.D. 2.

Signed by all members of the Committee.

SCRep. 669-80 Judiciary on S.B. No. 2329-80

The purpose of this bill is to clarify and update obsolete wording and to expand upon the exclusions from deferred acceptance of guilty pleas (DAG) in section 853-4, Hawaii Revised Statutes.

Under the proposed bill, DAG pleas shall not be granted where the defendant (1) has used a firearm in the commission of the offense charge, (2) is charged with distribution of a dangerous, harmful, or detrimental drug, (3) has previously been granted a DAG plea and is charged with a misdemeanor, or (4) has previously been granted a DAG plea and is charged with a felony whether or not the deferral period has expired.

These additions to the present law better define and expand upon the kinds of serious and violent types of crimes which exclude DAG pleas.

Your Committee has amended this bill by specifying that the DAG plea shall not be granted where the defendant is charged with the distribution of a dangerous, harmful, or detrimental drug to a minor.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2329-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2329-80, S.D. 2.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 670-80 Judiciary on S.B. No. 2876-80

The purpose of this bill is to include the surety of both a landowner and contractor as one of the parties with respect to which the statute of limitations set out in section 657-8, Hawaii Revised Statutes, applies.

Section 657-8 presently forecloses actions against owners, contractors and others involved in the construction of an improvement for damage to person or property filed more than six years after the completion of the improvement. This bill closes a possible "back door" action against the surety of any such person.

By including sureties in this bill, your Committee does not intend that their liability be extended to personal or property damage if the surety's contract did not intend to cover such liabilities. For example, mechanics and materialmen's payment bonds and construction completion bonds normally do not include personal and property damage liability. Also, this bill does not affect shorter limitation periods included in surety bonds. The shorter limitation period in the bond would control over the limits set out in the bill. Your Committee has amended the bill by including language to clarify these points.

Your Committee on Judiciary is in accord with the purpose and intent of S.B. No. 2876-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2876-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 671-80 Judiciary on S.B. No. 2270-80

The purpose of this bill is to amend chapters 831 and 571, Hawaii Revised Statutes, to provide for the expungement of minors' arrest records according to criteria currently used for adults' records.

In addition, the bill adds language to section 831-3.1(b) so that a person's juvenile arrest record under certain conditions shall be disregarded by the State in connection with certain applications to the State or any of its political subdivisions or agencies.

The added language in section 831-3.1(b) refers to those minors charged but not found responsible pursuant to section 571-11(1) and those charged but not found in need of supervision under section 571-11(2). Such arrest records are added to the list of those records that "shall not be used, distributed, or disseminated by the State or any of its political subdivisions or agencies in connection with an application for any said employment, permit, license, registration, or certificate". This exclusion for purposes of reviewing certain applications helps to responsibly mitigate the burden that both adults and minors with such criminal records carry with them.

Subject to certain enumerated exceptions, section 831-3.2(a) provides for the expungement of arrest records of adults who have been arrested or charged but never convicted of a crime. As amended by this bill, the section now will address minors who have been arrested or charged as law violators or status offenders pursuant to section 571-11. Similar to non-convicted adults, only those minors who were not subsequently found responsible under section 571-11(1) or found in need of supervision under section 571-11(2) can have their arrest records expunged.

Your Committee notes the divergent testimony received in response to this bill on February 12, 1980. The administrative director of the Judiciary expressed the same feeling shared by your Committee that there should be parity between adults and minors with regard to expungement of arrest records. The Honolulu Police Department and the attorney general's office opposed the bill in its original form, arguing that sufficient confidentiality regarding juvenile records already exists in the law. The importance of equality between expungement practices with minors and adults supercedes this confidentiality argument.

Section 831-3.2(a) also provides for the return of all fingerprints and photographs that were taken in connection with an arrest to those arrested persons who are found entitled to an expungement order. However, such return of documents is precluded irrespective of a person's qualification for such an order if the person has a prior record of conviction. The subject of minors' records is addressed in this aspect by the proposed amendment to subsection (f) of section 831-3.2. The meaning of "conviction" is expanded to include minors found responsible pursuant to section 571-11(1) or in need of supervision pursuant to section 571-11(2). This again equalizes the treatment of minors and adults in this area.

The above amendments to chapter 831, Hawaii Revised Statutes, which provide for expungement of certain minors' arrest records necessitates adding a corollary section to chapter 571. To this end, the new section entitled "Expungement of minors' records" is included in this bill. This section was revised in S.B. No. 2270-80, S.D. 1 to restrict the reference to minors to include only those eventually found to be actual law violators or persons in need of supervision. Such a revision conforms with the amendments to chapter 831.

Your Committee made certain other changes to the bill itself to more closely conform its meaning to its stated intent. The purpose clause was expanded beyond expungement considerations to include the treatment of minors' arrest records in the processing of State applications. The general reference to minors arrested or charged pursuant to chapter 571 were narrowed to include only those found responsible or in need of supervision for their respective offenses.

In addition, language was added to the proposed amendment of section 831-3.2 requiring the Family Court to afford reasonable access to its confidential arrest records so that the attorney general can effectuate the purposes of this section. A person seeking expungement of an arrest record applies for such to the attorney general. The return of arrest-related fingerprints and photographs is likewise affected by application to the attorney general. Therefore, access to such arrest and disposition records is essential for the attorney general to determine whether convictions of adults or related dispositions of minors occurred with the subject arrest record or prior ones so that expungement orders can be properly issued.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2270-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2270-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 672-80 Judiciary on S.B. No. 3145-80

The purpose of this bill is to amend section 480-23, Hawaii Revised Statutes, relating to the granting of immunity from prosecution.

This bill as amended provides that when a person subpoenaed by the attorney general pursuant to section 480-18 or section 28-2.5, Hawaii Revised Statutes, refuses on the basis of self-incrimination to testify or produce a record, document, or other object, and the judge orders the person to testify or produce a record, document, or other object, he may not thereafter refuse to testify on the basis of his privilege against self-incrimination.

The order is to specify whether the immunity granted is "use immunity" or "transactional immunity". The order must be requested by the attorney general and granted by the judge. The order may be issued prior to the assertion of the privilege against self-incrimination but shall not be effective until the witness asserts his privilege against self-incrimination and the presiding officer communicates the order to him.

According to the testimony by the antitrust division of the department of the attorney general, the present provisions relating to immunity from prosecution in antitrust proceedings may be construed to be a grant of automatic immunity to any witness called to testify by the attorney general. This construction of the present provisions raises the serious problem of a witness, who best knows his own culpability and involvement in an illegal conspiracy, obtaining immunity by inadvertence or error. The granting of immunity is tantamount to granting absolution for a crime and should not be granted automatically. The attorney general, prior to requesting an immunity order, must make the judgment that the testimony or information sought may be necessary to the public interest, and that the individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

This bill further provides that in an official proceeding under this chapter, the presiding officer shall, when the investigation reaches a stage when the posture of the discovered evidence renders the witness a substantially probable suspect of criminal misconduct, inform such person of his privilege against self-incrimination.

This clarification of the present provisions relating to immunity from prosecution is prospective and should not influence the construction of the existing provisions one way or the other with reference to proceedings involving a witness subpoenaed to testify or produce a record, document, or other object prior to the enactment of this bill. Furthermore, although the provisions of this bill as amended applies to proceedings pursuant to both section 480-18 and section 28-2.5, Hawaii Revised Statutes, your Committee recognizes that these statutory sections provide different investigative procedures, and therefore, it is not the intent of this legislation to alter these procedures or to limit the attorney general in antitrust investigations to any one investigative method. However, it is the intent of this legislation to provide one procedure for granting a witness immunity in antitrust investigations.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3145-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3145-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 673-80 (Majority) Judiciary on S.B. No. 2589-80

The purpose of this bill is to clarify and update the provision in chapter 360, Hawaii Revised Statutes, relating to eviction of public housing tenants.

The major addition of this bill is a provision for posting an order of eviction or writ of possession when a tenant cannot be located. This provides needed agency effectiveness and efficiency without affecting or reducing tenant's rights. This bill also acts out in detail appeal procedures available to tenants aggrieved by the Hawaii Housing Authority's rulings on eviction. The eviction procedure begins by the tenant's receipt of written

notice of the proposed eviction setting out the time and place of a hearing thereon. The hearing is conducted by a trial examiner or board of the authority. Within five days of the hearing results, the tenant may appeal to the authority. An appeal of the authority's decision may be made to circuit court within thirty days, or to the Supreme Court where statute permits. An appeal of a circuit court decision may be made to the Supreme Court.

Other changes made by this bill are as follows: (1) deletion of gross immorality, conviction of a crime involving moral turpitude, and habitual drunkenness as grounds for eviction; (2) inclusion of failure to maintain a clean apartment as grounds for eviction; and (3) various technical changes providing for clarity in the law.

This bill has been amended to correct typographical errors and to clarify proposed statutory language.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2589-80, S.D. 1, as amended herein, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as S.B. No. 2589-80, S.D. 2.

Signed by all members of the Committee.
Senator Chong did not concur.

SCRep. 674-80 (Majority) Ways and Means on S.B. No. 1965-80

The purpose of this bill is to provide for a student loan program for the Western Interstate Commission for Higher Education to replace or reduce the reliance on State of Hawaii general funds.

Your Committee has amended this bill to provide that the revolving fund established by the bill be maintained by the Department of Budget and Finance with the Western Interstate Commission for Higher Education of the State of Hawaii responsible for administering the fund. All repayments and fees collected by the Department of Budget and Finance shall be credited to this fund. In addition, your Committee has amended the bill to reduce the amount of support fees the student must repay as well as the percentage repaid if the student:

- 1) Practices his profession in Hawaii, or
- 2) Practices his profession in rural areas in Hawaii or in public employment with the State or counties.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1965-80, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1965-80, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.
Senators Anderson, Soares and Yee did not concur.

SCRep. 675-80 (Majority) Ways and Means on S.B. No. 1838-80

The purpose of this bill is to extend the life of the Hawaii Crime Commission, due to end on June 30, 1980 and to revamp its current structure and policies to make it an effective and efficient organization to counteract crime in the State of Hawaii.

The bill extends the presently existing crime commission for a one-year period, from July 1, 1980 until June 30, 1981, and provides for a new commission to commence on July 1, 1981. The bill allows the selection process for the new commission to begin prior to its initiation, but new commissioners may not take office until July 1, 1981.

Your Committee has reviewed testimony by Thomas Oshiro, chairman of the Hawaii Crime Commission; Hikaru Kerns, staff director; and Eddie Hitchcock, chief investigator of the Hawaii Crime Commission.

Your Committee wishes to commend these individuals and all concerned with the crime commission for their efforts in establishing a viable organization which justifies further extension and increased funding.

Your Committee notes that the commission has undertaken various projects, including proposing legislation; conducting investigatory projects; writing research reports; initiating community projects; and conducting seminars in the area of crime and related

matters. These projects, as well as the onerous and time-consuming tasks of establishing itself administratively, took less than two and a half years with total expenditures of \$300,000 equal to the amount the legislative auditor spends in 14 weeks, and equal to the amount the county police spends in little more than a day.

Your Committee believes that with its limited budget and a commendable beginning, the Hawaii Crime Commission be continued with increased funding and a re-structuring of composition and policies to make the commission a more cost-efficient and effective organization.

Accordingly, your Committee has made various amendments to the bill. Your Committee has:

- 1) Deleted the provision calling for the crime commission to be terminated, if not renewed, by the legislature each six years after its establishment. The purpose of this deletion is to emphasize the permanency of the proposed commission, and the faith this Committee has placed in its future commissioners. Your Committee feels that review of the commission should be by performance, which does not come in six-year intervals.
- 2) Lowered the number of commissioners from the present twelve to seven. Your Committee feels that this amendment will promote cost-efficiency and prevent 'leakage' of information. Such an organization will also deter any special factions within the commission from developing and will allow the commission to move swiftly and decisively in pressing matters.
- 3) Deleted the provision mandating the commission to be representative of the population of the state. Your Committee feels that the commissioners should be seven effective, honest and concerned individuals of the state, not necessarily members representative of every occupation, race, age-group or geographical origin.
- 4) Provided that a representative of the Federal Bureau of Investigation may be invited by the commission to be an ex-officio, non-voting member of the commission. By giving the commission the discretion to call in the F.B.I., the expertise and knowledge of this federal agency may be utilized and such an affiliation may provide an additional deterrent to crime. This affiliation will also facilitate federal-state cooperation in the area of crime prevention.
- 5) Provided that each nominee to the commission appointed by the governor shall undergo intensive security screening by the Attorney General who shall consult with the F.B.I., and requires the Attorney General to submit the findings of these screens to the governor, who in turn shall submit this report with the list of nominees to the senate. This amendment will insure fitness and qualifications of the commissioners for office, and prevent any possibilities of 'leakage' of information and connections with the criminal element. Your Committee feels that individuals wishing to become members of the new commission should be of such character and background so as to submit to and pass such screening.
- 6) Retained the provision for staggered terms of the commissioners but changed the number of commissioners and terms so that three commissioners will serve two-year terms, and four commissioners, including the chairman, (to be appointed by the governor) will serve four-year terms.
- 7) Deleted the provision that the governor may act to remove the chairman upon two-thirds vote of the commission and provided that the commission itself may directly remove or suspend the chairman. This amendment will allow the commission to evaluate its own chairman and have the power to properly remove the chairman without discretion from the governor.
- 8) Deleted the provision that the chairman shall be compensated at the rate of a circuit judge and provided that the commissioners, except the chairman, be compensated at the rate of \$50 a day for each day's actual attendance at a meeting and the chairman be similarly compensated at the rate of \$75 a day. Your Committee feels that all commissioners should be compensated for their service on the commission, but on a per diem basis for actual service rendered. A full-time chairman compensated at the present judicial rate of \$42,500 per year will create inequities in power and compensation with the other commissioners. Your Committee wishes that a crime commission be a commission, and not a department of government.
- 9) Most importantly, emphasized the role of the commission in "investigative" projects rather than "research projects". Your Committee has retained the present language in the statute to allow the chairman to authorize preliminary inquiry into projects and

investigations rather than into research projects as proposed in S.D. 1. Your Committee has also substituted the word "investigate" for "research" and has deleted "study" in the commissioners' function of collecting evidence. Such amendments will allow the commission to effectively collect evidence for the working up towards the prosecution of criminal cases. Your Committee strongly feels that "research" should be done by other agencies and institutions and that if the commission is to be limited to "researching" crime, that the commission be terminated.

10) Provided for the narrowing of the scope of functions of the commission. The commission should be primarily concerned with the investigation of collecting of evidence; evaluation of existing programs, agencies and projects relating to crime; and the recommendation of changing existing substantive laws, practices and procedures in the criminal area. These amendments will promote efficiency of the commission with its limited budget.

11) Provided for a legislative oversight committee composed of three members of each house of the legislature with each member undergoing the same intensive security screening as the commissioners before taking membership. The procedure for determining membership of the committee and terms of the members is left to the respective houses of the legislature. The committee members are also subject to the similar penalty subjected to the commissioners, namely, a Class C felony, for the wilfull disclosure of information without authorization. The purpose of this amendment is to prevent 'leakage' of information and to emphasize that any legislator who serves on this committee will be qualified. This amendment will also allow the commission to come forward and reveal its findings to the legislature without fear of possible public disclosure, as in the past.

Your Committee feels that these amendments will promote an efficient and effective crime commission, with sufficient power and funding, to make a significant and long-lasting impact on the level of crime in the State of Hawaii.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1838-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1838-80, S.D. 2.

Signed by all members of the Committee except Senators Hara, Toyofuku, Yamasaki, Soares and Yee.
Senator Anderson did not concur.

SCRep. 676-80 Judiciary on S.B. No. 43

The purpose of this bill is to implement Article XV of the Constitution of the State of Hawaii as proposed by the Hawaii Constitutional Convention of 1978 and ratified by the voters on November 7, 1978, and pertaining to State Boundaries. This amendment provides that the State's boundaries include the archipelagic waters between the islands.

Although the State cannot unilaterally change its boundaries by amending its Constitution or by statute, the intent of Article XV, Section 1 is not to alter such boundaries but to set forth the State's understanding of its boundaries and to express this intent in the Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 43, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 677-80 Judiciary on S.B. No. 2269-80

The purpose of this bill is to conform section 560:3-1209, Hawaii Revised Statutes, to section 560:3-1206(b) of the Uniform Probate Code which requires that Small Estates having a value in excess of \$10,000.00 be distributed only after the four-month claim-filing period for creditors has passed.

The bill would amend section 560:3-1209, Hawaii Revised Statutes.

This is a housekeeping bill designed to conform this section to the 1977 amendment to section 560:3-1206(b) which requires that Small Estates valued at over \$10,000.00 give the same notice that is required for informal probate proceedings; the 1977 amendment has the effect of requiring the clerk to wait for the running of the four-month claims-filing period after first publication. See section 560:3-801. Section 560:3-1209 presently requires the clerk to distribute the estate 60 days after first publication.

Your Committee has amended the bill to state specifically that the "prescribed period" after which the clerk may distribute money, etc., is "four months."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2269-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2269-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 678-80 Judiciary on S.B. No. 1164

The purpose of this bill is to enable the counties of the State to use the concept of the transfer of development rights as a tool to provide flexibility in urban planning and design, and to ease the financial burden of the preservation of historic sites in areas where land values have become disproportionate to the economic value of the site.

The concept of transfer of development rights would allow those owners of property who, for one reason or another, are not allowed or do not desire to use all of the development potential of their property to sell the balance to other property owners within a given area. The purchasers of these rights would then be able to add this to the development potential of their own property. This would allow some flexibility for the various property owners but would not exceed the total allowable density for a specific area.

This would also be beneficial to the state or county governments when condemning private property for "the public good". Presently, if one needs land for a park, or historic landmark, or wishes to restrict the height of a particular building for a specific viewplane, etc., the government must compensate the owner for his economic loss. Under the concept of transferable development rights, the government could purchase those development rights and then recover the cost of purchase by selling those development rights to other landowners within that area. This would provide needed services and amenities for the community at minimum cost to the taxpayer.

In order that abusive use of this concept not occur in certain critical areas, the counties have been authorized to require their consent for each transfer in development districts which they so designate.

Your Committee has reduced the detail and specificity of this bill in order to make it an enabling act for the counties instead of a completely delineated law. This is more consonant with the traditional concept of the constitutional relationship between the State and the counties.

This bill has also been amended to correct technical errors and to correct grammar.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1164, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1164, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 679-80 (Joint/Majority) Judiciary and Ways and Means on S.B. No. 1829-80

The purpose of this bill is to review and amend the law of this State pertaining to business corporations. This bill is largely patterned after the Model Business Corporation Act which had its genesis in 1946 and was first published in 1950 in substantially the same statutory form used today. The Model Act has been adopted in a number of states and has been the major influence in revisions to corporate law throughout the country and in particular in Hawaii.

This bill, as amended, is largely the product of several months of research and discussion by a Hawaii Bar Association Committee to Revise the Hawaii Corporation Law. The committee was comprised of several practicing corporate attorneys, Kenneth Sugita, Michael Porter, Ronald Sakamoto, Gregg Mikami, University of Hawaii School of Law Professor Williamson Chang and his law students, Robert Char, Denis Lee, Thomas Wong, Valerie Uehara, Joann Uchida, Ward Jones and Larry Foster, the chief of the securities division of the Department of Regulatory Agencies, Russell Nagata, and members of your Committee on Judiciary and the House Committee on Consumer Protection. Your Committee wishes to thank these members for their insight and scholarship and devotion to the enormous task of analyzing the Model Act and amending it to conform to the practice of corporate law in this State. Throughout the informal working sessions on this bill

of utmost importance was the retention of Hawaii law where it differed or greatly improved upon the Model Act.

Your Committees believe that this bill, as amended, will not only modernize, but will substantially improve upon present law in Hawaii regulating business corporations.

Senate Bill No. 1829-80, S.D. 1, has been amended so fully that it precludes a thorough discussion of each change to the Model Act.

Overall changes to this bill will be mentioned here briefly with a more detailed discussion of the major changes:

GENERAL REGULATIONS

Indemnification (Section -5)

This section tracks Hawaii law with regard to the indemnification of the officers, directors, employees and agents of the corporation who are sued in their capacity as representatives of the corporation.

Service (Section -14)

Service of process, section -14, has been amended to conform to section 416-131, Hawaii Revised Statutes. This change was made to expand upon the number of people dealing with the corporation who may be served. Under the Model Act only the registered agent of the corporation could be served or the director of regulatory agencies if no registered agent was found. The changes to this bill allow for service to be made upon any officer or director of the corporation or any person found to be in charge of the property of the corporation. If no authorized person for service of process can be found, the director of regulatory agencies as in the Model Act shall serve as agent for the corporation for purposes of service. The retention of Hawaii law for service also works in conjunction with section 634-35, Hawaii Revised Statutes, the State's long-arm statute.

Corporate Name (Section -8)

This section states that a corporation may not register its name if it is the same as or deceptively similar to an already registered or existing domestic corporation in this State. Your Committee has expanded the exclusion of names to that of existing trade names and partnerships.

Preemptive Rights (Section -26)

The Model Act stated that a shareholder shall not have preemptive rights unless the articles of incorporation so provide. This section has been amended to conform basically to existing Hawaii law by stating in the reverse that a shareholder has preemptive rights unless the articles of incorporation explicitly deny, limit, or restrict these rights.

By-Laws (Section -27)

This section, as amended, requires a corporation to keep in its principal business office the original or a copy of its by-laws for inspection by its shareholders. As the by-laws of a corporation contain provisions for the regulation and management of the affairs of the corporation, your Committees believe access to the by-laws is essential and a necessary right of the shareholder.

By-Laws and Other Powers in Emergency (Section -27A)

This section was optional and has been deleted in its entirety as being unnecessary in the remote possibility of nuclear attack or atomic disaster in Hawaii thus causing the need for emergency by-laws for the continued operation of the corporation.

Voting of Shares (Section -33)

The addition to this section requires a proxy holder to vote the shares of the shareholder if so directed.

Cumulative Voting (Section -33)

Your Committees discussed cumulative voting rights at great length and finally decided to retain this right as it presently exists under Hawaii law. It was the sense of your

Committees that if cumulative voting rights were to be deleted from the bill that this may constitute a "taking" without just compensation in light of constitutional law. The retention of cumulative voting should not, however, be looked at as an absolute right of a shareholder and your Committees suggest a continuing review of this particular right. Foremost in this review of cumulative voting should be the question of whether this State should preserve this right (1) only if the articles of incorporation grant such right to the shareholders; or (2) only if a corporation has fifty shareholders or less. Finally, it should be stressed that section -33 neither limits nor expands upon the rights of cumulative voting as presently exercised in this State.

Directors (Section -35)

The Model Act provided that the directors of a corporation did not have to be residents of this State. The bill as amended provides that at least one director must be a resident. This requirement lends greater accountability on the part of the resident director on behalf of the corporation and for purposes of service ensures that at least one director may be served within the State. This requirement also conforms with section 416-4, Hawaii Revised Statutes.

Number and Election of Directors (Section -36)

The number of directors has been amended from the general requirement under the Model Act that a corporation have at least one director to the specific requirement under Hawaii law that the corporation have one or more directors if there is one shareholder, two or more if two shareholders, and three or more if there are three shareholders of the corporation.

Dividends (Section -45)

Under subsection (f) of this section, a corporation shall not be able to declare dividends payable in cash or property out of the mere appreciation in value of its assets or from earned surplus in profits derived from an exchange or assets not yet realized. Your Committees were encouraged to take a conservative view of the value of such profits and in trying to not mislead the shareholders has prohibited the declaration of such dividends.

Loans to Employees, Officers and Directors (Section -47)

Under the Model Code a corporation shall not lend money to its employees, officers, and directors. This section has been amended to allow such loans as is the prevailing practice in Hawaii.

Provisions Relating to Acts of Shareholders (Section -49)

This section has been replaced by the more familiar language of Rule 23.1 Hawaii Rules of Civil Procedure pertaining to derivative actions by shareholders in a class action suit.

Books and Records (Section -52)

The additions to this section are (1) to require the names and addresses of all shareholders of the corporation be given to a holder of trust certificates upon written demand to the corporation and (2) to give the directors of a corporation the absolute right to inspect the books and records of the corporation.

Filing (Section -55)

Section -55 of this bill has been amended to provide for a general filing section. The requirements for the filing of any document with the director pursuant to this bill are listed in this section. Throughout S.B. No. 1829-80 are all references to the manner of filing of a particular document have been deleted. The sections where the enunciation of the specific filing requirements have been deleted include: -58, -61, -62, -64, -65, -67, -68, -69, -74, -75, -76, -82, -83, -85, -88, -90, -92, -93, -111, -114 and -120.

Also omitted throughout this bill is the requirement that the director ensure that the document to be filed is correct as to its contents. Your Committees believe that the director should not be required to ensure that all documents filed are in fact truthful only that they conform on their face as to the information required by a particular section.

Three-fourths Vote (Sections -72, -77, -79; -84, and -89)

Throughout this bill, sections which pertain to a course of action proposed for the

corporation which would substantially affect the shareholders' interests have been amended with regard to the percentage of votes needed to effect such change. The Model Act proposed a majority vote for such actions. In this bill, as amended, section -72 (consolidation), -77 (merger, consolidation, or exchange of shares between domestic and foreign corporations), -79 (sale or exchange of assets), -84 (voluntary dissolution), and -89 (revocation of voluntary dissolution), three-fourths of the holders of shares of the corporation entitled to vote thereon must approve a proposed plan before the corporation may act.

Approval of Shareholders Not Required (Section -73A)

This is an entirely new addition to the bill. The purpose of this amendment is to effectuate a procedure which is fair to both the corporation and its shareholders whenever a corporation plans to merge or exchange its securities with another corporation. This section spells out the procedures a corporation shall undertake if it wishes to effect such changes without being required to send out proxy statements to all the shareholders prior to adoption of such plan.

Right of Shareholders to Dissent (Section -80)

This section includes a requirement that a broker, trustee, or agent of shares of stock may not split the votes of any one beneficial owner.

Notice to Dissenting Shareholders (Section -80A)

Section -80A is entirely new. This section spells out in detail the notice which must be sent to all shareholders who have a right to dissent as to a proposed course of action which would affect their rights as shareholders. This section ensures that shareholders will be informed of all corporate actions which will substantially affect their rights and that they will be given an opportunity to voice their opposition prior to the initiation of substantial changes in the corporation.

Procedure After Filing of Statement of Intent to Dissolve (Section -87)

A corporation which voluntarily files a statement of intent to dissolve shall publish in a newspaper of general circulation a notice to all its creditors to present their claims by a specific time and at a specific place stated in the notice. The purpose of this section is obvious on its face to protect the interests of creditors of the corporation when it voluntarily undergoes dissolution procedures.

Involuntary Dissolution (Section -94)

To this section has been added three additional criteria for the initiation of involuntary dissolution against a corporation. The additions are (1) failure to complete voluntary dissolution within five years; (2) an adjudication of bankruptcy; and (3) an expiration of the articles of incorporation with no attempt to renew or extend the articles for two years.

Your Committees have also deleted the power of the attorney general to file an action to dissolve a corporation in the name of the State. Under the bill as amended only the director of the regulatory agencies may disincorporate a corporation.

Equal Division of Directorss; Appointment of Provisional Director; Qualifications; Rights and Powers; Compensation (Section -96)

Whenever the directors of a corporation are deadlocked to the point that the corporation is jeopardized the circuit court may intervene and appoint a provisional director. This provision is taken directly from Hawaii law.

Survival of Tort Claims After Dissolution (Section -105)

Your Committee has amended this section to provide for the survival of a tort claim, against the corporation only for a period of two years from the date of dissolution or from the incident giving rise to the claim whichever is first. This provision puts a final end to the types of tort claims which may be brought against a corporation which is about to or has dissolved.

Foreign Corporations (Sections -106 to -132)

Sections -106 through -132 of this bill pertain to the regulation of foreign corporations. In order to encourage foreign corporations to do business in Hawaii, your Committees

believe foreign corporations should be treated in much the same way as domestic corporations. These sections therefore have been changed generally to conform to similar sections relating to domestic corporations.

Transacting Business Without Certificate of Authority (Section -124)

This section pertains to the failure of a foreign corporation to obtain a Certificate of Authority prior to the commencement of business in this State. Your Committees have strengthened the penalty provisions of this section to include a fine of \$5,000, plus a \$50/day penalty for each day after a 90-day grace period from which time a foreign corporation should have obtained a certificate. The director may also petition the court for a cease and desist order. This section has also been amended to state that the doing of business in this State shall constitute the director of the regulatory agencies as agent for service of process.

License Fees Payable by Domestic Corporations (Section -130)

This section has been deleted in its entirety as Hawaii does not charge a license fee for domestic corporations.

Franchise Taxes (Sections -132 to -134)

These sections formerly dealt with franchise taxes and have been deleted in their entirety as in Hawaii such taxes pertain solely to banks, building and loan associations, industrial loan companies, financial corporations, and small business investment companies and are picked up in the tax section of the Hawaii Revised Statutes.

Your Committees on Judiciary and Ways and Means are in accord with the intent and purpose of S.B. No. 1829-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1829-80, S.D. 2.

Signed by all members of the Committees except Senators Ushijima, Yim, Anderson, Carroll, Soares and Yee.
Senators Kawasaki and Mizuguchi did not concur.

SCRep. 680-80 Judiciary on S.B. No. 1989-80

The purpose of this bill is to amend the corporation statutes to eliminate unnecessary regulation, duties, and paperwork for both corporations and the department of regulatory agencies.

The following changes have been made:

(1) Elimination of the officers' affidavit and supplemental affidavit in the case of incorporation. S.B. No. 1989-80, as originally drafted completely eliminated the affidavit and supplemental affidavit filing requirements. Your Committee on Consumer Protection and Commerce reincluded the requirement as a certified statement, not an affidavit to retain disclosure of the names of initial stockholders and initial capitalization. Your Committee on Judiciary is in accord with this amendment to the original bill.

(2) Elimination of 75 per cent subscribed and 10 per cent paid-in requirements.

(3) Elimination of filing of bylaws and amendments for nonprofit corporations. This eliminates a requirement of nonprofit corporations that has never been imposed on corporations for profit.

(4) Elimination of financial data in annual corporate exhibits. This information is usually sought by collection and credit agencies and can be obtained by other methods. The relief to the department of regulatory agencies is great.

(5) Elimination of most acknowledgments (notarization) requirements.

These simple changes eliminate a great deal of log jam at the department of regulatory agencies.

A technical amendment has been made to SECTION 1 of the bill to require a charitable corporation to have a minimum of three directors to conform to earlier law.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1989-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1989-80, S.D. 2.

Signed by all members of the Committee.

SCRep. 681-80 Judiciary on S.B. No. 2198-80

The purpose of this bill is to increase the penalties for the importation of live snakes into the State and to place persons coming into the State on notice of the statutory prohibitions concerning the importation of certain plants and animals, and of the penalties for violation thereof.

This bill was originated at the request of Naomi L. Correa of Kuliouou whose efforts to maintain Hawaii's natural state are well known to those who share her love of our environment. She pointed out that the recent increase in the number of live snakes being found in the State is a matter of grave concern. Your Committee has amended this bill to provide an increase in the penalty for the importation of live snakes from a fine of not more than \$500, or imprisonment not to exceed six months, to a mandatory sentence of a \$5,000 fine and one-year prison term, the crime constituting a misdemeanor. The bill also provides that the department of transportation shall distribute a copy of the list of prohibited plants and animals to each passenger on every aircraft and water vessel arriving in this State, and inform each passenger of the penalty for importing prohibited plants or animals.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2198-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2198-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 682-80 Judiciary on S.B. No. 2199-80

The purpose of this bill is to: (1) reorganize and clarify the language of section 346-34, Hawaii Revised Statutes, relating to public assistance program violation and penalties and food stamp fraud. This bill adds subsections dealing specifically with food stamp traffickers, and (2) redefines the terms "public assistance", "applicant", and "recipient" in section 346-1, Hawaii Revised Statutes, to conform these terms to existing usage in the context of public assistance programs.

Food stamp traffickers fraudulently buy food stamps at a discount and redeem them at face value. If the face amount of such redeemed food stamps is more than \$200, the trafficker is guilty of a class C felony. Page 6, line 4, of the bill was amended to clarify that illegally trafficked food stamps whose face amount is "\$200 or less" constitutes a misdemeanor.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2199-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2199-80, S.D. 2.

Signed by all members of the Committee except Senators Cobb, Campbell, Mizuguchi, Ushijima and Carroll.

SCRep. 683-80 Judiciary on S.B. No. 2215-80

The purpose of this bill is to provide for subpoena powers for the Department of Regulatory Agencies.

The Department of Regulatory Agencies is required to regulate a broad spectrum of activity in Hawaii. To effectively exercise its regulatory power for the benefit of the public, the department needs the subpoena power. In the past, the department has had to operate through the attorney general. This bill gives it direct subpoena power.

Your Committee has amended the bill to require the department to seek subpoenas from the circuit court, thereby not allowing subpoenas to issue directly from the department. Persons subpoenaed have then all the right to object to the subpoena as do witnesses subpoenaed under the Hawaii Rules of Civil Procedure. See Rule 45. Your Committee's amendment puts appropriate restraints on the subpoena power and provides necessary rights to subpoenaed persons.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2215-80, as amended herein, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as S.B. No. 2215-80, S.D. 1.

Signed by all members of the Committee.

SCRep. 684-80 (Majority) Judiciary on S.B. No. 2439-80

The purpose of this bill is to grant immunity to labor organizations from civil suits by their members regarding the unions' negotiations with management concerning safety and health provisions for employees in collective bargaining agreements.

Existing law denies employees the right to sue employers regarding work-related injuries in exchange for employee rights to compensation through workers' compensation. Recently, employees have been suing their unions on the theory that these organizations have failed to adequately protect their members on matters relating to safety and health at the bargaining table and under existing contracts. This has resulted in unions being reluctant to discuss, agree on, or otherwise meaningfully deal with such problems to the detriment of all concerned.

This law gives labor organizations immunity from such employee suits to promote better bargaining related to safety and health.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2439-80, and recommends that it be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Carroll did not concur.

SCRep. 685-80 Judiciary on S.B. No. 1346

The purpose of this bill is to effect changes to the Hawaii Revised Statutes respecting the statewide traffic code as it relates to vehicle length limitations.

Your Committee received testimony pertaining to section 291-34, Hawaii Revised Statutes, regarding the length restrictions of vehicles on the State's public roads, streets, or highways.

The present provision of section 291-34 provides that no truck-tractor and semitrailer having a total overall length greater than 55 feet shall be permitted on our public roads. Your Committee finds that in certain instances a carrier is forced to use special vehicles to come within the 55-foot limitation. An increased length limit to 58 feet would make it possible for a carrier to use any truck-tractor in his fleet which would allow for a more diversified operation and result in eventual savings in fuel costs.

Relating to this 58-foot limitation, the director of transportation for the city and county of Honolulu testified that the city intends to begin operation of articulated buses. These articulated buses are approximately 60 feet long.

Pursuant to the above-noted concerns, the bill extends the maximum overall length limitation to 58 feet and provides for an exception for articulated buses. This bus exception is in addition to the existing exception for truck-tractors and semitrailers used for agricultural purposes. These vehicle exceptions shall not exceed 65 feet in length.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1346, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1346, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 686-80 Judiciary on S.B. No. 2217-80

The purpose of this bill is to amend chapter 134 to permit an alien of eighteen years or more to possess a firearm if he is employed by the State or a political subdivision thereof or the United States, and his duties require him to be armed while in performance thereof.

The original bill amended sections 134-3 and 134-4, Hawaii Revised Statutes, which would allow an alien to own and register a firearm, rifle, or shotgun. Your Committee has amended the bill by deleting the amendments to sections 134-3 and 134-4 and amending instead section 134-11.

The bill as amended by your Committee includes aliens employed by the State or a political subdivision or the United States who need to carry firearms in the performance of their duties in section 134-11(3). The effect of this is that the alien does not own

the firearm carried by him or have the firearm registered in his name. The firearm is registered to the alien's employing agency, and the alien is authorized to carry the firearm only while on duty.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2217-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2217-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 687-80 Judiciary on S.B. No. 2280-80

The primary purposes of this bill as originally drafted were (1) to significantly reduce the number of individuals and organizations presently registering and reporting under chapter 97, Hawaii Revised Statutes, regarding lobbyists; (2) to transfer the lobbyist registration law from chapter 97 to chapter 84, Hawaii Revised Statutes; and (3) to make certain necessary changes, primarily technical, to chapter 84.

After a public hearing and careful consideration, your Committee has substantially amended S.B. No. 2280-80 primarily to keep chapter 97 as a separate chapter. The quite valid concerns regarding over-registration of lobbyists which were addressed in the original version of this bill are being dealt with in a separate bill, S.B. No. 3012-80, which substantially amends chapter 97.

As amended by your Committee, S.B. No. 2280-80 makes mainly "housekeeping" changes in chapter 84, Hawaii Revised Statutes.

Section 84-17(c), Hawaii Revised Statutes, has been amended by adding the administrative director and the deputy director of the courts to the list of those persons who must annually file a disclosure of financial interests with the State Ethics Commission.

Section 84-17(g), Hawaii Revised Statutes, which presently requires specific dollar amounts where an amount is required to be reported, has been amended to provide for disclosure by range of value. Your Committee finds that this change will have the salutary effect of protecting the privacy interests of the individuals filing disclosures without interfering with the purpose of the law, which is to reveal significant financial interests.

Subsections (a) and (e) of section 84-31, Hawaii Revised Statutes, the procedural sections of the ethics code, have been amended to make the lobbyist registration law subject to these procedures.

Section 84-32, Hawaii Revised Statutes, is another procedural section that has been amended to include lobbyists. As amended, the law provides that violations of the lobbyist law will be referred for prosecution to either the office of the attorney general or the prosecuting attorney of the City and County of Honolulu, and that the fact of such referral will be made public by the Ethics Commission.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2280-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2280-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carroll.

SCRep. 688-80 Judiciary on S.B. No. 2741-80

The purpose of this bill, as originally submitted to your Committee, was to provide that defendants not fit to proceed due to physical or mental disease or defect be held in the state hospital for a period no longer than one year and then be discharged or committed under civil proceedings if appropriate. Your Committee has rewritten the bill to provide that the defendant be held for a period no longer than his maximum possible sentence of imprisonment if convicted.

The best approach to handling defendants not fit to proceed to trial due to physical or mental disease or defect is difficult to determine. Existing law allows the defendant to be held or released at the discretion of the judge based upon examination of the defendant. This approach has not proved satisfactory based on results.

This bill, as amended by your Committee, requires a defendant not fit to proceed

to be held at the state hospital for a period of time not longer than the maximum possible sentence which could be imposed for the most serious charge against the defendant upon conviction. For example if the defendant is charged with a class B and C felony in the same indictment, he could be held for a maximum period of ten years. The bill provides that a determination of fitness to proceed should be made by the hospital staff every ninety days. If the director of health determines that the defendant is fit to proceed, he shall petition the court for a hearing to make such determination.

The bill further provides that if the defendant has been held for the maximum period, that the court shall dismiss the charge against him and either discharge him or subject him to civil commitment procedures. If the defendant has been held for a period shorter than the allowable maximum, he will be brought back to court to be tried for the initial offense and if convicted will be credited for time spent in the state hospital against any sentence upon conviction.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2741-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2741-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ushijima and Carroll.

SCRep. 689-80 Judiciary on S.B. No. 2744-80

The purpose of this bill as originally submitted to your Committee was to abolish the insanity defense.

Your Committee has revised the bill to retain the insanity defense, but to provide that such defense must be tried to and decided by the jury or trier of fact.

Presently the law allows an insanity defense to be heard, and ruled on in the first instance, by a judge at a pre-trial hearing. The judge can enter a judgment of acquittal on the grounds of "physical or mental disease, disorder, or defect excluding responsibility" or allow the defense to go to a jury. This bill as amended by your Committee removes the possibility of such a pre-trial determination by a judge and requires the defense of physical or mental disease, disorder, or defect excluding responsibility to be tried to the jury or trier of fact.

The major amendments to chapter 704, Hawaii Revised Statutes, occur in sections 704-407 and 704-408. Section 704-407 allows a defendant, who is being held because he is presently unfit to proceed due to physical or mental defect, to move for a dismissal of the charge against him based on a defense in law or fact. Present law allows a judge without a jury to rule on the motion even as to disputed evidentiary matters that go to proof beyond a reasonable doubt of the charge against the defendant. The procedure is one of the alternatives adopted by the Model Penal Code.

Section 1(2) of this bill, as amended by your Committee, repeals this procedure and adopts the other alternative of the Model Penal Code which allows the court to rule only on legal objections to the prosecution which are susceptible of a determination prior to trial. This is in keeping with the intent of this bill to have all factual issues, including insanity, tried in one trial.

Section 704-408 allows the court to make a pre-trial finding of irresponsibility. Section 1(3) of this bill, as amended by your Committee requires the court to submit the insanity defense to the jury or trier of fact at the trial of the charge. One trial is required by this provision. It is the intent of your Committee to eliminate the possibility of bifurcated trials on the insanity issue. Again, this bill requires all factual issues to be tried at one trial.

In summary, your Committee believes that the insanity defense in all cases is better heard by a jury, as representative of the community, rather than a judge in a hearing devoid of community input.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2744-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2744-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 690-80 Judiciary on S.B. No. 2764-80

In 1968, the Supreme Court held in Hanover Shoe, Inc. v. United Shoe Machinery Corp., 392 U.S. 481 (1968) that a direct purchaser who paid an illegally high price for

a product as a result of an antitrust violation could receive under section 4 of the Clayton Act, three times the full amount of the overcharge by way of "treble damages," notwithstanding the interjection by the defense of the argument that the direct purchaser has in fact passed on the overcharge to its customers.

In Illinois Brick Co. v. Illinois, 97 S.Ct. 2061 (1977) the case involved claims brought by indirect purchasers, and the Supreme Court confronted by the ruling in Hanover Shoe, *supra*, that the defense of "pass on" of the overcharge was not available to the direct purchaser, ruled that indirect purchasers are precluded from seeking to recover on the claim that such overcharge had been "passed on" to them by the direct purchaser to victimize them.

Illinois Brick, has engendered criticism, commencing with the dissenting opinion of Justice Brennan joined by Justices Marshall and Blackmun. See more recent criticism in 91 Harvard Law Review 221 to 231 (1977).

STANDING

Your Committee expresses its commitment to the basic concept of antitrust laws that they are designed to benefit consumers and others injured by antitrust violators irrespective of archaic notions of privity between defendant-manufacturers and the consumer and technical considerations of remoteness. As indicated in Hanover Shoe, the fact that anyone has "paid more than he should and his property has been illegally diminished" is sufficient basis for invoking the protection intended by our antitrust laws. See 392 U.S.Ct. 409.

Accordingly, our basic intent is that the indirect purchaser must simply show in some fashion that by reason of antitrust violation their purchase prices were elevated by the consequent illegal overcharge. We will not try to prescribe comprehensive guidelines by which the indirect purchaser may qualify for recovery. However, we adopt the discussion on the subject found in the Report of the Committee on the Judiciary, United States Senate on the Antitrust Enforcement Act of 1979 under the section heading, "Rules of Standing, Remoteness and Proximate Causation."

PARENS PATRIAE

An essential aspect of S.B. No. 2764-80, S.D. 1, is the standing created in the attorney general exclusively to bring class action law suits and proceedings in behalf of indirect purchasers of this State. It is your Committee's view that intervention by the principal law office of the people of this State is the appropriate avenue by which redress of wholesale wrong perpetuated against Hawaii's consumers should be sought. We do not envision energetic initiation of consumer redress by individual private citizens considering the tremendous cost and effort required in antitrust suits. We do envision, armed with S.B. No. 2764-80, energetic pursuit of consumer redress by the attorney general.

DUPLICATION OF RECOVERY

Your Committee regarded with special care the possibility of unfairness against the erring defendant by way of duplication of recovery of damages. We are mindful that antitrust laws are only as good as there are persons who would invoke its protection. In this regard the treble damages feature of antitrust laws has been the main deterrent to illegal activity.

We are mindful, however, that retaining the full impact of the Hanover Shoe ruling that direct purchasers may recover the full amount of the illegal overcharge despite their pass on to ultimate consumers, would, if magnified by treble damages afforded both to direct and indirect purchasers, be punitive of the defendants beyond the scope of protective enforcement initially intended by enactment of the treble damages provision.

Accordingly, your Committee has amended section 480-13 to allow the defendant a defense to the extent of compensatory damages passed on to others to avoid duplication of recovery. The amendment also allows apportionment of the punitive portion of the treble damages so as "to provide effective enforcement of this chapter and deterrence from violation of its provisions." It is our intent that the courts should give due consideration to the party who has taken the lead or has been most effective in pursuit of the interest of consumers in apportioning and allocating the punitive damages. In that regard, it is our intent that as between the claimants, one claimant may indeed realize more than three times compensatory damages and that others may realize nothing beyond compensatory damages.

It is the intent of S.B. No. 2764-80, S.D. 1, that the total amount of damages be limited to threefold damages. However, we realize that in a suit in the federal court, direct purchasers may, in a given case, have been allowed the entire treble damages and that indirect purchasers limited by the Illinois Brick ruling may be entitled to no recovery in that court. Where, in such situation, the indirect purchaser should sue, either personally or by a class action brought by the attorney general, it is the intent that the indirect purchaser shall recover at least the full measure of compensatory damages. We fully realize that in such situation the defendant may ultimately be burdened with fourfold damages -- threefold awarded in the federal court and compensatory damages awarded in the state court.

Your Committee is also aware that the dichotomy of jurisdictions represented by the federal and state courts present problems of possible duplication of recover of damages that we are unable to address. We expect that interested persons and affected parties will carry their grievances to Congress for appropriate legislative remedy.

COMPLEXITY OF ANTITRUST CASES

Your Committee is aware of the complexity of antitrust cases and particularly mindful of Justice White's overriding concern with the complexity and time-consuming nature of judicial apportionment of damages in antitrust cases. We do not think, however, that fundamental fairness must be sacrificed for that reason. We have, accordingly, armed the court with broad discretion to conduct these cases "to avoid duplication of recovery of damages and multiplicity of suits, and in other respects to obtain substantial fairness." We have used the words "substantial fairness" deliberately to emphasize the trial court's discretion, mindful that the complexity of antitrust cases may not lend themselves to precise determinations of fairness.

ATTORNEY FEES AND COSTS

Finally, your Committee has been made aware that our antitrust laws nowhere provide for recovery of attorney fees and costs when the attorney general pursues judicial remedy in behalf of the state and its citizens. We have amended section 480-14 to allow recovery of the probable expenses that will be incurred in the distribution of amounts awarded to indirect purchasers.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2764-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2764-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 691-80 Judiciary on S.B. No. 2985-80

The purpose of this bill is to make certain changes in the current procedure for change of name.

Under current law, all petitions for change of name are submitted to the lieutenant governor, pursuant to section 574-5, Hawaii Revised Statutes. Your Committee received testimony from the lieutenant governor indicating that vexing problems have arisen in recent years regarding changes of name and that most of the problems arise because the lieutenant governor's office is not a court of law and lacks the kind of staff necessary to hold the evidentiary hearings which may be necessary under the mandates of case law in this area.

One problem relates to whether the consent of both parents is necessary to grant a change of name for a minor. Attorney General Opinion No. 79-8 (October 18, 1979) indicates that case law contains a split in authority on the question of whether failure to give a non-custodial father notice of a proceeding to change the name of his minor child violates due process. The opinion recommends that the office of lieutenant governor should continue to require consent of the legal father before granting a decree changing the surname of a minor child, and that the office of the lieutenant governor consider proposing legislation to amend section 574-5 to provide, at a minimum, for prior notice of petitions or hearings in family court for name changes of minors.

The second problem described by the lieutenant governor relates to whether, and under what circumstances, the lieutenant governor has the discretion to deny a change of name to, or refuse to process the petition of, a convicted felon. A memorandum from the attorney general, dated May 19, 1977, on these questions concludes that case law supports the view that the lieutenant governor is vested with discretionary authority to deny a name change petition where it is determined that the petition is filed for wrongful

and/or fraudulent purposes. "However," the memorandum continues, "we believe that before the lieutenant governor denies a request for change of name, he must conduct an evidentiary hearing to determine if good and sufficient cause exist[sic] to deny the application."

Your Committee also received testimony on this issue from the Honorable W. Buddy Soares, regarding problems with changes of name by persons involuntarily committed to a mental institution. Your Committee finds that the same basic considerations apply in this situation as in those previously described.

Your Committee finds that the office of the lieutenant governor is not equipped to provide the notice and hearing procedures that may be necessary in these three kinds of cases. Therefore, we have amended chapter 574 to provide that petitions seeking a change of name of a convicted felon, or of a person involuntarily committed to a mental institution or of a minor whose parents do not both consent to the change, shall be submitted for decision to the family court rather than to the lieutenant governor. We have also amended sections 571-11 and 571-14 of the Family Court Act to grant the court jurisdiction in the se matters.

Your Committee considered placing exclusive jurisdiction to grant changes of name in the family court. However, with the exception of the situations described above, we believe that the current procedure provides efficient and inexpensive service to persons seeking changes of name. We are reluctant, absent necessity, to further burden our court system. However, we invite the lieutenant governor to bring to our attention any further problems regarding this procedure, should they arise in the future.

Another problem described by the lieutenant governor arises from the fact that Hawaii is the only state where a change of name is not granted by a court. As a consequence, at least one state (California) does not recognize name change decrees from Hawaii. Your Committee believes that our State is entitled to provide procedures for changes of name which meet the needs and desires of our people in any lawful manner it chooses. Therefore, we have amended chapter 574, Hawaii Revised Statutes, to provide that our State will refuse to recognize the validity of a name change of a person made by any jurisdiction which does not recognize the validity of a name change lawfully granted in our State.

Your Committee has also made several grammatical changes to section 574-5, Hawaii Revised Statutes, primarily to balance references to males with references to females. We have also amended this section to include name changes upon legitimation, previously authorized.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2985-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2985-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 692-80 Judiciary on S.B. No. 3012-80

The purpose of this bill is to amend chapter 97, Hawaii Revised Statutes, relating to lobbyists to reduce the unnecessary number of lobbyists presently registered under this law and to recommend changes which will simplify and result in the more efficient administration and enforcement of the laws pertaining to lobbyists.

Your Committee finds that it is in the best interests of the public and the legislative and executive branches of government in this State to report the use of large sums of money used to influence legislative or administrative action or ballot issues and to provide the most current and up-to-date information possible on those individuals who are lobbyists. We find that there are currently over 2,000 registered lobbyists covered under chapter 97, a situation which makes administration and enforcement of the present law almost impossible. Further, this Committee finds that many of the lobbyists currently registered are community groups and other individuals who are not expending substantial amounts of money or time to influence legislative or administrative action or ballot issues in this State. To this end, your Committee has amended the definition of "lobbyist" to include only those individuals who are hired for pay or other consideration who expend more than five hours in any month or \$250 in any six-month period for the purposes of influencing legislative or administrative action or ballot issues. Only those individuals who are covered under the provisions previously mentioned would be required to register as lobbyists.

Your Committee also finds that it is necessary to require expenditures reportable by persons who expend more than \$250 in any six-month period and by persons who hire or engage for consideration lobbyists as defined in this law. To this end, your Committee has required these persons to report their expenditures over \$250 in section 97-3(a)(1) and (2).

It is believed by your Committee to be in the best interests of the public and the state government to have readily accessible and in one convenient location a list of those lobbyists who are registered in this State. We have therefore required the State Ethics Commission to publish a list of lobbyists as soon as feasible after the commencement of each regular legislative session. This lobbyist list will identify registered lobbyists and the names of persons whom those lobbyists represent. We have also mandated re-registration of lobbyists at the start of each legislative session so that the lobbyist list will be as current as possible at the beginning of each session.

The penalties section of this bill has been amended to include penalties for non-registration (section 97-2), noncompliance with the contributions and expenditures statement (section 97-3), and for involvement in prohibited activities (section 97-5).

Your Committee also finds that registration of lobbyists who are hired under a different job title, but who do indeed expend substantial amounts of money or time for lobbying, should be covered under this law. Our intent is to include for example an individual who is employed by a corporation and as part of the employee's duties expends a substantial amount of money or time lobbying during a legislative session. We have amended section 97-1(4) covering the definition of "expenditure" to include "salary" to spell out this intent and have further amended section 97-1(6) to define "lobbyist" as "Any individual engaged for pay or other consideration..." to make clear our intent that these individuals must report.

The threshold for reporting expenditures in section 97-3(c)(3) has been lowered from \$300 to \$250 to conform with the amended definition of "lobbyist".

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3012-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3012-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb, Machida, Mizuguchi, Ushijima and George.

SCRep. 693-80 Judiciary on S.B. No. 2862-80

The purpose of this bill is to reduce the crime of obstructing government operations to a petty misdemeanor.

Presently, the offense is a misdemeanor. Sentences upon conviction have been relatively light due to the judicial philosophy that the gravity of the offense is minor. Changing the offense to a petty misdemeanor will keep these cases in district court thus reducing the case load on our heavily burdened circuit courts, with the result of speeding up the judicial process in these cases.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2862-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ushijima and Carroll.

SCRep. 694-80 Judiciary on S.B. No. 3146-80

The purpose of this bill is to review and amend chapter 11, part XII, subpart B, relating to the State's new campaign spending law.

Senate Bill No. 3146-80 clarifies and refines the original intent of the campaign spending law enacted during the 1979 legislative session.

A major change in the present law is the increase in the amount of public funds available to a candidate who agrees to voluntarily abide by spending limits for his or her elective office. Under present law, candidates for the office of governor, mayor and lieutenant governor may receive up to 20 per cent of the expenditure limit in public funds. All other candidates were to receive a maximum of \$100.00.

Your Committee has eliminated this discrepancy by amending section 11-218 to provide for a maximum of 20% public financing per cent public financing for all candidates. Although

your Committee understands that this increase will be paid for out of state revenues, it does believe that all candidates should be given an incentive to voluntarily abide by spending limits which will benefit the people of this State. It is commendable that a candidate will agree to limit his or her spending limits and this increase in public funds will help to serve this purpose.

Another major change to the present law is the addition of the term "candidate's committee," as defined in section 11-191, page 1, of the bill and used throughout the revised law. This added definition clarifies present ambiguity in the law as it relates to a committee directly associated with a candidate and all other committees.

Section 11-200, Hawaii Revised Statutes, as amended in this bill, illustrates the new clarity afforded the law by this new phrase. As presently drafted the section will restrict only a candidate, campaign treasurer, or candidate's committee from buying more than two tickets to another candidate's fund raiser. The original intent of this section was never to restrict all committees from purchasing tickets to fund raisers only to restrict a candidate from transferring his or her funds to another candidate whether this was accomplished by the candidate, the candidate's treasurer or any committee directly associated with the candidate.

Another ambiguity in the law arises in the use of the term "fund raiser" in section 11-203. A fund raiser is any political function for a candidate which costs \$25 per ticket to attend. Your Committee has expanded section 11-203 to include all other fund raising activities and to exclude the direct costs of such activities from the candidate's expenditure limit. While a candidate may, at the maximum hold one fund raiser a year, he or she may sponsor an unlimited number of fund raising activities.

In order to effectively monitor the new contribution limits imposed on contributions, your Committee has added a new penalty which is directed toward a donor who contributes more than \$2,000 to a candidate in any election period. Under present law a candidate is to report all contributions received but there is no sanction against a person who deliberately donates more than the allowed amount to a candidate. This defect in the present law has been remedied in section 11-204, by making it a crime punishable as a misdemeanor if a person is found guilty of contributing more than \$2,000 to a candidate and by requiring the candidate to deposit all funds received over the \$2,000 election period contribution to the Hawaii election campaign fund.

This bill has also been amended throughout by the inclusion of the word "special" in reference to the kinds of elections pursuant to which this chapter applies.

Your Committee has made other minor housekeeping amendments to present law to reorganize and clarify this statute.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3146-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.F. No. 3146-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb, Mizuguchi, Ushijima and Carroll.

SCRep. 695-80 Judiciary on S.B. No. 1828-80

The purpose of this bill is to review and amend Hawaii's law pertaining to non-profit corporations. This bill is patterned after the Model Non-Profit Corporation Act which was first published in 1952 by the American Bar Association's Committee on Corporate Laws of the Section of Corporation, Banking, and Business Law. The companion to this bill is S.B. No. 1829-80, "The Hawaii Business Corporation Act", which was drafted by the same bar committee and closely resembles this bill in concept.

This bill as amended is largely the product of several months of research and discussion by a Hawaii Bar Association Committee to Revise the Hawaii Corporation Law. The committee was comprised of several practicing corporate attorneys, Kenneth Sugita, Michael Porter, Ronald Sakamoto and Gregg Mikami, University of Hawaii School of Law professor, Williamson Chang and his law students Robert Char, Denis Lee, Thomas Wong, Valerie Uehara, Joann Uchida, Ward Jones, Larry Foster, the chief of the securities division of the department of regulatory agencies, Russell Nagata, and members of your Committee on Judiciary and the House Committee on Judiciary and the House Committee on Consumer Protection.

Your Committee wishes to thank these members for their insight and scholarship and devotion to the enormous task of analyzing the Model Act and amending it to conform

to the practice of corporate law in this State.

Of utmost importance to your Committee in proposing changes to this bill was conformance to present Hawaii corporate practice. Your Committee also effected changes to this bill as they are reflected in the business corporation bill (S.B. No. 1829-80) to maintain uniformity between the two.

Following a public hearing held by your Committee on March 3, 1980, the following changes have been made to S.B. No. 1828-80, S.D. 1:

(1) Corporate name (section -8). This section states that a non-profit corporation may not register its name if it is the same or "deceptively similar" to an already registered or existing corporation.

(2) Service (section -10). Service of process, section -10, has been amended to conform to section 416-131, Hawaii Revised Statutes. This change was made to expand upon the number of people dealing with the corporation who may be served. Under the Model Act, only the registered agent of the corporation could be served or the director of regulatory agencies if no registered agent was found. The changes to this bill allow for service to be made upon any officer or director of the corporation or any person found to be in charge of the property of the corporation. If no authorized person for service of process can be found, the director of regulatory agencies as in the Model Act shall serve as agent for the corporation for purposes of service. The retention of Hawaii law for service also works in conjunction with section 634-35, Hawaii Revised Statutes, the State's long arm statute.

(3) Directors (section -17). The Model Act provided that the directors of a corporation did not have to be residents of this State. The bill as amended provides that at least one director must be a resident. This requirement lends greater accountability on the part of the resident director on behalf of the corporation and for purposes of service ensures that at least one director may be served within the State. This requirement also conforms with section 416-4, Hawaii Revised Statutes.

(4) Directors' meetings (section -22). The proposed change to this section allows for a meeting of all the directors by means of a telephone conference. This provision is currently part of state law, section 416-83, Hawaii Revised Statutes.

(5) Indemnification (section -24). This section tracks Hawaii law with regard to the indemnification of the officers, directors, employees and agents of the corporation who are sued in their capacity as representatives of the corporation.

(6) Filing (section -30). Section -30 of this bill has been amended to provide for a general filing section. The requirements for the filing of any document with the director pursuant to this bill are listed in this section. Throughout S.B. No. 1828-80, all references to the manner of filing of a particular document have been deleted.

Also omitted throughout this bill is the requirement that the director ensure that the document to be filed is correct as to its contents. Your Committee believes that the director should not be required to ensure that all documents filed are in fact truthful; only that they conform on their face as to the information required by a particular section.

(7) Voluntary dissolution (section -45). Upon the voluntary dissolution of a corporation, a notice to all creditors shall be published in a newspaper of general circulation in the State.

(8) Tort claims (section -62). Tort claims against a corporation may be presented within two years from the date of dissolution of a corporation whether the dissolution be voluntary or by decree of court under the Model Act. Section -62 has been amended to provide that a tort claim shall also be required to be presented within two years from the date giving rise to the claim. This provision allows for a final cut-off time after which tort claims may not be brought against the corporation.

(9) Effective date. Your Committee has decided that a two-year effective date for enactment of this bill will allow for public input with regard to refinement of this bill, and most importantly will help to acquaint the department of regulatory agencies and practicing corporate attorneys with the requirements of this law.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1828-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1828-80, S.D. 2.

Signed by all members of the Committee except Senators Cobb, Mizuguchi, Ushijima and Carroll.

SCRep. 696-80 Judiciary on S.B. No. 3099-80

The purpose of this bill is to grant arrest powers to officers of the United States Customs Service and the Immigration and Naturalization Service.

There are many areas not normally policed by state or city law enforcement officers where the deterrence of a federal officer entitled to make arrests for a state law violation is needed, i.e., restricted areas of the Honolulu International Airport, including customs and harbors areas. Disorderly conduct of passengers and other problems at customs areas, and theft and pilfering at harbors areas are major problems. In the past, federal officers have observed such law violations but have been unable to make arrests. Their authorization to make arrests by this bill solves these problems.

S.B. No. 3099-80 has been amended by substituting the word "probable" for the word "reasonable" which appears in subsection (2) of this bill. This change clarifies the circumstances under which a federal officer may arrest a person based upon the more preferred phrase "probable cause" and employs a standard used by police officers in making arrests.

Line 6, page 1 of this bill has also been amended by deleting the word "or" and replacing it with the word "and". Such a change allows both the customs officer and the immigration and naturalization officer to arrest a person under the circumstances enumerated in the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3099-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3099-80, S.D. 1.

Signed by all members of the Committee.

SCRep. 697-80 Judiciary on S.B. No. 2513-80

The purpose of this bill is to require additional criteria for the format of rules and regulations of state and county agencies filed with the lieutenant governor's office.

These additional requirements will facilitate the filing, indexing and storage of rules and regulations in the lieutenant governor's office. By placing copies of all rules and regulations in one centralized location, the public is better served by having ready access to chapter 91, Hawaii Revised Statutes, promulgated rules and regulations of all state agencies and commissions.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2513-80 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 698-80 Judiciary on S.B. No. 2997-80

The purpose of this bill is to correct typographical errors in section 329-14(d), Hawaii Revised Statutes, which is part of Schedule I of the Uniform Controlled Substances Act, and add one new hallucinogenic substance.

The added substance is "fenethylamine".

"Dimethoxylamphetamine" is corrected to read "dimethoxyamphetamine". "Tiophene" is corrected to read "thiophene", and the abbreviation for thiophene is amended to read "TPCP".

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2997-80, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 699-80 (Joint) Public Utilities and Economic Development on S.B. No. 2179-80

The purpose of this bill is to encourage residential users of electricity and gas to conserve and reduce their energy usage by authorizing the Public Utilities Commission to establish a minimum level of energy use designated as "lifeline rates." The present

utility rate structure is predicated on the "declining block rate" principle which penalizes individual users of small amounts of gas and electricity and those who wish to conserve energy while encouraging large users to utilize energy at cheaper rates.

A second purpose of this bill is to authorize immediate rate relief for small energy users who, due to economic circumstances or other conditions, may face severe hardships because of the increasingly high cost of electrical and gas energy. Many persons in the community, especially elderly people, are required to live in semi-darkness after daylight, rarely cook or heat their food, take cold showers and avoid using electrical appliances, in order to reduce their energy bills. Your Committees find that such conditions constitute a threat to the health safety, and welfare of the public and requires immediate action by the Legislature.

The bill mandates the electrical utilities and gas companies to file with the Public Utilities Commission for the commission's approval, a schedule of minimum rates which are necessary to supply the minimum energy needs of the average residential user. The PUC is authorized to fix minimum energy needs. Such minimum "average needs" may include use of water heating, lighting, cooking, and food refrigeration energy. In estimating the appropriate minimum quantities for lifeline rates, the Public Utilities Commission is authorized to take into account various factors, including geographical location, climatic conditions and other circumstances which will have a bearing on the minimum amount of electricity or gas required by the average residential user. This will allow urban/rural, Oahu/neighbor island and apartment/single family residence differentials.

To prevent various second homes reaping the advantages of the legislation, the bill provides that the lifeline rate applies only to one home and to the full-time residence of the rate payer. Persons who have a second home for weekend or vacation purposes will not be offered the benefits of the lifeline rates.

Consistent with the purposes of the bill, the lifeline rates will be frozen until the overall system rates increase 30% over the rates existing as of January 1, 1980. Thus, the lifeline rate will be maintained at a rate which will not be adjusted until the overall rates have increased 30%, exclusive of the fuel adjustment charges. Once the overall system rates have increased 30% or more, then the Public Utilities Commission will be authorized to increase the lifeline rates to levels which retain the advantages of being the lowest per kilowatt hour or per therm.

Your Committees note that the Public Utilities Regulatory Policies Act of 1978, Section 114(b) provides that if any state regulated utility does not have a lifeline rate in effect two years after the date of enactment of PURPA, the State regulatory commission may determine whether such a lifeline should be implemented by the utility. Moreover, the Hawaii state Supreme Court, in *In re Hawaii Electric Company* (April, 1979), recognized that it was appropriate for the Public Utilities Commission to consider "social equity" factors in determining rate structures for residential consumers. This bill is a legislative recognition that the elderly and other deprived or low income groups are recipients of special treatment in housing, food and other necessities of life. This special treatment for designated groups of electrical and gas users is an extension of the existing policy.

The utilities testified that this bill will turn the electric and gas companies of the state into social welfare agencies and suggested energy coupons, direct subsidies, or other administrative action be taken to confer these benefits on the target group. There are a number of reasons why other methods are inappropriate for implementing lifeline rates. First, the additional costs of printing, distributing, administering and monitoring a coupon program would impose undue financial costs on the program and would make the program of marginal value to anyone. The creation of another coupon or stamp program would unnecessarily complicate life.

Moreover, a direct subsidy coupon or stamp program omits from consideration those electricity and gas users who will, by voluntary conservation efforts, restrict their energy use and thereby qualify for lifeline rates. Other groups may be encouraged to voluntarily restrict their energy use.

The lifeline program should be easily initiated given the present automated billing procedure. Amount of use can be easily identified on a typical bill and the lifeline rate can be applied.

Your Committees have amended Section 2 of the original bill in the following respects:

- (1) Specific amounts of gas and electricity have been stricken and left to the PUC to designate.

- (2) The PUC is authorized to take into account all differences affecting use of electricity in formulating specific quantities of gas and electric for lifeline rates.
- (3) Lifeline rates shall be the lowest rates offered to any customer of the utility company.
- (4) Persons over sixty years of age, or senior citizens will be considered like any other residential users.
- (5) The PUC is required to prepare and file a report prior to the 1981 Legislature, rather than the 1982 Legislature.
- (6) No person shall be able to receive a lifeline rate except at a principal place of residence and at one residence at a time.

Your Committees on Public Utilities and Economic Development and Energy are in accord with the intent and purpose of S.B. No. 2179-80, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2179-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Hara, Anderson, Carroll, George, Saiki and Soares.

SCRep. 700-80 Transportation on S.B. No. 2540-80

The purpose of this bill is to require the approval of the Governor, subject to the disapproval of the Legislature, for a concession contract granted at the airport by the Department of Transportation when such contract exceeds five years.

In lieu of the original purpose, the bill has been amended as S.D. 1 to specifically mandate the Department of Transportation to enter into an exclusive contract for the sale and delivery of in-bond merchandise at the Honolulu International Airport. The reason for this is that there is some question as to whether the existing law is adequate to authorize the granting of an exclusive concession contract for the sale or delivery of in-bond merchandise without violating Federal laws relating to antitrust and restraint of trade. A recent U.S. Supreme Court decision dated March 3, 1980 (California Retailing Liquor Dealers Assn., Petitioner v. Midcal Aluminum, Inc., et al., No. 7997) indicated that in order to be exempt from the Federal laws relating to antitrust and restraint of trade there must be a clearly articulated and affirmatively expressed State law or policy to comply with the antitrust immunity under Parker v. Brown, 817 U.S. 341 (1943).

It is felt that the issuance of such an exclusive concession contract by public bid would insure not only the possibility of maximum revenues to the State from such a concession but also would facilitate and assist the department in regulating and preserving the quality of services and merchandise to visitors using the airport.

Your Committee also amended the bill by directing the Department of Transportation to develop guidelines necessary to supervise the operation of such exclusive concession.

Your Committee has further amended this bill by making technical changes which have no substantive effect.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2540-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2540-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 701-80 Judiciary on S.B. No. 2501-80

The purpose of this bill is to create a cohesive body of law relating to the liability of animal owners for the personal and property damage caused by their animals.

This law reverses substantially all of the holding of Farrior v. Payton, 57 Haw. 620 (1977) as that case related to owners' liability for their animals. In Farrior, the Paytons' dog rushed toward Ms. Farrior and her friend, both of whom were arguably trespassing on the Payton property in walking from Bellows Beach to Lanikai, scaring both ladies who fell off the sea wall which they had just climbed, injuring themselves. The court held at 627:

In an action against the owner of a dog for injury inflicted by such animal, defendants' scienter (i.e., actual or constructive knowledge) of the vicious or dangerous propensities of the dog . . . is (except where removed by statute) an essential element of the cause of action and a necessary prerequisite to recovery" (Emphasis added).

The court went on to say at 624:

"The rule stated in Restatement, Second, Torts §338 (1965):

A possessor of land who is in immediate control of a force, and knows or has reason to know or of the presence of trespassers in dangerous proximity to it, is subject to liability for physical harm thereby caused to them by his failure to exercise reasonable care.

(a) so to control the force as to prevent it from doing harm to them, or

(b) to give a warning which is reasonably adequate to enable them to protect themselves.

. . . .

In Pickard v. City and County, 51 Haw. 134, 135 . . . we stated:

We believe that the common law distinctions between classes of persons have no logical relationship to the exercise of reasonable care for the safety of others. We therefore hold that an occupier of land has a duty to use reasonable care for the safety of all persons reasonably anticipated to be upon the premises, regardless of the legal status of the individual.

Farrior holds (1) that scienter is a necessary element of a civil suit for damages for injury by a dog, and (2) that a property owner owes a duty of care even to a trespasser. Your Committee feels that this first holding is inappropriate because innocent public utility employees, postmen, visitors and others are subject as an animal owner's "first bite" defense.

On the other hand, your Committee is aware of the effective use of animals as "watchdogs" to deter crime in people's homes, business places, etc.

To reconcile these two points of view, your Committee has adopted S.B. No. 2501-80 with only minor changes (i.e., specifically covering public utility employees in subsection (a) on page 1, and allowing any person or the Humane Society within its City and County of Honolulu jurisdiction, to seize dangerous animals).

This bill makes an animal owner absolutely liable for injury caused by his animal except if the animal was teased, tormented, or otherwise abused.

Your Committee has amended S.B. No. 2501-80 by including section 2 of S.B. No. 2548-80 as section 3 of this bill. This amendment makes an exception for absolute liability if the injured person entered or remained unlawfully on the animal owner's premises and the animal owner was privileged to cause the injuries through his animal under chapter 703 of the penal code. Your Committee adopted the penal code's comprehensive statement of justification in the use of force to cause injury as a reasonable method of limiting the use of force. Otherwise, we might go too far and condone the ordering by an animal owner of a murderous attack on a fleeing, unarmed burglar. Although we understand the public's concern for safety, the idea of "reasonable force" must be maintained.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2501-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2501-80; S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb, Mizuguchi and Ushijima.

SCRep. 702-80 Judiciary on S.B. No. 2574-80

The purpose of this bill is to include in the definition of "visible commencement of operations" in the mechanic's and materialman's lien statute, sections 507-41 to -49, Hawaii Revised Statutes, "the presentation by the owner or his representation to any public agency of any document required to be presented or filed in order to make

an improvement."

Presently, "visible commencement of operations" is defined to include only activities which can be observed at the construction site. This excludes substantial activities which occur before construction involving architects, engineers, etc. The effect of this bill is to move the "visible commencement" date to a much earlier time than the law presently provides for, thereby protecting persons supplying labor before operations begin.

Substantial favorable testimony was heard on this bill and no opposition.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2574-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2574-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb, Kuroda, Mizuguchi, Ushijima and George.

SCRep. 703-80 Judiciary on S.B. No. 2965-80

The purpose of this bill is to provide for an appeal by the parent or guardian of a handicapped child of a decision by the department of education (DOE) relating to the identification, evaluation, program or placement of such a child.

Under present rules and regulations of the DOE, an aggrieved parent or guardian may appeal a decision of the DOE relating to the handling of a handicapped child to a hearing officer. No other appeal is allowed. This bill provides one more level of appeal without jeopardizing a parent's or a guardian's right to appeal the hearing officer's decision as provided by federal law. Thus, the parent or guardian can appeal a hearing officer's decision under federal law if they still feel aggrieved after the board of education's decision.

This bill, as it was submitted to your Committee, provided for a "mediator-arbitrator" as an intermediate appellate body. Your Committee has amended the bill to provide for appeal to the board of education or a duly appointed panel thereof. It is the intent of your Committee to provide for the quickest, least expensive procedure it can devise. An appeal to the board seems most appropriate.

Your Committee has also amended the bill to require the board or its panel to submit its decision within 60 days of the notice of appeal.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2965-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2965-80, S.D. 2.

Signed by all members of the Committee except Senators Cobb, Machida, Mizuguchi, Ushijima and George.

SCRep. 704-80 Judiciary on S.B. No. 2784-80

The purpose of this bill is to permit reasonable access to motor vehicle registration records contained in the statewide traffic records system while maintaining safeguards to ensure that any information obtained will not be used to invade the privacy of individuals.

Currently, Section 286-17, Hawaii Revised Statutes, allows access to the information contained in the statewide traffic records system under limited circumstances. This bill expands access to motor vehicle registration information to those persons who request such information and who will not use names and addresses of individuals for commercial solicitation.

Upon consideration of this measure, your Committee has amended the bill to clarify the circumstances under which the information shall be released and the procedures to be followed in making the information available.

Under the provisions of the bill, as amended, the Director of Transportation will release information in the statewide traffic records system to (1) any person, in response to a request from a state governmental agency, and (2) to a person determined by the Director to have legitimate reasons to obtain the information for verification of vehicle ownership or for research or statistical purposes.

Any person in the second category must file an affidavit with the Director of Transportation stating the reasons for obtaining the information and assuring the Director that the information will only be used for the reason stated.

If a person who qualifies to receive information requests the entire file of the motor vehicle registration information contained in the statewide traffic records system, the Director will furnish the information only upon entering into an agreement to provide the information for a fee as set by the Director. In order to safeguard the privacy of individuals, it is mandatory that the person requesting the information agree to protect the individual identities contained in the information and not use the names for compiling a mailing list for commercial purposes. A surety bond in the amount of \$25,000 must be posted to assure compliance with the agreement.

Your Committee made two changes to S.B. No. 2784-80, S.D. 1. The first revision makes it clear that any person required by law to give notice to an owner of a vehicle, as in the manner of sections 290-2 and 290-11, shall be deemed an appropriate person to whom disclosure should be made.

The second revision refers to a problem that has come to your Committee's attention respecting rampant overcharges being made by towing companies in excess of the statutory fees set out in section 290-11. To discourage such practice and to obtain effective enforcement of the fee structure, your Committee has amended section 290-11 to provide for sanction against its abuse by way of treble damages and minimum damages of \$1,000 as in antitrust actions.

Your Committee agrees that the provisions of this bill allow reasonable access to information contained in the statewide traffic records system and simultaneously protect the privacy rights of individuals whose names appear in the records.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2784-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2784-80, S.D. 2.

Signed by all members of the Committee except Senators Cobb, Mizuguchi and Ushijima.

SCRep. 705-80 Judiciary on S.B. No. 2419-80

The purposes of this bill are to create a presumption that joint custody is in the best interests of a minor child or children where the parents both agree to an award of joint custody; to authorize the family court, in its discretion, to award joint custody upon the application of either parent; to authorize a modification or termination of joint custody; and to authorize our family court, subject to the jurisdictional requirements of section 583-3, Hawaii Revised Statutes, to modify any order for the custody of a minor child or children to an order of joint custody.

Under current law, joint custody is not explicitly mentioned or recognized as an option in custody orders, although the court has the authority to order it and has done so in some cases.

Your Committee received testimony from the Honorable Betty M. Vitousek, Senior Judge of the Family Court, First Circuit, opposing that portion of the bill which creates a presumption that, when both parents agree, joint custody is in the best interests of the minor child or children. Judge Vitousek indicated that a parent involved in a custody dispute might pressure the other parent to agree to an award of joint custody, not because it is in the child's best interests, but rather to avoid a contest for the custody in which there is a "winner" and a "loser". In such a case, the presumption might be an undesirable obstacle to the court's determination of what is truly in the child's best interests.

Your Committee agrees and has therefore amended S.B. 2419-80 by removing the section creating the aforementioned presumption. Your Committee finds that joint custody should be neither more nor less favored than other forms of custody orders. We find that joint custody may well be the solution that represents a child's best interests, although it is by no means a panacea. We find that a parent or parents seeking an award of joint custody should be met with neither a presumption for nor a presumption against the award being sought.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2419-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2419-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb, Mizuguchi and Ushijima.

SCRep. 706-80 Judiciary on S.B. No. 2927-80

The purpose of this bill is to establish a bill of rights for mental patients.

In 1979, a task force was created to study the need for and appropriateness of the codification of rights of mental patients, in response to a Senate Resolution. The task force convened under the aegis of the department of health. Its members were drawn from the public and private sectors, advocacy groups, the medical, legal and social service fields, unions and interested individuals. The task force met numerous times over a period of several months and submitted its report, containing conclusions and recommendations to the legislature. Your Committee wishes to express its gratitude to all members of the task force for their commitment of time, energy, interest and ability to this difficult and controversial undertaking. Many of the task force's recommendations are embodied in this bill.

Senate Bill No. 2927-80, S.D. 2, delineates a fairly comprehensive set of rights on such topics as admission procedures, basic patient's rights, treatment rights, legal rights, records, billing, social activities, environment, performance of work, religious freedom and transfer between facilities. It also repeals several sections of existing law.

Your Committee received a great deal of testimony on this bill, much of it from physicians and other health-care providers, as well as from advocacy groups. Many in the medical community, although supportive of the basic concept of patient's rights, had serious reservations about numerous particular provisions of the bill, on the basis that they would prevent or unduly burden the delivery of appropriate services to those in need of them.

Your Committee finds that some of the objections and reservations about the bill are valid, and that the bill is both overly broad in certain areas and overly specific in others. Your Committee has therefore redrafted the bill to preserve its excellent basic concepts.

Your Committee finds that a person under the care of a medical doctor, including a psychiatrist, for mental health services, including treatment or diagnosis of a mental illness, dysfunction or disorder, is among the most vulnerable individuals in our society. Unusual vulnerability justifies special protection. Your Committee finds that the delineation of the rights of mental patients by statutes, administrative regulations and court decisions has constituted a growing trend in the law nationwide during the last decade.

Your Committee wishes to make it clear that this bill is not in response to either documented or alleged instances of abuse or mistreatment. It is preventive in nature.

As amended, this bill affirms the necessity of obtaining informed consent from any patient, or the patient's guardian, before initiating non-emergency treatment for a mental illness, dysfunction or disorder. Your Committee intends that the definition promulgated by the Board of Medical Examiners pursuant to its authority under section 671-3, Hawaii Revised Statutes, be used as the standard for compliance with this section. Your Committee finds that properly obtained informed consent protects both the patient and the physician. We intend that informed consent be obtained whether a patient is an inpatient at a facility or whether the patient is under the care and treatment of a physician in the community.

SECTION 2 of this bill establishes basic and essential rights of mental patients who are receiving care, diagnosis or treatment as inpatients of a public facility. Your Committee has specifically made these rights subject to the criteria of reasonableness and resource availability, and we intend that they be so construed. It is not our intention to unreasonably burden the provision and delivery of needed care and treatment. The rights established by this bill are, of course, not the only rights that mental patients have, nor do we intend that they be so construed. They are in addition to such other rights as exist under law. Your Committee finds that the rights enumerated are those which any of us would want if we were in the position of a patient.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2927-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hreto as S.B. No. 2927-80, S.D. 2.

Signed by all members of the Committee except Senators Campbell, Ushijima and Carroll.

SCRep. 707-80 Judiciary on S.B. No. 1860-80

The purpose of this bill is to comply with the request of the Probate Court and several probate executors for changes in the Uniform Probate Code to clarify and simplify administrative details, facilitate and make more certain the handling of, and the fees charged in, probate matters.

This bill amends section 531-29 to conform with present practice in regard to those selling real property of the estate. A new section is added to chapter 531 which permits a personal representative or guardian to petition the court for authorization to sell real property of the estate when the will of the decedent does not so authorize. The court may so order if it feels that such action is in the best interest of the estate. Section 560:3-719 is amended to provide a new scale for compensation of personal representatives to provide a degree of certainty to the court and the representative as to their fees. In addition, fees for auditors, investment advisors and other specialty representatives are set by a new section.

A simplified method of conveyancing land devised by the Probate Court is added in section 560:3-901. The Probate Court has in addition reported that 25 per cent of the estates under \$30,000 are handled by informal family member probate. To continue this trend, the maximum limit of estate value for informal probate is raised from \$30,000 to \$40,000 in section 560:3-303.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1860-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1860-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb, Mizuguchi and Ushijima.

SCRep. 708-80 Judiciary on S.B. No. 1970-80

The purpose of this bill is to amend the Constitution of the State of Hawaii to provide review procedures before the judicial selection commission for an incumbent justice or judge whose term of office the commission has decided not to renew.

Under the present constitutional provisions of Article VI, Section 3, an incumbent justice or judge whom the commission had decided not to retain has no remedy or protection against an arbitrary decision by the commission or a decision based upon false or misleading evidence given to the commission.

Your Committee has amended this to provide for procedures wholly before the commission, eliminating an appeal to the intermediate court of appeals as the original bill proposed.

The procedure set forth by this bill is as follows. An aggrieved justice or judge who has received notice from the commission that he or she will not be retained for another term may, within ten days of receipt of the notice, request a confidential proceeding before the commission. At the proceeding, the justice or judge may present evidence and make discovery of the evidence upon which the evidence of the commission was based.

If the commission still denies retention, the justice or judge may, within ten days of receipt of the notice of the denial, request a public hearing before the commission. The commission will take evidence at the public hearing and render a decision which shall be final. This decision is not subject to appeal under Chapter 91 or in any other manner.

If the commission does decide to retain the justice or judge in review or after a public hearing, such decision is subject to advice and consent of the Senate. Your Committee has also amended this bill to make retention by the commission in the first instance subject to advice and consent of the Senate. (See page 4, line 14).

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1970-80, as amended herein, and recommends that it pass Second Reading as S.B. No. 1970-80, S.D. 1, in the form attached hereto, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Machida.

SCRep. 709-80 Legislative Management

Informing the Senate that S.C.R. No. 34, S.R. No. 166 and Stand. Com. Rep. Nos. 497-80 to 708-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 710-80 Legislative Management

Informing the Senate that S.C.R. Nos. 35 to 38 and S.R. Nos. 167 to 174 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 711-80 Legislative Management

Informing the Senate that S.C.R. No. 39 and S.R. Nos. 175 to 178 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 712-80 Legislative Management

Informing the Senate that S.R. Nos. 179 to 181 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 713-80 Government Operations and Efficiency on S.R. No. 80

The purpose of this resolution as received is to request the department of accounting and general services to study the feasibility of a centralized copier and copier/duplicator management program, to review the current process of competitive bidding for such services, and to implement a centralized copier and duplicator program and a system of competitive bidding for such services.

The University of Hawaii submitted testimony in favor of this resolution indicating that their centralized copying and duplicating program saves about \$250,000 annually. The department of accounting and general services submitted testimony that the department could implement the program but was not qualified to do the study due to lack of resources.

Your Committee agrees with this testimony and has amended the resolution to substitute the department of budget and finance as the agency to do the feasibility study and review the bidding process while leaving the department of accounting and general services as the implementing agency.

Your Committee on Government Operations and Efficiency concurs with the intent and purpose of S.R. No. 80, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 80, S.D. 1.

Signed by all members of the Committee.

SCRep. 714-80 Government Operations and Efficiency on S.C.R. No. 15

The purpose of this concurrent resolution as received is to request the department of accounting and general services to study the feasibility of a centralized copier and copier/duplicator management program, to review the current process of competitive bidding for such services, and to implement a centralized copier and duplicator program and a system of competitive bidding for such services.

The University of Hawaii submitted testimony in favor of this concurrent resolution indicating that their centralized copying and duplicating program saves about \$250,000 annually. The department of accounting and general services submitted testimony that the department could implement the program but was not qualified to do the study due to lack of resources.

Your Committee agrees with this testimony and has amended the concurrent resolution to substitute the department of budget and finance as the agency to do the feasibility study and review the bidding process while leaving the department of accounting and general services as the implementing agency.

Your Committee on Government Operations and Efficiency concurs with the intent and purpose of S.C.R. No. 15, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 15, S.D. 1.

Signed by all members of the Committee.

SCRep. 715-80 Legislative Management

Informing the Senate that S.R. Nos. 182 to 186 and Stand. Com. Rep. Nos. 713-80 and 714-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 716-80 Consumer Protection and Commerce on S.R. No. 51

The purpose of this resolution is to request a study of Hawaii's limited branch banking law. Inasmuch as Hawaii's banks are statutorily limited in the number of branches which they can establish, and savings and loan associations, which offer similar services, are not restricted in regard to the number of branches they can establish, the resolution requests that a study be made on whether the branch banking law should be repealed or a similar branching restriction should be placed on savings and loan associations.

Your Committee has amended this resolution and its title by substituting that the Legislative Reference Bureau (with input from the Department of Regulatory Agencies, Hawaii's banks, savings and loan associations, and other interested persons) conduct this study, and submit its report twenty days prior to the convening of the 1981 legislative session.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 51, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 51, S.D.1.

Signed by all members of the Committee except Senators Chong, Kuroda and Yee.

SCRep. 717-80 Consumer Protection and Commerce on S.C.R. No. 12

The purpose of this concurrent resolution is to request a study of Hawaii's limited branch banking law. Inasmuch as Hawaii's banks are statutorily limited in the number of branches which they can establish, and savings and loan associations, which offer similar services, are not restricted in regard to the number of branches they can establish, the concurrent resolution requests that a study be made on whether the branch banking law should be repealed or a similar branching restriction should be placed on savings and loan associations.

Your Committee has amended this concurrent resolution and its title by substituting that the Legislative Reference Bureau (with input from the Department of Regulatory Agencies, Hawaii's banks, savings and loan associations, and other interested persons) conduct this study, and submit its report twenty days prior to the convening of the 1981 legislative session.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 12, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 12, S.D.1.

Signed by all members of the Committee except Senators Chong, Kuroda and Yee.

SCRep. 718-80 Legislative Management

Informing the Senate that S.R. Nos. 187 to 190 and Stand. Com. Rep. Nos. 716-80 and 717-80 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 719-80 Economic Development on H.B. No. 1945-80

The purposes of this bill are to require the sellers of solar energy devices to disclose what portion of the price charged for such devices are attributable to items unrelated to the device itself, and to restrict the solar tax credit to that portion of the price directly related to the installation and operation of the solar energy device.

The intent of this bill is to inform the consumer of the true cost of a solar energy device and the extent to which the total purchase price has been inflated due to the costs

of incentives to promote the sale of the device.

Your Committee, while in accord with the intent of the disclosure requirements, has amended the bill to provide for the proper enforcement of this amendment under the office of consumer protection instead of under the energy resources coordinator. Your Committee has also made the following amendments on the bill referred to this Committee:

- (1) Changing "Chapter 196" on line 1 of page 1 to "Chapter 481B";
- (2) Changing "Sec. 196- " on line 4 of page 1 to "Sec. 481B- ";
- (3) Making failure to disclose the required information an unfair or deceptive trade practice instead of assessing a fine of not more than \$5,000 per violation; and
- (4) Deleting subsection (d) of section 1 which limits the disclosure requirements "only for so long as the income tax credit for solar energy devices authorized under section 235-12, Hawaii Revised Statutes, continues in effect."

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1945-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1945-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 720-80 Economic Development on H.B. No. 1982-80

The purpose of this bill is to amend section 171-13, Hawaii Revised Statutes.

Presently, section 171-13, Hawaii Revised Statutes, allows the board of land and natural resources directly to award easements of public lands, without public auction, provided the public land value is less than \$500. This bill would eliminate the \$500 limitation, allow all easements to be directly awarded, and facilitate processing as well as eliminate the advertising expense of a public auction.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1982-80, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 721-80 Economic Development on H.B. No. 1983-80

The purpose of this bill is to amend subsection 171-36(a)(5)(E), Hawaii Revised Statutes, so that where a lease to public lands is transferred or assigned to a corporate successor of the lessee, the Board of Land and Natural Resources, prior to approving the transfer or assignment, shall have the right to review and approve the consideration paid or made for such transfer or assignment, and if necessary, to revise the lease rent upward depending upon the consideration paid by the transferee (or assignee).

Currently, there is no statutory provision which expressly empowers the Board, in cases involving corporation transferees or assignees of leases to public lands, to review and approve the consideration paid for the transfer or assignment and, as may be warranted, to revise the lease rent upward.

Your Committee has heard S.B. 1987-80, which is the companion bill to H.B. No. 1983-80.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1983-80, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 722-80 Economic Development on H.B. No. 2185-80

The purpose of this bill is to permit the assistant registrar of the land court in the state bureau of conveyances to increase filing fees which have not been increased since 1957.

This schedule of fees has remained constant since 1957. The cost of recording documents has increased due to the increase of the State's cost of necessary supplies and storage

equipment. The department of land and natural resources reported that for the 1978-79 fiscal year the collection was \$284,339, while operating costs were \$608,766. The department feels that this amendment will generate approximately \$400,000.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2185-80, 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. 723-80 Economic Development on H.B. No. 2418-80

The purpose of this bill is to amend sections 205-2 and 205-4.5, Hawaii Revised Statutes, to allow the establishment of wind energy facilities as a permitted use in agricultural districts.

As the State develops the use and production of non-fossil fuel energy, it is appropriate to remove unnecessary technical and institutional barriers. According to the inventory and assessment of the wind resources of the State, the best wind sites are usually on agricultural or conservation land rather than residential land. This is consistent with the practice of industry avoiding the building of homes or other structures at locations where winds are high. Further, testimony indicated that modern wind energy systems do not require large ground space for each machine, but do require several hundred feet spacing between systems. Hence, crop, grazing, and other agricultural activities are compatible with wind systems. For these reasons, your Committee believes wind systems are compatible with agricultural land uses and urge the passage of this bill.

Your Committee 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. 2418-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2418-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 724-80 Economic Development on H.B. No. 2535-80

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

Your Committee finds that accurate information concerning the availability of fuel within the State is of vital importance to the safety, health, and welfare of the people. The lack of such information can lead to uncertainties and difficulties in the State's efforts to plan for energy supplies as well as to assess and cope with fuel shortages and contingencies dealing with energy supply and demand.

Your Committee has amended the bill by making nonsubstantive, technical, and language changes.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2535-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2535-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 725-80 Judiciary on Gov. Msg. No. 92

Recommending that the Senate consent to the nomination of JAMES H. WAKATSUKI, Fourth Judge, Circuit Court of the First Circuit, for a ten (10) year term, in accordance with Article VI, section 3 of the Hawaii State Constitution.

Signed by all members of the Committee.

SCRep. 726-80 Judiciary on Gov. Msg. No. 93

Recommending that the Senate consent to the nomination of WENDELL K. HUDDY, Sixth Judge, Circuit Court of the First Circuit, for a ten (10) year term, in accordance with Article VI, section 3 of the Hawaii State Constitution.

Signed by all members of the Committee.

SCRep. 727-80 Judiciary on Gov. Msg. No. 94

Recommending that the Senate consent to the nomination of SIMEON R. ACOBA, JR., Twelfth Judge, Circuit Court of the First Circuit, for a ten (10) year term, in accordance with Article VI, section 3 of the Hawaii State Constitution.

Signed by all members of the Committee.

SCRep. 728-80 Judiciary on Gov. Msg. No. 95

Recommending that the Senate consent to the nomination of PHILIP T. CHUN, Fourteenth Judge, Circuit Court of the First Circuit, for a ten (10) year term, in accordance with Article VI, section 3 of the Hawaii State Constitution.

Signed by all members of the Committee.

SCRep. 729-80 Judiciary on Gov. Msg. No. 96

Recommending that the Senate consent to the nomination of RONALD B. GREIG, Fifteenth Judge, Circuit Court of the First Circuit, for a ten (10) year term, in accordance with Article VI, section 3 of the Hawaii State Constitution.

Signed by all members of the Committee.

SCRep. 730-80 Judiciary on Gov. Msg. No. 100

Recommending that the Senate consent to the nomination of KEI HIRANO, Circuit Judge of the Fifth Circuit, for a ten (10) year term, in accordance with Article VI, section 3 of the Hawaii State Constitution.

Signed by all members of the Committee.

SCRep. 731-80 Consumer Protection and Commerce on H.B. No. 713

The purpose of this bill is to authorize banks to make real estate loans secured by the borrower's interest in a cooperative housing corporation.

Present law prohibits banks from making real estate loans unless secured by a first lien on real estate.

Testimony in favor of this bill was submitted by the Hawaii Association of Realtors, Hawaii League of Savings Associations, Department of Regulatory Agencies, and various cooperative association groups and members of the public.

Your Committee finds that the present restriction on loans to owners of stock in cooperative units has worked to their disadvantage by depressing the amount of appreciation of the value of their units in relation to other multiunit buildings. This inequity has been caused in part by the lack of first mortgage financing available to potential buyers of cooperative units. Your Committee also finds that owners are unable to refinance their units or interest because of this restriction.

Your Committee notes from the testimony presented that foreclosure, when necessary, is not a problem and can be accomplished under existing loan documentation, providing security for lenders. Your Committee is therefore in agreement with this bill to provide relief to cooperative unit owners by permitting cooperative interests to be used as security for bank real estate loans.

Your Committee has amended this bill only by adding a new section 3 on the effect of underscoring new statutory material and renumbering the former section 3 as 4.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 713, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 713, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong, Campbell, O'Connor and Yee.

SCRep. 732-80 Consumer Protection and Commerce on H.B. No. 714

The purpose of this bill is to authorize savings and loan associations to make real estate loans secured by the borrower's interest in a cooperative housing corporation.

Present law prohibits savings and loan associations from making real estate loans unless secured by a first lien on real estate.

Testimony in favor of this bill was submitted by the Hawaii League of Savings Associations, Department of Regulatory Agencies, Hawaii Association of Realtors, and various cooperative association groups and members of the public.

Your Committee finds that the present restriction on loans to owners of stock in cooperative units has worked to their disadvantage by depressing the amount of appreciation of the value of their units in relation to other multiunit buildings. This inequity has been caused in part by the lack of first mortgage financing available to potential buyers of cooperative units. Your Committee also finds that owners are unable to refinance their units or interest because of this restriction.

Your Committee notes from the testimony presented that foreclosure, when necessary, is not a problem and can be accomplished under existing loan documentation, providing security for lenders. Your Committee is therefore in agreement with this bill to provide relief to cooperative unit owners by permitting cooperative interests to be used as security for savings and loan association real estate loans.

Your Committee has amended this bill only by adding a new section 3 on the effect of underscoring and bracketing statutory material and renumbering the old section 3 as 4.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 714, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 714, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong, O'Connor and Yee.

SCRep. 733-80 (Majority) Health on H.B. No. 25

The purpose of this bill is to provide enabling legislation for the issuance of special purpose revenue bonds for not-for-profit corporations providing health care facilities to the general public.

Your Committee finds that enabling the State to issue special purpose revenue bonds for not-for-profit corporations providing health care to the general public is in the public interest. The cost of providing health care in this State has continually risen during the last decade. By allowing the State to issue special purpose revenue bonds to assist such health care providers, the cost of building health care facilities will be reduced since the interest on special purpose revenue bonds providing financing for such health care facilities is exempt from taxation by the state or federal government. By being exempt from taxation, interest may be obtained at a lower level and health care will be provided the general public at the same level for a lower price.

Your Committee finds that the issuance of special purpose revenue bonds under the Constitution does not constitute part of the state-funded debt and that such bonds will not count against the state debt ceiling. Your Committee further finds that under Article VII, section 12, of the State Constitution, special purpose revenue bonds are not secured either directly or indirectly by the credit of the State, nor may any revenues or taxes of the State be used as security or to pay for such bonds.

Your Committee has amended the bill by adding the word "assisting" between the words "that" and "the" on line 23, page 2 of the bill to clarify the last clause of the bill's statement of purpose and findings.

The bill as received by your Committee contained a provision prohibiting the State, when special purpose revenue bonds are used to finance or refinance a project, from exercising its right of eminent domain with respect to such project, or to own or operate the project. Your Committee heard from the Department of Budget and Finance that the State should not entirely relinquish its right of eminent domain in this particular situation because if it is in the public interest for the State to convert part of a project property for a purpose beneficial to the public, it should have the right to do so. Your Committee finds that the intent of the eminent domain provision is to prevent the State

from using the power of eminent domain for the benefit of a project party rather than the State surrendering its right of eminent domain. Your Committee has amended the bill accordingly.

Your Committee amended page 6, line 13 of the bill by substituting "section 103-22" with "section 103-7 and 103-22". Your Committee finds that the bill should provide for exemption from Section 103-7, Hawaii Revised Statutes which requires that any "capital improvement project requiring the use of revenue bonds of the State" to be authorized by the Legislature and the Governor. This provision relates primarily to State owned and operated capital improvements such as highways, airport improvements and the like. The exemption from Section 103-7 is reasonable since the bill specifically requires that special purpose revenue bonds for each single project or multi-project program be authorized by a separate act of the Legislature.

Your Committee further amended the bill by deleting the words "working capital" on page 13, line 5. Your Committee feels that it is prudent business practice to generate working capital for operational purposes through current revenues rather than long-term borrowing.

Your Committee has also amended the bill to correct typographical errors and to insert the word "revenue" as appropriate throughout the bill so as to specifically define the bonds referred to as being revenue bonds.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 25, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 25, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Saiki.
Senator Abercrombie did not concur.

SCRep. 734-80 (Majority) Health on H.B. No. 1162

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist not-for-profit corporations providing health care to the general public.

The 1978 Constitutional Convention provided the State the authority to authorize the issuance of special purpose revenue bonds to assist not-for-profit health care corporations in obtaining moneys at a reduced interest rate. This bill is a companion bill to H.B. No. 25, H.D. 1 which provides the necessary enabling legislation for the State to issue such bonds once authorized. Article VII, section 12, of the State Constitution requires the enabling legislation and the bond authorization to be in separate bills.

This bill authorizes the Department of Budget and Finance to issue special purpose revenue bonds for the financing or refinancing of a multi-project health facility program for the following: Castle Memorial Hospital, \$5,235,000; Kapiolani/ Children's Medical Center, \$8,000,000; Kuakini Medical Center, \$20,000,000; Queen's Medical Center, \$20,000,000; St. Francis Hospital, \$12,300,000; and Wahiawa General Hospital, \$1,000,000. Your Committee received testimony that the combined interest savings of these six institutions will amount to \$2.4 million to the general public and an additional \$300,000 as direct savings to the State Medicaid Programs each year.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1162, 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 Campbell and Saiki.
Senator Abercrombie did not concur.

SCRep. 735-80 Public Utilities on H.B. No. 1222

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 to assist 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.

The 1978 Constitutional Convention approved the authorization and issuance of special purpose bonds without being chargeable against the debt limit, if the legislature determines the bonds to be in the public interest for four separate categories including utilities serving the general public.

The constitutional amendment 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.

This bill adds 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 six percent 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 ratepayers. 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 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 State 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 has deleted from the bill the provision in Section -2 of the proposed new Chapter which deprives the State of its constitutional power of eminent domain and any future legislation enabling the counties or the State to purchase and operate the equipment or facilities financed by special purpose revenue bonds. The denial of this basic right of eminent domain is directly contrary to established principles of law.

Your Committee has incorporated a new Section -18 which excludes, for rate making purposes only, the equipment, facilities, and other property financed by the special purpose revenue bonds, except as to the actual contributions made by the public utility to the revenue bond's "sinking fund" as provided for in Section -9(4) of the present bill. The utility will be allowed to include as a legitimate operating expense any expenses and charges attributed to the servicing of the bonds. The Committee believes that the tax-exempt provision of Section -15 and other benefits accruing to the utility by

virture of the special purpose revenue bonds should be off-set by providing for a rate relief for ratepayers. By excluding all equipment, facilities, and property from the rate base, for rate-making purposes only, the utility will not be allowed to earn its authorized rate of return on these facilities until the bonds have been retired or to the extent that the utility has made a contribution to the sinking fund. If the special purpose revenue bond facilities were included in the utility's rate base from the outset, the revenue requirements charged to the ratepayer, would be far more than any savings attributed to "tax-exempt" bonds. The Public Utilities Commission, in its rate making process, will be authorized to include only such amount as is contributed by the utility to the "sinking fund" pursuant to Section -9(4), in the authorized "rate base" upon which the rate of return may be earned. The savings to the public, which is a quid pro quo, will be substantial, amounting to several millions of dollars over the life of the bonds.

Your Committee has incorporated a new Section -19 to require that the Public Utilities Commission, in a rate proceeding involving a utility which uses special purpose revenue bond financing, specifically identify any and all savings attributed to said bonds which are passed on to the ratepayers. This will permit the consumers to recognize the savings passed on to them by virtue of the Constitutional provision authorizing special purpose revenue bonds.

Section -19(b) is the legislative incorporation of the recent California decision in the Pacific Telephone and Telegraph case involving public utilities and special or favorable tax treatment of utility property. The Committee believes that the Public Utilities Commission should be directed to pass directly on to the consumers any investment tax credits or accelerated depreciation allowances attributed to equipment, facilities or other property financed through special purpose revenue bonds. This would require the Commission to pass on to ratepayers any savings to the utility by virtue of a federal investment tax credit or by any proposed amendments in the depreciation allowances for capital equipment. For example, if the new federal law with respect to accelerated depreciation is enacted, the Public Utilities Commission would be required to determine what tax benefits accrued to the utility by virtue of the special purpose revenue bond-financed property and pass the identified savings on to the ratepayers. This pass-through of the investment tax credits and accelerated depreciation is consistent with trends among progressive utility commissions.

Sections -18 and -19 of the bill as received by your Committee have been redesignated as Sections -20 and -21.

Your Committee on Public Utilities is in accord with the intent and purpose of H.B. No. 1222, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1222, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Anderson.

SCRep. 736-80 Legislative Management

Informing the Senate that S.R. Nos. 191 to 193 and Stand. Com. Rep. Nos. 719-80 to 735-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 737-80 Legislative Management

Informing the Senate that S.C.R. No. 40 and S.R. No. 194 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 738-80 Human Resources on H.B. No. 2073-80

The purpose of this bill is to amend section 348-2(5)(B), Hawaii Revised Statutes, relating to vocational rehabilitation, to delete the term "domiciliary" from the definition of physical restoration services currently included as a function of vocational rehabilitation.

Your Committee finds that there is no present statutory definition of the term "domiciliary care". In mental health and other health related programs, the term has been interpreted to mean long-term care of an indefinite duration. Services provided under section 348-2(5)(B) are generally short-term in nature and are designed to substantially correct

or eliminate handicaps to enable an individual to become self-sufficient and employable.

Your Committee further finds that clarifying legislation has been proposed to define "domiciliary care," in H.B. No. 2362-80, H.D. 1, as the care provided by a private residence or larger facilities, which includes twenty-four hour living accommodations and personal care services to adults unable to care for themselves.

Your Committee has made a technical, nonsubstantive amendment to this bill.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2073-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2073-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 739-80 Government Operations and Efficiency on H.B. No. 2590-80

The purpose of this bill is to clarify the required formats for the publication and filing of rules by all state agencies.

Under present law there are three conceivable formats in which an agency adopting rules must publish and file such rules (1) in the uniform format required by the revisor of statutes, (2) in the Ramseyer format required for filing with the legislative auditor, and (3) in the format required for filing with the office of the lieutenant governor. This bill specifies that the third format is superseded and that the uniform format suffices for filing with the office of the lieutenant governor.

Your Committee finds that sections 91-4.1, 91-4.2, and 91-4.4, Hawaii Revised Statutes, require a state agency to publish rules in accordance with a format specified by the revisor of statutes and to file a copy of such rules drafted in the Ramseyer format with the legislative auditor. In addition, under the so-called "Rules on Rules" adopted by Governor Quinn in 1961, rules are required to be filed in the office of the lieutenant governor in a certain format, different from the revisor of statutes' and the Ramseyer formats.

Your Committee feels that such a situation results in confusion at best and much needless work at worst if any agency feels compelled to comply with all three required formats in that the so-called "Rules on Rules" may be of no force and effect inasmuch as section 7-40, Revised Laws of Hawaii 1955, which allowed Governor Quinn to prescribe the "Rules on Rules" was repealed by Act 103 of the Session Laws of 1961. Accordingly, your Committee is in favor of this bill.

Your Committee on Government Operations and Efficiency is in accord with the intent and purpose of H.B. No. 2590-80, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 740-80 Health on H.B. No. 2945-80

The purpose of this bill is to provide for the collection, coordination, maintenance, analysis, and transmission of health data through the establishment of the Hawaii Cooperative Health Information System. A new chapter, which may be cited as the Health Information Act, has been added to the Hawaii Revised Statutes.

Presently, there is no one agency to coordinate the collection and dissemination of health care data in this State. This has resulted in duplication of efforts by health care organizations for the analysis of the health care needs of the State. This bill creates a public, nonprofit corporation which will be the central agency for the collection and distribution of health care data throughout this State.

This public, nonprofit corporation will assume the current activities of the Hawaii Cooperative Health Statistics System which has been developed and operated by the Research Corporation of the University of Hawaii, as a demonstration model and data support system for the State Health Planning and Development Agency. This computerized health information system will be accessible to all health care organizations, and will provide essential data needed for health planning and health services' research to address the health care needs of the State in a more accurate, comprehensive, and cost-efficient manner.

This bill is the companion bill for S.B. No. 2651-80 heard by this Committee, and is identical in content and matter.

Your Committee heard testimony from the Department of Health, State Health Planning and Development Agency, Hospital Association of Hawaii, and Dr. Robert E. Mytinger on the companion Senate bill. The testimonies cited the increasingly serious need for cooperative action on the part of those private and public agencies and facilities who are responsible for health care planning. The creation of a public, nonprofit agency for the collection and dissemination of data is an appropriate means by which to serve the needs of both data suppliers and data users in the State, other states, and the federal government.

Your Committee finds that this bill will not threaten or violate the privacy rights of individuals or organizations, and provides for safeguards to be built into the system.

Your Committee has discussed, with the appropriate individuals, the topic of funding for the establishment and operations of this nonprofit corporation. Your Committee has concluded that the corporation will be able to self-generate the necessary funds for FY 1980-81, and therefore, will not need State aid at this time. This Committee concurs with the House on this matter. However, your Committee recognizes the provisions in the bill enabling the corporation to request State funding, as necessary, in the future.

Your Committee finds that the creation of this nonprofit corporation for a cooperative health planning information system will allow private and public agencies to coordinate their data collection; standardize collection processing and analysis of health information data; reduce costs of establishing and maintaining separate health information systems; and safeguard the privacy and confidentiality of individuals and organizations.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2945-80, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Saiki.

SCRep. 741-80 Consumer Protection and Commerce on S.C.R. No. 8 and S.R. No. 40

The purpose of the concurrent and senate resolution is to request that the Honolulu Police Department in cooperation with the police departments of the other counties and the Federal Bureau of Investigation, study why stolen motorcycles are often not recovered.

Your Committee received testimony from the State Motor Vehicle Insurance Division, and the Hawaii Insurance Association in support of the senate and concurrent resolution.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 8 and S.R. No. 40 and recommends their adoption.

Signed by all members of the Committee except Senator Saiki.

SCRep. 742-80 Legislative Management

Informing the Senate that S.C.R. Nos. 41 to 43, S.R. Nos. 195 to 202 and Stand. Com. Rep. Nos. 738-80 to 741-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 743-80 Transportation on H.B. No. 1999-80

The purpose of this bill is to clarify the applicability of the motor carrier safety law to certain private carriers of passengers.

Your Committee finds that the purpose of Section 2 of Act 119, Session Laws of Hawaii 1979, was to amend the definition of "motor carrier" found in Section 286-201, Hawaii Revised Statutes, by deleting certain language and adding other language to include private carriers of passengers within the meaning of "motor carriers". Your Committee further finds that inadvertently, the language intended to be deleted was not deleted in Act 119. This has resulted in a confused definition of "motor carrier" in the present law. This bill corrects the definition by making the appropriate deletion.

Your Committee notes that in printing the provisions of Section 286-201, as amended by Act 119, in the 1979 supplement to the Hawaii Revised Statutes, the words "a contract

carrier by motor vehicle", was unintentionally omitted. These words are part of the language intended to be omitted by Act 119. This bill corrects Section 286-201 as it was enacted by Act 119 and not as printed in the 1979 supplement to the Hawaii Revised Statutes.

Your Committee has amended the bill by adding a comma after the word "industrial" in line 13 of the bill to conform the punctuation to the recommendations of the Hawaii Drafting Manual, Fourth Edition.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1999-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1999-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 744-80 Health on H.B. No. 2850-80

The purpose of this bill is to update Hawaii's Uniform Controlled Substances Act by adding the drug Captagon (fenethylamine) to conform to federal guidelines and to correct inadvertent misspellings of previously listed substances. These substances are 5-dimethoxyamphetamine and thiophene (TPCP).

Currently, the drug Captagon (fenethylamine) is not included in Schedule I of the Uniform Controlled Substances Act.

Your Committee received testimony from the Department of Health citing the increased abuse of this drug in the United States. This drug has no accepted medical use in the U.S., and its users take it for its amphetamine-like effects including sleeplessness and a "high" coupled with a hyperenergized state of restlessness. This drug is presently marketed by Chemiewick of Hamburg, Germany and its facilities in Mexico, and is more commonly known as "speed". The federal Drug Enforcement Agency and other law enforcement agencies report that Mexico is a major source for thousands of Captagon tablets and capsules smuggled across the U.S. - Mexican border. According to the federal Regulatory Control Division of the Office of Compliance and Regulatory Affairs, the risk of Captagon is similar to an amphetamine because Captagon metabolizes to amphetamine after ingestion. Use of Captagon may result in behavior similar to that caused by amphetamines, which include bizarre and antisocial behavior, compulsive repetitive behavior, delusions of persecution, and anxiety and aggression. Documentation has proven that Captagon does affect emotional patterns and movement in a personality-dependent manner.

Captagon has never been legally marketed in the U.S. nor has a New Drug Application ever been approved by the Federal Food and Drug Administration. Consequently, it is not controlled and the full impact of its illicit use has never been documented. The federal Drug Enforcement Administration has recently recommended that the Department of Health, Education and Welfare consider controlling the drug in Schedule I of the Controlled Substances Act so that appropriate law enforcement actions can be taken to counter its availability.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2850-80 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. 745-80 Legislative Management

Informing the Senate that S.R. Nos. 203 to 205 and Stand. Com. Rep. Nos. 743-80 and 744-80 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 746-80 Judiciary on H.B. No. 1762-80

The purpose of this bill is to appropriate \$223,396.45 out of the general revenues of the State of Hawaii to replenish the Criminal Injuries Compensation Fund for compensation ordered by the Criminal Injuries Compensation Commission pursuant to Chapter 351, Hawaii Revised Statutes. The sum to be appropriated was used to compensate 241 victims.

This bill has been amended to provide for additional appropriations of \$46,556.53 for awards made to 40 victims in 1979 and \$49,859.69 for 50 victims in 1980.

Your Committee has also decided to appropriate \$100,000 for the payment of future awards to victims and their providers for the remainder of the year 1980 until June 30, 1981. This appropriation will allow the Commission to be current in its payments to crime victims rather than having to be reimbursed by the legislature each year.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. 1762-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1762-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Saiki.

SCRep. 747-80 Judiciary on H.B. No. 1801-80

The purpose of this bill is to amend section 52-37, Hawaii Revised Statutes, so that specific duties of the chief of police enumerated therein will appear without reference to gender.

The intent of the revisions is to remove any suggestion of sex bias in the statutory language of the Hawaii Revised Statutes. Your Committee acknowledges the concurring testimony submitted for a public hearing by the American Civil Liberties Union, the National Organization of Women, the Hawaii Federation of Business and Professional Women's Clubs, the Hawaii Commission on the Status of Women and the Family Court.

Pursuant to the above intent, all references such as "his" or "male" are replaced with neutral language describing the same specific duty.

Also under present law the chiefs of police of Hawaii, Maui and Kauai are only authorized to command the aid of "male inhabitants" of the county in the event of an emergency. On the other hand, the chief of police of the city and county of Honolulu, under section 52-67(2) of the Hawaii Revised Statutes, is not so restricted.

Your Committee finds no rational basis for excluding female inhabitants of Hawaii, Kauai and Maui counties from being called upon in an emergency and has rectified the existing incongruity in the present law by deleting such references to male inhabitants.

Senate Bill No. 2129-80 has been amended to correct technical errors and to clarify language in the present statute.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1801-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1801-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Saiki.

SCRep. 748-80 Judiciary on H.B. No. 1821-80

The purpose of this bill is to delete the presently unnecessary reference to the validity of bail bonds for married women.

Under H.B. No. 1821-80, all references to married women have been deleted from section 804-12, Hawaii Revised Statutes. Such specific references, while necessary to protect the rights of married women under prior law, are no longer necessary to achieve this result. Furthermore, the deletion of "married women" from this section amends this statute to conform to the constitutional standard of Article I, section 12 of the Hawaii State Constitution.

Several women's groups and other organizations had formerly testified favorably on this bill as a positive measure to equalize the rights of women with those of men.

Your Committee has amended this bill to clarify language by the deletion of the word "engagement" for the word "bond."

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1821-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1821-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Saiki.

SCRep. 749-80 Judiciary on H.B. No. 1864-80

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.

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

Your Committee has made a technical nonsubstantive amendment to the bill.

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

SCRep. 750-80 Judiciary on H.B. No. 2062-80

The purpose of this bill is to clarify the authority of district family judges, by amending section 571-8.5, Hawaii Revised Statutes.

The present law does not fully specify the powers of district family judges to issue orders and writs, enforce judgments and admit or deny persons bail. Nor does the present law contain a provision specifically granting power to do whatever is necessary for the promotion of justice in matters before them.

Your Committee finds that this bill properly clarifies the authority of district family judges. We further find that the new subsection (10) of section 571-8.5, Hawaii Revised Statutes, is the same grant of power given to circuit courts in section 603-21.9(6), Hawaii Revised Statutes, and to the supreme court in section 602-5(7), Hawaii Revised Statutes.

Nonsubstantive technical changes have been made to this bill as well as the substitution for the word "incompetents" on page 2, line 19, for the phrase "persons who are incompetent" to better define the class of persons for whom the court may appoint a guardian ad litem.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2062-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2062-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Saiki.

SCRep. 751-80 Judiciary on H.B. No. 2174-80

The purpose of this bill is to increase the time period the attorney general has to process a request for return of fingerprints and photographs after an expungement order.

The attorney general, through his duly authorized representative, the Bureau of Crime Statistics and Identification, reports that the present 60-day period is too short considering the number of requests for expungement it presently receives. The attorney general has requested an increase to 120 days as more realistic administratively and this request is incorporated in this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2174-80, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Saiki.

SCRep. 752-80 Judiciary on H.B. No. 2191-80

The purpose of this bill is to amend chapter 134 to permit an alien to possess a firearm if he is employed by the State or a political subdivision thereof or the United States, and his duties require him to be armed while in performance thereof.

The House bill as received by your Committee amends sections 134-3 and 134-4, Hawaii Revised Statutes, which would allow an alien to own and register a firearm, rifle,

or shotgun. Your Committee has amended the bill by deleting the amendments to sections 134-3 and 134-4 and amending instead section 134-11.

The bill as amended by your Committee includes aliens employed by the State or a subdivision or the United States who need to carry firearms in the performance of their duties in the exemption section, 134-11. The effect of this is that the alien does not own the firearm carried by him or have the firearm registered in his name. The firearm is registered to the alien's employing agency, and the alien is authorized to carry the firearm only while on duty, or while going to and from his respective place of duty.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2191-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2191-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Saiki.

SCRep. 753-80 Judiciary on H.B. No. 2258-80

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

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

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

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

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

Your Committee has amended this bill by requiring that the court revoke a person's suspension or probation if such person is convicted of a felony, but leaves revocation to the court's discretion if the person is convicted of a lesser crime.

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

Signed by all members of the Committee except Senator Saiki.

SCRep. 754-80 Judiciary on H.B. No. 2265-80

The purpose of this bill is to delete from our section 11-23, Hawaii Revised Statutes, all reference to mental condition as a basis upon which to disqualify a person from voting.

Under the present statute an adjudication of "insanity or feeble-mindedness," when communicated to the county clerk of the respective counties by any informing agency, triggers an investigation by the clerk, which may result in the removal of the name of the person so adjudicated from the voting register. The investigation includes notice to the person concerned and an opportunity to be heard. If the clerk finds, after investigation, that the person is "non compos mentis," the statute directs the clerk to remove the name of the person from the register.

Your Committee understands and appreciates the antidiscriminatory motive upon which this bill is based. We find that the current law is phrased in anachronistic terms, which are not statutorily defined. However, as our honorable lieutenant governor

pointed out in testimony before your Committee, Article II, section 2 of the Constitution of the State of Hawaii states that "[N]o person who is non compos mentis shall be qualified to vote." Deleting all statutory reference to mental condition as a basis for disqualification of a prospective voter would not, of course, supersede the constitutional provision. Rather, it would further cloud the issue by leaving the decision-maker without any standard upon which to base a judgment that the constitution does or does not require the disqualification of a particular prospective voter.

Your Committee has therefore amended the bill by replacing the outdated and undefined terms with language referring to, or based on, current statutory terms used to describe these conditions. As amended, the bill substitutes, for an adjudication of "insanity or feeble-mindedness," adjudication "as an incapacitated person under the provisions of chapter 560, a mentally retarded person under the provisions of chapter 333, or a mentally ill person under the provisions of chapter 334." This amendment corrects whatever vagueness may be attached to the terms "insanity or feeble-mindedness" by substituting language conforming to specific, statutorily defined terms.

Second, as amended, this bill substitutes for the words "non compos mentis," the language "incapacitated to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning voting." The amendment corrects whatever vagueness may be attached to the words "non compos mentis" with language appropriately defining the specific capacity needed to vote. The recommended language is similar to that already used in the Uniform Probate Code, chapter 560, Hawaii Revised Statutes.

Your Committee finds that these amendments create a clear and functional framework for decision and limit the power to disqualify by requiring a finding that the prospective voter "lacks sufficient understanding or capacity to make or communicate responsible decisions concerning voting."

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2265-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2265-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Saiki.

SCRep. 755-80 Judiciary on H.B. No. 2357-80

The purpose of this bill is to permanently place the Hawaii Criminal Justice Information Data Center within the Department of the Attorney General for administrative purposes, effective July 1, 1981, and to provide guidance as to the purpose of this data center.

Chapter 846, Hawaii Revised Statutes, provides that the data center be attached to the judiciary for administrative purposes.

Your Committee heard testimony that pursuant to 1979 Senate Concurrent Resolution No. 123, a study conducted by the State Law Enforcement Planning Agency and the Statistical Data Center to determine the proper placement of the data center, recommended that the center be permanently placed within the Department of the Attorney General, effective July 1, 1981.

Your Committee concurs with this testimony and believes that the Attorney General, who is by law the chief law enforcement officer of the State, can provide the environment that is most conducive to maintaining the high level of operations and cooperation with Hawaii's criminal justice agencies while at the same time providing sound administrative support.

Your Committee feels very strongly that the data center needs a clearly stated purpose in the statutes, particularly at a time of organizational change. We have, therefore, amended the bill by adding a new section to chapter 846, Hawaii Revised Statutes, stating a purpose and three basic functions for the data center.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2357-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2357-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Saiki.

SCRep. 756-80 Judiciary on H.B. No. 2558-80

The purpose of this bill is to limit the availability of bail for persons charged with criminal offenses under certain specified conditions. Section 804-3, Hawaii Revised Statutes, already denies pre-trial bail in the case of an offense punishable by life imprisonment not subject to parole, "when the proof is evident or the presumption great." This bill would delete the latter requirement. Section 804-4, Hawaii Revised Statutes, denies post-trial bail pending appeal to defendants who can be sentenced for "at least twenty years." This bill changes this requirement such that the right to bail is guaranteed only in cases of misdemeanor, petty misdemeanor and violation convictions. In all other types of convictions, the court has the discretion to grant bail. The bill also allows a court to deny bail under section 804-7.1, Hawaii Revised Statutes.

The companion bill to this bill, as principally drafted, denied pre-trial bail in certain cases and received questions and outright opposition before this Committee based on its possible unconstitutionality. The view was expressed that a defendant is presumed innocent until proven guilty and that bail should only relate to his present charge and the probability that he will appear, rather than to his past record. Issues regarding equal protection, due process, and constitutional right to bail were raised.

Your Committee's research indicates that these concerns are generally without foundation, based upon existing cases recently decided across the country in both state and federal courts. Robertson v. Connecticut, 501 F.2d 305 (2nd Cir. 1974); United States v. Fields, 466 F.2d 229 (2nd Cir. 1972); Hamilton v. New Mexico, 421 F.2d 903 (6th Cir. 1970); Parker v. Roth, 278 N.W.2d 106 (Neb. 1979); Gallie v. Wainwright, 362 So.2d 936 (Fla. 1978); Gold v. Shapiro, 403 N.Y.S.2d 906 (N.Y. App. 1978); Rendel v. Mummert, 474 P.2d 824 (Ariz. 1970); State v. Garrett, 493 P.2d 1232 (Ariz. App. 1972); Ex Parte Smith, 548 S.W.2d 410 (Tex. Cr. App. 1977); Ex Parte Miles, 474 S.W.2d 224 (Tex. Cr. App. 1971); Scott v. Ryan, 548 P.2d 235 (Utah 1976). See also Duker, The Right to Bail; A Historical Inquiry, 42 Alb. L. Rev. 33 (1977).

These cases stand for the proposition that there is no guaranteed constitutional right to pre-trial bail in all cases, and there is definitely no constitutional right to bail after a conviction pending appeal. Parker v. Roth, *supra*, discusses the entire history of bail from its roots in England to the Bill of Rights and points out that the Eighth Amendment to the Constitution of the United States does not guarantee bail in all cases, but only guarantees no excessive bail in cases where the law allows bail.

The Hawaii State Constitution, Article I, section 9, follows the language of the Eighth Amendment. In Hawaii, the right to bail in all cases, except where the punishment can be life imprisonment without parole, is only guaranteed by statute, specifically section 804-3, Hawaii Revised Statutes, which the legislature is free to change upon reasonable grounds. Such legislative changes have been made in several states, notably Arizona, Michigan, Nebraska, Texas, Utah, and the District of Columbia.

The bill has been amended by your Committee by adding SECTION 1, stating the purposes of the bill. First, we intend to deal more harshly with persistent offenders who have abused the bail privilege in the past and present a clear danger to society. Secondly, we desire to end the long delay between conviction and punishment caused by appeals, thereby increasing the effectiveness of punishment.

What was originally designated "SECTION 1" of this bill before amendment denied pre-trial bail to a defendant who had previously been convicted of an offense similar to that which he is charged. This exemption is similar to Texas law which denies bail to a defendant convicted of any two prior felonies. This law was approved by the Texas Criminal Appeals Court in Ex Parte Smith, *supra*.

Your Committee has completely rewritten this section of the bill which is now designated as "SECTION 2" of this Committee's amended bill. This section denies bail to a person charged with a "serious crime" (see discussion of definition of "serious crime" below) where "the proof is evident and the presumption great" on that charge and (1) the offense is punishable by life imprisonment without parole or (2) the defendant has been convicted of a "serious crime" in the last ten years or (3) the defendant is already on bail on any felony charge (see Rendel v. Mummert, *supra*, and Scott v. Ryan, *supra*).

In effect, bail is denied to one charged with a "capital" offense or a persistent offender. "Serious crime" is defined as a class A or B felony except for forgery in the first degree and failing to render aid. All class A or B felonies, with the two exceptions noted, involve harm to a person or the threat of harm, or the use of a weapon, or serious drug offenses. Burglary in the first degree in a dwelling involves a serious possibility of harm to people if a burglar is discovered. While failure to render aid can involve harm

to a person, the wide range of possibilities made inclusion of this offense inappropriate.

The requirement that "the proof is evident and the presumption great" is retained since no state statute or constitutional provision was found which did not have this or a similar requirement. Your Committee also feels that this is appropriate as a matter of fairness, and your Committee is encouraged by the fact that existing Hawaii case law construes this requirement, giving guidelines to the trial courts. See Bates v. Hawkins, 52 Haw. 463 (1970); Bates v. Ogata, 52 Haw. 573 (1971); and Sakamoto v. Chang, 56 Haw. 447 (1975).

The original "SECTION 2" of this bill has been amended by your Committee and is now "SECTION 3" of this Committee's amended bill. The original bill before amendment by the House denied bail after conviction where the sentence can be ten years or more. Your Committee's amended section retains this exception to bail where a sentence has been imposed and adds exceptions in cases where bail was not allowed, or denied, or revoked before conviction.

The bill is also amended by adding a reference to section 641-14(a) which is a recent amendment allowing a court the discretion to execute a sentence pending appeal.

SECTION 3 of the bill as amended by your Committee ("SECTION 2" of the bill) amends the present law to allow a court to deny bail in the enumerated circumstances, rather than merely set conditions. There is little question of the court's power to impose such conditions and, your Committee believes, to deny bail if it can be shown by sufficient evidence that such conditions will not be met even if imposed. This section of the bill has been further amended to make it clear that the court can deny bail if a condition of bail is breached.

There is no constitutional right to bail; it is a statutory privilege and always has been. The abuse of the bail system, the danger posed by repeat offenders and the need for swift, effective punishment upon conviction (which is also an excellent deterrent for others) have resulted in this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2558-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2558-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Saiki.

SCRep. 757-80 Transportation on H.B. No. 2647-80

The purpose of this bill is to amend Sections 291-35, 291-36, 291-37 and 291-39, Hawaii Revised Statutes, which relate to vehicle size and weight, so as to clarify the present statutes and to implement its enforcement provisions.

Your Committee finds that this bill is in response to the courts' request to clarify the ambiguity in the statutes in order that it may be properly interpreted by the prosecutors and the courts.

Your Committee heard testimony that the use of portable scales for enforcement, and the application of weight formulas to interior axle weights have been contested in the courts and found to be ambiguous.

Your Committee has amended this bill by making certain technical changes to conform the language of this bill with the statutes.

Your Committee has further amended this bill to comply with Ramseyer rules of bill drafting.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2647-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2647-80, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 758-80 Judiciary on H.B. No. 2063-80

The purpose of this bill is to conform section 560:3-1209, Hawaii Revised Statutes, to section 560:3-1206(b) of the Uniform Probate Code which requires that small estates

having a value in excess of \$10,000 be distributed only after the claim-filing period for creditors has passed.

The bill would amend section 560:3-1209, Hawaii Revised Statutes.

This is a housekeeping bill designed to conform this section to the 1977 amendment to section 560:3-1206(b) which requires that small estates valued at over \$10,000 give the same notice that is required for informal probate proceedings; the 1977 amendment has the effect of requiring the clerk to wait for the running of the four-month claims-filing period after first publication. See section 560:3-801. Section 560:3-1209 presently requires the clerk to distribute the estate 60 days after first publication.

Your Committee has amended the bill to state specifically that the "prescribed period" after which the clerk may distribute money, etc., is "four months".

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2063-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2063-80, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carroll and Saiki.

SCRep. 759-80 Judiciary on H.B. No. 2163-80

The purpose of this bill is to explicitly exclude special election days from the list of state holidays enumerated in section 8-1, Hawaii Revised Statutes.

State holidays are costly to the State and should be avoided where unnecessary. Special election days are generally held on a Saturday and do not warrant a special holiday proclamation.

Under the present statute all election days except primary election days are holidays. As such the mayoral race for Maui county held on Saturday, October 20, 1979, required the preceding Friday to be taken as a state holiday. The expense incurred as a result thereof was unnecessary and would be avoided by passage of this bill.

Pursuant to this, the words "and special" are added to the exception clause on line three of page two of the bill. Thus, both primary "and special" election days are exempted from the list of mandated holidays.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2163-80, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Mizuguchi, Carroll and Saiki.

SCRep. 760-80 Judiciary on H.B. No. 2845-80

The purpose of this bill is to repeal section 12-1.5, Hawaii Revised Statutes, which requires that candidates for public office in a primary election are and shall have been residents of the district from which they seek election for at least three months prior to the election.

Present law states that no person shall be a candidate for a primary election unless, at the time of filing nomination papers, he is and has been a resident of the district from which he seeks election for a period of at least three months.

Your Committee finds that the statute is in conflict with Article III, section 7, of the Hawaii State Constitution. Accordingly, inasmuch as this statute cannot be enforced, your Committee recommends this bill's adoption.

Your Committee has amended this bill to correct a nonsubstantive technical error.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2845-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2845-80, 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, Carroll and Saiki.

SCRep. 761-80 Judiciary on H.B. No. 2444-80

The purpose of the bill is to authorize the preparation and publication of a new index to the Hawaii Revised Statutes.

Volume 8 of the Hawaii Revised Statutes containing the present index to the revised statutes needs to be republished. The coverage of the index is generally regarded as unsatisfactory. Portions of the index are no longer appropriate because of changes in the law. Furthermore, the increasing size of the pocket supplement will soon make further publication of the supplement impracticable.

To cover the cost of preparing and publishing the index, an amount of \$275,000 is appropriated to the office of the Legislative Reference Bureau.

Considering the above, your Committee endorses the intent of this bill to develop an entirely new index to the Hawaii Revised Statutes rather than merely updating the old one. The office of the Legislative Reference Bureau submitted testimony that concurs with this recommendation.

A minor language change was necessitated in SECTION 1 of the bill. The new index is to include index references to the Hawaii and United States constitutions and Hawaiian Homes Commission Act rather than the text of those documents themselves as was formerly implied.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2444-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2444-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Mizuguchi, Carroll and Saiki.

SCRep. 762-80 Judiciary on H.B. No. 2093-80

The purpose of this bill is to increase witness fees for per diem attendance and per mile travel. The present fees were set in 1972 and are not appropriate, considering inflation, for the 1980s.

H.B. No. 2093 would increase a witness' fee from \$4 per day to \$10 per day and from 20 cents per mile to 30 cents per mile for each mile actually travelled. For witnesses travelling from an outer island, the fee would be \$12 for each day and 30 cents for each mile actually travelled on the ground in addition to the cost of a round trip plane ticket.

This bill has been amended to delete the words "or ship" from page 1, line 12. Current travel between the islands is by plane and not ship, thereby eliminating the need for specifying this type of outdated cost.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2093-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2093-80, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Mizuguchi, Carroll and Saiki.

SCRep. 763-80 Consumer Protection and Commerce on H.B. No. 1981-80

The purpose of this bill is to increase the recording fees charged by the Bureau of Conveyances, which have remained unchanged since 1951.

In a hearing on the Senate companion measure to this administration bill (L-4(80)), your Committee received testimony from the Chairman of the Board of Land and Natural Resources in support of this bill.

Your Committee recognizes that the establishment of rates by statute provides a certain safety against abuse, but is concerned that the time and expense involved in such statutory revision may be unwarranted especially where it will be necessary to continually amend the statute in inflationary times. Your Committee concurs with the need to raise these rates to cover administrative costs, but feels that the setting of these and other rates by rule-making may be more appropriate. Thus, your Committee requests that the Department of Land and Natural Resources submit a report to your Committee prior to the 1981 session on the desirability of establishing such rates by rule-making authority.

Your Committee has amended the bill to make technical and style amendments without affecting its substantive provisions.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1981-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1981-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima, Saiki and Yee.

SCRep. 764-80 Consumer Protection and Commerce on H.B. No. 1991-80

The purpose of this bill is to amend Chapter 452, Hawaii Revised Statutes, relating to the regulation of the massage industry, to: (1) change the terms "masseuse," "masseur," and "operator" to "massage therapist," (2) change the term "massage parlor or salon" to "massage establishment," (3) add a new section to regulate out-call massage service, (4) increase license fees, (5) provide for separate application and examination fees, and (6) provide penalties for knowingly employing unlicensed persons to perform massage services.

Your Committee has amended the bill to substitute most of the revisions the Senate made to S.B. No. 1995-80, the companion bill to H.B. No. 1991-80, which revisions do not affect the intent or most of the substantive provisions of the original draft of the bill.

Substantive amendments made to the original draft of the bill are as follows:

The definition of "out-call massage service" has been amended to add that a service which practices massage at a non-fixed location as designated by the service be deemed an "out-call massage service" to clarify that not only services which perform massage at places designated by the client be included under regulation.

Your Committee has deleted the provision that the board have its own seal, inasmuch as the bill deletes the requirement that licenses issued be attested by the board's seal.

Since the changes in terms, e.g., "masseur or operator" to "massage therapist," and "certificate" to "license," effect no substantive changes to the laws involved, a provision has been added to the bill (Section 25 of the bill as amended) to clarify that persons or businesses falling under the old terms automatically fall under the new terms on the effective date of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1991-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1991-80, 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 Campbell, Kuroda, Ushijima, Saiki and Yee.

SCRep. 765-80 Consumer Protection and Commerce on H.B. No. 1992-80

The purpose of this bill is to amend Section 26-9 in regard to the Department of Regulatory Agencies' rule-making powers.

Although a majority of the individual statutes dealing with the Department of Regulatory Agencies provide for rule making powers, a number of those enacted prior to the enactment of Chapter 91 do not expressly grant the Director those powers. This bill would clarify the Director's power to adopt rules for all laws under the Director's jurisdiction.

Further, the bill authorizes the Director of Regulatory Agencies to increase or decrease certain fees assessed or charged by the boards and commissions placed within the Department for administrative purposes to maintain a reasonable relation between the revenues derived from the fee, and the cost or value of services rendered. The bill also allows the Director to establish separate fees for application, examination, and licenses for the professional and vocational licenses granted by the various boards and commissions.

Finally, the bill makes a "housekeeping" change to delete language stating that the Director shall be the State fire marshal, in accord with the deletion of this duty by Act 241, SLH 1978.

Your Committee received testimony from the Director of Regulatory Agencies in support of this administration bill (0-11 (80)). The Director stated that many of the current fees assessed by the boards and commissions which are set by statute were established or last amended over ten years ago. Granting the Director the power to change these fees by rule would obviate the time and expense of legislative amendment, free the boards from this ministerial function, and enable fees to be established on a more uniform, equitable basis.

The provision authorizing the Director to establish separate application, examination, and licensing fees would maintain a more accurate relation between revenues derived from the fee and the cost of services rendered, and provide a more equitable treatment of license applicants. For example, if fees are separated, an applicant not meeting the requirements for examination need only pay an application fee, and a candidate who fails the exam need not pay a license fee.

Your Committee finds that since these fee changes will be made in compliance with Chapter 91, which requires approval by the Governor, adequate safeguards from arbitrary action have been provided.

Your Committee also received testimony from the Construction Industry Legislative Organization (CILO) in favor of the bill. CILO expressed the concern that since revenues from fees in excess of administrative costs are deposited into the general fund, those professional and vocational groups with license or other fees which are set at excessive rates are in effect subsidizing the regulation of other businesses.

Your Committee has amended the bill to include the provisions contained in the Senate draft of the companion bill (S.B. No. 1996-80, S.D. 1), which are essentially technical, non-substantive amendments.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1992-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1992-80, 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 Campbell, Kuroda, Ushijima, Saiki and Yee.

SCRep. 766-80 Consumer Protection and Commerce on H.B. No. 2263-80

The purpose of this bill is to delete the word "insanity" from the provisions of the Uniform Limited Partnership Act and to substitute a more definitive statement as to mental disability. The existing provisions of the Act do not provide guidelines for determining insanity.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2263-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2263-80, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima, Saiki and Yee.

SCRep. 767-80 Consumer Protection and Commerce on H.B. No. 2359-80

The purpose of this bill is to streamline the administration of the partnership law by:

1. Eliminating the requirement that a statement be filed within thirty days after a partner is admitted, withdraws, or dies, and requiring that this information be included in the annual partnership statement;

2. Eliminating the requirement that certain documents be acknowledged before a notary public, and substituting therefor a requirement that such document be "certified" by the appropriate persons;

3. Providing for the right to reserve a partnership name;

4. Clarifying the distinction between a "dissolution" and a "termination";

5. Clarifying who can be a partner;

6. Clarifying that the retirement, death, or insanity of the sole remaining general partner dissolves the partnership even though the other limited partners want to continue the partnership; and

7. Eliminating redundant and superfluous language.

In a public hearing on the Senate companion bill, your Committee received testimony in favor of the bill from the Ad Hoc Committee of the Hawaii State Bar Association and the Department of Regulatory Agencies.

Your Committee is in agreement that the various changes to the law proposed by this bill will clarify the law and simplify the administration of the statutes relating to partnerships.

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

Signed by all members of the Committee except Senators Campbell, Kuroda, Ushijima, Saiki and Yee.

SCRep. 768-80 Consumer Protection and Commerce on H.B. No. 2889-80

The purpose of this bill is to authorize the Director of the Office of Consumer Protection to compensate witnesses for testifying in any court proceeding or case which the Office of Consumer Protection is empowered to investigate.

Present law does not provide this authority to the director. This bill would specifically authorize the director to compensate witnesses who testify on behalf of the Office of Consumer Protection in any investigation or judicial proceeding according to rules adopted by the Office. Your Committee agrees with the intent of the bill to lessen the financial burden of witnesses who take time out from their usual business or profession to testify.

This bill makes an appropriation of \$5,000.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2889-80, 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 except Senators Campbell, Kuroda, Ushijima, Saiki and Yee.

SCRep. 769-80 Health on H.B. No. 2944-80

The purpose of this bill is to amend Section 321-228, Hawaii Revised Statutes, to remove the provision which makes it mandatory for the Department of Health to contract with a county to provide emergency medical services when the county applies to the Department to provide such services.

Your Committee and the Committee on Ways and Means held an informational hearing on a similar Senate bill relating to emergency medical services. Your Committee on Ways and Means recommended that the Department of Health be given the discretion to base its contractual decisions on economic considerations, rather than by statutory mandate. It was felt that a mandatory contractual agreement with the counties by the Department of Health, irrespective of the possible cost-effectiveness of other contractors, would fall within the ambit of Article VIII, Section 5 ("Transfer of Mandated Programs") of the State Constitution mandating the State to pay for emergency medical services rendered by the counties.

Your Committee heard testimony from the City and County of Honolulu opposing the discretionary prerogative of the Department of Health proposed by this bill on the grounds that this will jeopardize the long-term viability of the city's system.

Your Committee finds that the emergency medical services programs within counties presently offering services are neither new programs, nor increases in the existing level of services, and, therefore, a mandatory contractual agreement would not be affected by Article VIII, Section 5 of the State Constitution, nor would it precipitate unnecessary costs to the State.

Your Committee finds that the provision of emergency medical services is a vital component of necessary health services provided to the people of the State. Your Committee

is concerned that the State will maintain adequate emergency medical services throughout the State and retain present levels of existing programs which have been developed and provided by a few counties, prior to the State's assumption of all emergency medical services.

One existing program has been developed and maintained by the City and County of Honolulu. It has been very successful and is recognized nationally as one of the top five. Your Committee finds that such a successful program should be maintained and included in the State's responsibility to its people. All efforts should be taken to insure that the people of this State receive quality emergency medical services.

Testimony was also offered which stated that compensation by the Department of Health to the private agency currently providing emergency medical services is done on a regular and timely basis, while payment for services rendered by the City and County of Honolulu has not been received. Your Committee finds this situation unacceptable.

Your Committee has amended the bill to reflect the above mentioned concerns in the following manner:

- (1) The definition of "State system" in Section 321-22 has been amended to mean "state comprehensive prehospital emergency medical services." The purpose of this amendment is to clarify the parameters of the State's area of responsibility. It is your Committee's intent to avoid the interpretation that hospital emergency care is part of the Department of Health's responsibilities.
- (2) State contracts with the counties for provision of emergency medical services has been amended from permissive to mandatory. Your Committee has included two provisos with the intent to: (a) ensure that the present level of services provided by existing county programs will not be decreased; (b) ensure that the Department of Health shall continue the present level of services with the counties; and (c) clarify that the State is not mandating a new program or an increase in the level of service under an existing program to the counties within the meaning of Article VIII, Section 5 of the State Constitution.
- (3) Section 321-228 has been amended to exclude the transportation of individuals where emergency medical services are not required from emergency medical ambulance service. The purpose of this amendment is to ensure that emergency medical ambulance services will be used for these services only, and not as a "convenience" or "taxi" service in non-emergency situations.
- (4) Sections 321-229 and 321-230 have been amended to allow the Department of Health the opportunity to assume an equal bargaining position for the contracting of emergency medical services personnel, training programs, technical assistance, data collections, and evaluation rather than be statutorily mandated to contract with certain parties.

Presently, the Department of Health must contract with a professional medical organization for the above services, even if other organizations or institutions may have expertise in these areas. The Hawaii Medical Association is the only statewide professional medical association, thereby making this association the only agency the Department of Health is able to contract the necessary services despite the possibilities that other qualified groups may be able to provide more cost-effective services.

Your Committee acknowledges the role that the Hawaii Medical Association has played in the organization and implementation of the state comprehensive emergency medical services system, and does not intend to indicate any deficiencies in the quality of existing services as provided by the association, nor to preclude the Department of Health from contracting with the association for services.

Rather, your Committee feels that the Department of Health should be afforded the option to contract with other organizations or institutions with expertise in providing emergency medical services.

- (5) Section 321-230 has been further amended to give the Department of Health discretion in consulting with the advisory committee in contracting for services described in this section. Your Committee feels that mandatory consultation with the advisory committee for these services is unnecessary since the Department of Health has sufficient expertise to render these decisions.
- (6) A new section has been added to Chapter 321, Part XVIII, Hawaii Revised Statutes, which will require reimbursement of contractual services for emergency medical

services throughout the State to be paid at least quarterly by the Department of Health.

- (7) The effective date has been amended to May 1, 1980 at the request of the Department of Health to enable them to effectuate contracts.

Your Committee on Health is in accord with the intent and purpose of H.B. 2944-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2944-80, 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 Chong, Saiki and Yee.

SCRep. 770-80 Economic Development on H.B. No. 275

The purpose of the bill is to increase the solar tax credit from ten to twenty per cent, and extend the applicable period for such a credit from December 31, 1981 to December 31, 1985.

Your Committee finds that energy conservation is an integral part of the State's overall energy program, and that every practicable effort in that regard should be fully encouraged and supported. One of the critical challenges confronting the State in this decade is reducing the present, extreme dependence on imported petroleum, and that can only be achieved through both energy conservation and the development and use of alternate energy resources.

Your Committee finds that the present tax credit of ten per cent has proven adequate in stimulating the acquisition and use of alternate energy systems, and that raising it to twenty per cent does not appear necessary at this time. However, your Committee does feel that the applicable period for the tax credit should be extended from December 31, 1981 to December 31, 1985 to coincide with the expiration of federal solar tax incentives. Your Committee has amended the bill accordingly.

Your Committee has also amended the bill to permit the tax credit to be claimed for the purchase and placement in use of more than one solar energy device during any taxable year.

Your Committee is in agreement that the definition of "solar energy device" should include wind. Your Committee, however, has amended the definition further to make it conform to that contained in federal statutes and grant applications.

Your Committee heard testimony from the Department of Taxation on a similar bill suggesting that the term "placed in use" be clarified in the statute. Your Committee is in agreement, and has amended the bill accordingly. Further, your Committee notes that Section 235-12(a) currently uses the term "purchased and placed in use" when referring to the year in which the credit may be taken and the term "erected and placed in service" when referring to the time period when the credit is available. In order to avoid confusion, your Commission has amended the bill to use the term "purchased and placed in use" throughout Section 235-12.

Section 3 of the bill has been amended to make the provisions applicable to taxable years beginning after December 31, 1979, rather than December 31, 1978.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 275, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 275, 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 and Saiki.

SCRep. 771-80 Economic Development on H.B. No. 1804-80

The purpose of this bill is to remove words and phrases facially discriminatory on the basis of sex, from section 171-99(e) of the Hawaii Revised Statutes.

Under the present law under certain conditions the State allows persons to obtain limited leasehold or ownership rights in public lands, i.e., lands acquired or reserved by or otherwise classified as belonging to the State. These interests in public lands may pass by descent upon the death of the owner of the interests and section 171-99(e) sets out the twelve priorities for the line of descent.

Your Committee finds that under these priorities the father's rights are preferred over those of the mother and results in discrimination on the basis of sex.

Your Committee asked the opinion of the department of the attorney general's office. We are in accordance in that this bill will not apply to those persons who died prior to the effective date of the bill.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. 1804-80, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carroll and Saiki.

SCRep. 772-80 Economic Development on H.B. No. 2183-80

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

In the hearing of the companion measure to this bill, your Committee heard testimony by the board of land and natural resources that the present penalty provision of a maximum fine of \$500 has not been a deterrent to violation of accepted land use within the conservation district. In the past four years, there have been 126 reported land use violations within forest and water reserve zones, compared to 33 the previous four years. The effect of this bill would be to change the maximum fine of a land use violation from \$500 per violation to \$500 per day.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2183-80 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Carroll and Saiki.

SCRep. 773-80 (Majority) Economic Development on H.B. No. 2574-80

The purpose of this bill is to establish a state land bank program, which the constitution authorizes, by establishing a State land bank commission whose duties would include preparing and updating an inventory of lands which constitute the land bank and submitting an annual report to the governor and the legislature, managing the land bank, and establishing policies and procedures for the acquisition of land suitable for inclusion in the land bank. The commission would be attached to the department of land and natural resources for administrative purposes.

Land banking is a process by which a government authority acquires land for some future use benefiting the public interest. With the rolling tide of pressures of enlarging population, burgeoning urban and rural growth on our limited land resources, the state is faced with the stark realization that the land areas are limited by such factors as a finite number of remaining open space areas and the unique topographical makeup of this island state.

Your Committee believes that the new public land banking amendment to the constitution will be one with profound significance for the future of Hawaii. Aside from controlling future growth and development, a state land banking program can be expected to yield other important benefits such as preservation of prime agricultural lands, preservation of scenic and historic areas, protection of watersheds and water resources, provision of lands for development of park and recreation lands and beach reserves, and maintenance of the remaining open spaces.

Your Committee has amended this bill by deleting the commission and substituting the board of land and natural resources. On page 3, line 18, change "designated" to "acquired" and on page 6, paragraph (3) add "designation and" preceding the word "acquisition" to clarify when land becomes part of the public land bank. On page 4, paragraph one, change "revolving" to "special" because technically it is not a revolving fund, as no money is coming in. On page 7, section 3, the second sentence, relating to a lapsing date of June 30, 1981, is deleted because no lapsing provision is needed with a special fund and your Committee desires an ongoing fund. Add Chapter 91, the Hawaii Administration Procedures Act, for procedure. Finally, your Committee has also made nonsubstantive, technical, and grammatical changes.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2574-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2574-80, 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 Carroll and Saiki.
Senator George did not concur.

SCRep. 774-80 Economic Development on H.B. No. 2729-80

The purpose of this bill is to establish the Hawaii fisheries coordinating council to advise the board of land and natural resources on matters relating to fisheries and to coordinate fisheries activities among the various federal, state, and county agencies and private industry.

Your Committee agrees that if Hawaii is truly serious about development of the fishing industry, a vital factor will be a coordinating mechanism which assures the industry's problems and requirements are fully understood.

Your Committee further agrees there is a need for a body which can advise the department of land and natural resources and coordinate activities among the various county, state and federal agencies and private industry.

Your Committee has amended this bill on page 1, line 8, of the bill referred to your Committee by deleting the phrase ", for administrative purpose only, ". Your Committee felt this phrase would give the fisheries coordinating council more power and independence than intended. The council is to be an advisory body within the department of land and natural resources.

Your Committee has further amended the bill by making other nonsubstantive, technical, and typographical corrections to the bill.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2729-80, H.D. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2729-80, H.D. 3, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carroll and Saiki.

SCRep. 775-80 (Joint) Health and Education on H.B. No. 584

The purpose of this bill is to require the children's mental health services branch to coordinate delivery of such services, to require the Departments of Health and Education to develop a memoranda of agreement relating to services to children, to require the statewide children's mental health services plan to be developed in five-year cycles, and to require a biennial review of progress made toward such plan.

Your Committees held a hearing on the companion Senate measure where the Departments of Education and Health, Mental Health Association in Hawaii, and the National Association of Social Workers, Inc. concurred with the intent of the bill to delineate and strengthen the relationship between the Departments of Health and Education.

Your Committees have amended this bill in the following manner:

(1) Further amending Section 321-172 to include private, non-profit agencies under contract with the Department of Health when referring to the mental health services to children and youth that are to be coordinated by the children's mental health services branch. Your Committees added this language with the intent of enhancing statewide coordination of services.

(2) Amending Section 321-174:

(a) By requiring the Departments of Education and Health to develop memoranda of agreement in conjunction with the children's mental health services team. Your Committees felt that taking the responsibility completely away from the children's mental health services team was not in the best interest of coordination and effective implementation of services; and

(b) By stipulating that the Departments of Education and Health in conjunction with the children's mental health services team shall develop a memoranda of agreement which shall share responsibilities for the affected agencies and shall include but not be limited to the provisions outlined in this section. This agreement creates minimum criteria/standards for the memoranda of agreement.

(3) Retaining paragraphs (7) and (8) (renumbered (6) and (7)) under Section 321-175. The renumbered paragraph (6) has been amended to call for an "implementation

plan", rather than a "full description of the state plan" since it is your Committees' intent to require specific goals and objectives, as well as a plan of action. Your Committees feel these two subsections are not duplications of any other provisions in this section, and therefore should be retained.

(4) Amending Section 321-176 by requiring that the current and prevailing memoranda of agreement be submitted during the biennial review of progress; and

(5) By making minor technical spelling, language and style changes which have no substantive effect.

Your Committees chose not to statutorily determine which agency (Department of Health or Education) shall be responsible for the five provisions outlined in Section 321-174, Hawaii Revised Statutes, since your Committees expect that this judgement will be duly agreed upon by the respective agencies through the memoranda of agreement in a timely and professional manner.

Your Committees on Health and Education are in accord with the intent and purpose of H.B. No. 584, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. 584, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Chong, Cobb, Anderson and Saiki.

SCRep. 776-80 Health on H.B. No. 2175-80

The purpose of this bill is to eliminate those aspects of the current law on naming of children which were declared unconstitutional in 1979.

Your Committee held a hearing on a companion Senate bill where the Department of Health testimony stated that the current law dictates that in a legitimate (or legitimated) birth, the child must take the father's name as a family name. According to the judgement in the case of Burch, et al. vs. Ject, et. al. (1979), U.S. District Court Judge Samuel King ruled that the parents of a child have a constitutional right to give the child any surname they choose. The Hawaii State Commission on the Status of Women further pointed out that existing provisions still discriminate on the basis of sex in authorizing conferral of a family name on children born in wedlock.

This bill (1) rewords Sections 574-2 and 338-21 to enable the parent(s) to give their child any name they desire; (2) repeals Section 574-3 regarding names of illegitimate children; (3) amends Sections 574-4 and 338-21 to name the children in accordance with the current law, if the parent(s) have not made a determination within three months of the birth; and (4) adds a third subsection to 574-5 to include name changes upon legitimation, previously authorized.

It is the intent of your Committee to bring Hawaii's law in the area of names into full compliance with current court decisions.

Your Committee also received testimony revealing that the current laws do not allow the identity of the natural parents to be included on the supplementary birth certificate issued upon adoption. The current practice, based on the legislative policy of confidentiality embodied in Chapter 578, Hawaii Revised Statutes, is to issue a supplemental birth certificate wherein the adoptive parent is designated as the natural parent of the adopted individual.

Testimony further cited that an exception to the current practice governing birth certificates for adopted individuals should be recognized where special facts warrant it. This includes the situation where all necessary parties (natural parents, adopted child, adoptive parents) have all consented to the requested form of birth certificate.

Your Committee recognizes that the welfare and interests of the adopted child would best be served by accurate and truthful disclosure of personal information in legal documents. Your Committee has amended Sections 338-20 and 578-14 accordingly.

Your Committee has further amended the bill by adding the words "or her" after reference to a person desiring to change "his" name in Section 574-5.

Your Committee on Health is in accord with the intent and purpose of H.B. 2175-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2175-80, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Chong, Saiki and Yee.

SCRep. 777-80 Public Utilities on H.B. No. 1947-80

The purpose of this bill is to have the Public Utilities Commission encourage the use of non-fossil fuel generated electricity in the exercise of its authority to determine just and reasonable rates for non-fossil fuel generated electricity supplied to the public utility by a producer.

Your Committee is in agreement with the basic intent of this bill; however, your Committee feels that the bill does not go far enough to encourage the use of non-fossil fuel generated electricity. Therefore, your Committee has amended the bill in the following manner:

1) Section 269-27.2(a) currently directs the Public Utilities Commission to investigate and determine the extent to which electricity from non-fossil fuel sources is available to public utilities which supply electricity to the public. The amendment in this bill adds language to additionally require the Commission to determine to what extent such power can be made available to public utilities.

2) Subsection (b) of Section 269-27.2 presently authorizes the Commission, at its discretion, to direct electric companies to purchase non-fossil fuel generated electricity. The amendment proposed in the bill mandates the Commission, if it determines that such action would be in the public interest, to direct electric companies to purchase such power. The subsection is further amended by setting forth factors for the Commission to consider in determining the public interest.

3) Subsection (c) of Section 269-27.2 in its present form provides that if a public utility which supplies electricity to the public and a producer of electricity from non-fossil fuel (cogenerator) cannot reach agreement on the rate at which the public utility will purchase the electricity, the Commission will prescribe the rate. The proposed amendment specifies that the rate prescribed by the Commission shall not be less than the fuel cost the public utility would incur in generating the same amount of electricity in the public utilities most efficient fossil fuel base load unit operating at optimum efficiency. The amendment further mandates the Commission to provide for higher rates for specified quantities of electricity committed for delivery by the cogenerator. Additionally, the amendment to this subsection adds to the criteria to be used by the Commission in determining the rate to be paid by public utilities to producers of electricity from non-fossil fuels.

Your Committee has also made non-substantive amendments for reasons of clarity and drafting style.

This bill, as amended, is intended to encourage the immediate production by the private sector of electricity generated from non-fossil fuel sources. While nearly one hundred percent electrical energy self-sufficiency will be technically possible in the near future, there are other barriers to alternate energy development, including high capital risks and the presence of only the utility as the sole buyer for the product, electricity. Under the present law, if the public utility and the supplier fail to reach an agreement on the rate, the rate is prescribed by the Public Utilities Commission. This broad provision can lead to open-ended arbitration before the Commission, as exemplified in the Waialua case which has been before the Commission for twelve months. This type of lengthy rate-setting procedure does not serve the interest of the supplier, the public utility, or the public-at-large. In fact, this procedure tends to encourage the treatment of power supplied by a cogenerator as surplus power, or secondary to the operations of the supplier and, therefore, discourages capitalization and other commercialization efforts to produce "new" power.

This bill gives specific guidelines to the Commission in setting a rate should a supplier and a public utility fail to reach an agreement. By doing so, the bill encourages commercialization of "new" power by cogenerators and small power producers by insuring a minimum rate at which the energy is to be provided to the public utility. This information is indispensable to the decision-making process of a high-capital venture such as alternate energy development.

The question has arisen whether there would be a conflict between the rate provisions of this bill and the Public Utilities Regulatory Policies Act (PURPA) and the regulations now promulgated by the Federal Energy Regulatory Commission (FERC) to implement PURPA. Your Committee notes that although PURPA was mandated by law to take effect in November of 1978, FERC has just completed promulgating regulations. Further, the regulations allow one year for local regulatory authorities, e.g., the Public Utilities Commission, to comply with specific rules. Your Committee contends there would be a significant period of little or no guidance to the Commission which would detrimentally

affect or delay the delivery of electricity generated from non-fossil fuel resources to the public utility, even if FERC acted promptly and the Commission complied immediately. Your Committee notes that at least one of the utilities has requested an exemption under PURPA from FERC. Further, there are at least six cases involving cogenerators scheduled to be negotiated in the next twelve months.

Time delays notwithstanding, your Committee finds no conflicting provisions between this bill and PURPA regulations as noted in "Order No. 69: Final Rule Regarding the Implementation of Section 210 of the Public Utility Regulatory Policies Act of 1978" (Docket No. RM79-55).

Your Committee finds this bill to be an appropriate statement of the public policy of this State in mandating that money now paid for imported fuel be paid instead to locally generated energy.

Your Committee on Public Utilities is in accord with the intent and purpose of H.B. No. 1947-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1947-80, H.D. 2, S.D. 1, and be referred to the Committee on Economic Development.

Signed by all members of the Committee except Senator Anderson.

SCRep. 778-80 Agriculture on H.B. No. 2496-80

The purpose of this bill is to require the Board of Land and Natural Resources to submit information regarding all proposed agricultural park projects to the Legislature. The bill also requires that the expenditures of funds for land acquisition or construction of an agricultural park project shall be subject to legislative approval through adoption of a concurrent resolution.

Your Committee has amended the bill to delete the requirement that expenditures be approved by concurrent resolution. Under present budgetary processes, the Legislature approves the project through the appropriation of funds. To require another approval prior to expenditure may be unconstitutional, would result in time delays, and be contrary to the public interest.

Your Committee has also amended the bill by making language changes which have no substantive effect.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2496-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2496-80, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 779-80 Housing and Hawaiian Homes on H.B. No. 273

The purpose of this bill is to amend Section 235-55.7, Hawaii Revised Statutes, to increase the renter's income tax credit from \$20 to \$30 per qualified exemption.

This increased tax credit would be welcomed by renters, although it still would not offset the proportionately higher tax burden on renters as compared to homeowners. Renters receive no home exemption under the property tax and may also have the four percent general excise tax levied on their rent payments.

Your Committee has been informed that in a 1979 study of returns based on 1978 income, the Department of Taxation found that 36,869 taxpayers claimed this credit, or 63 percent of the eligible renters. The number of exemptions may drop as rising income levels reduce the number of taxpayers eligible for this credit.

Your Committee would like to request that the Committee on Ways and Means review the existing language contained in this subsection to ensure that existing language regarding elderly taxpayers is in consonance with the intent and implementation of the tax credit. As an example, if a taxpayer over sixty-five years of age who has three dependents is qualified for the credit, he will be eligible to receive \$100 (4 qualified exemptions plus one additional exemption, multiplied by \$20). It is your Committee's understanding that the foregoing example is consistent with the intent of the law, and is being implemented as such. The existing statutory language, however, is drafted in a somewhat ambiguous manner, and could be interpreted to allow the taxpayer described above to be eligible to receive \$160 (4 qualified exemptions multiplied by \$20, multiplied by 2).

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 273, 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. 780-80 Housing and Hawaiian Homes on H.B. No. 1782-80

The purpose of this bill is to provide exemptions from the State usury law for certain types of loans made by qualified lenders, for a five year period.

This bill amends Chapter 478, Hawaii Revised Statutes. Section 478-8 has been retitled as an exemption section, and incorporates the provisions presently contained in Sections 478-8, 478-9, and 478-10. Sections 478-9 and 478-10 have been repealed. In addition, new provisions have been added as 478-8(e) and (f).

Subsection (e) is the principal substantive amendment to the law. It provides an exemption from the usury ceiling for written contracts executed during the five year period beginning March 31, 1980, secured by an interest in real property and made for the primary purpose of acquisition, construction, improvement, financing or refinancing of real property. Lenders exempted from the ceiling are only those licensed under State or Federal law, or those approved by the United States Department of Housing and Urban Development; this amendment was prompted by concerns that unreasonably high interest rates charged by unlicensed and unregulated lenders should not be permitted. The subsection allows interest rates contracted for during the exempt period to be legally applicable after the expiration of the five year period.

Subsection (f) exempts livestock credit corporations authorized by Federal law to borrow directly from the Federal Intermediate Credit Bank for their lending activities. This exemption concerns a very restricted class of loans secured by chattel mortgages on cattle and other livestock. The exemption establishes parity between this group and similar lenders who are exempted pursuant to federal law.

Your Committee received testimony in favor of the bill from the Building Industry Association of Hawaii, the Hawaii League of Savings Associations, the Department of Regulatory Agencies, Honolulu Mortgage Co., the Construction Industry Legislative Organization, the Hawaii Association of Realtors, the Chamber of Commerce of Hawaii, the Hawaii Bankers Association, the Hawaii Consumer Finance Association, the Land Use Research Foundation of Hawaii, the Development Association of Hawaii, and Cades, Schutte, Fleming and Wright. Many of the persons testifying proposed various suggestions for amending the bill.

Your Committee also received testimony from the Hawaii Permanente Medical Group requesting that loans made to participants under a qualified pension or profit sharing plan be exempted from State usury laws.

Your Committee received testimony in opposition to this measure from the Legal Aid Society, the Hawaii Building and Construction Trades Council (AFL-CIO), ILWU Local 142, the Hawaii State Teachers Association, and the Kokua Council for Senior Citizens. Those testifying indicated that this bill would add to inflation by increasing the amount of interest owned on borrowed money, and additionally, would price the majority of Hawaii's population out of homeownership.

The cost of credit nationwide is primarily determined by three factors: (1) the competitive demand for funds; (2) the rate of inflation and of anticipated inflation; and (3) the degree of availability of investment funds. Due to successive years of large federal deficits, the U.S. Treasury has had to pay ever-increasing rates for the smaller supply of funds available for investment, because the higher costs occasioned by inflation have reduced the supply of savings available for investment and for expanded growth. In 1970, Americans saved 8.3% of their disposable income; by 1974 this had dropped to 7.5%, but by year-end 1979 the savings rate had dropped to 3.3% of disposable income. This is the all-time lowest level of savings in 29 years.

Because of the unique nature of Hawaii's economic and population base, the amount of deposits collected locally by financial institutions is too small to generate the capital necessary to finance our economic growth. Thus, most of the mortgage loans made by Hawaii's lenders are sold in the secondary market to mainland financial institutions and investors to make additional funds available to finance homes and Hawaii's economic growth.

Recently, because of federal policy, the cost of money has increased drastically. During the past several months, the prevailing interest rates on real estate mortgage

loans has increased and has exceeded the 12% annual limitation under Hawaii's usury law. Inasmuch as these mainland financial institutions and investors are primarily concerned with yield and safety, if they can get a better yield by purchasing mortgages in a state without a usury limitation below the current market rate, they will not consider allocating funds to purchase mortgages in the thirteen states such as Hawaii where yields will be limited by a usury ceiling below the market rate.

Thus, Hawaii lenders were virtually unable to secure funds until December, 1979, when Congress, recognizing the adverse effect usury limitations have on housing, determined that a crisis situation existed, and passed emergency legislation to preempt, until March 31, 1980, state usury ceilings to assist states where new commitments to make mortgage loans had almost fully ceased. However, since the federal Act requires that to be exempt from usury ceilings, funds must be disbursed or fully committed to the borrower by the March 31 deadline, testimony before your Committee has indicated that there has been only a trickle of new residential mortgage money flowing into Hawaii.

Thus, your Committee finds that this bill is necessary to ensure that mortgage funds will be available to finance real property transactions in Hawaii.

Your Committee respectfully requests your Committee on Consumer Protection to continue study of this bill and the related issues as addressed in Senate Standing Committee Report No. 238-80 on the Senate companion bill.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 1782-80, H.D. 2, 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. 781-80 Housing and Hawaiian Homes on H.B. No. 1852-80

The purpose of this bill is to amend Section 10-11, Hawaii Revised Statutes, which presently fixes the salary of the administrator of the Office of Hawaiian Affairs at \$30,000. This bill would set the administrator's annual salary at an amount equal to that provided for department heads and executive officers, as established in Section 26-52(3), Hawaii Revised Statutes. This would allow the administrator's salary to be pegged to other administrators with commensurate responsibility, and would provide that the administrator's future annual salary increases be in accordance with those other officers.

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

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 1852-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1852-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 782-80 Housing and Hawaiian Homes on H.B. No. 1853-80

The purpose of this bill is to amend Section 10-3, Hawaii Revised Statutes, which presently requires the Legislature to determine the pro rata portion of the funds derived from the public trust, which portion will be used for the betterment of the conditions of native Hawaiians.

The Admissions Act requires that the revenues derived from the public trust be disposed for five purposes: (1) for the support of the public schools and other public educational institutions; (2) for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended; (3) for the development of farm and home ownership on as widespread a basis as possible; (4) for the making of public improvements; and (5) for the provision of lands for public use. Section 10-3 has been amended to provide a fixed percentage of funds rather than a pro rata portion from the public land trust for use for the purpose of betterment of the conditions of native Hawaiians.

Your Committee has further amended the bill to require that the moneys be made available to the Office of Hawaiian Affairs on a quarterly basis to ensure a regular cash flow.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 1853-80, as amended herein, and recommends that it pass Second Reading

in the form attached hereto as H.B. No. 1853-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 783-80 Housing and Hawaiian Homes on H.B. No. 1969-80

The purposes of this bill are to: 1) amend Section 502-12, Hawaii Revised Statutes, to require the Bureau of Conveyances to include an index of agreements of sale in their master index; 2) amend the Land Reform Act, Section 516, Hawaii Revised Statutes, to include two- as well as one-family dwellings; and 3) amend the Land Reform Act to permit persons purchasing property subject to an agreement of sale to purchase the leasehold interest which the State has condemned, to allow those persons to purchase the fee simple title to their houselots.

The Bureau of Conveyances currently maintains a master index of all deeds and instruments left for record. An index for agreements of sale would expedite title searches for persons currently converting from leasehold to fee simple ownership of their residential property.

The present Land Reform Act does not allow owners of duplexes to purchase the fee simple title to their residential property, and this bill would give these residents the same opportunity to convert that owners of single-family dwellings currently have. This bill would also allow the purchasers under agreements of sale to purchase the fee simple title to their property. The Land Reform Act does not clearly specify whether persons with agreements of sale can or cannot purchase fee interest in their property; thus this ambiguity in the present law has prevented persons under agreements of sale from executing conversion contracts. Agreements of sale are often entered into when it is difficult to obtain conventional financing in a tight money market and when first-time homebuyers cannot afford large down payments.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 1969-80, 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.

SCRep. 784-80 Housing and Hawaiian Homes on H.B. No. 2029-80

The purposes of this bill are to: increase from \$125,000,000 to \$225,000,000 the principal amount of revenue bonds which may be issued by the Hawaii Housing Authority for housing loan programs as established by Act 50, Session Laws of Hawaii 1979; and to amend the Hula Mae loan program eligibility requirements.

The eligibility requirements have been amended to:

- (1) Permit persons who own land in Hawaii to be eligible for a Hula Mae loan for financing the construction of a dwelling unit on that land;
- (2) Allow persons with less than one-half interest in real property which is not their principal place of residence and is within the State of Hawaii to participate in the Hula Mae loan program;
- (3) Increase the statutory income limits from 115 to 125 percent of median family income in the State of Hawaii as most recently published by the United States Department of Health, Education and Welfare; and
- (4) Prohibit persons with any interest in residential property outside of Hawaii from participating in the Hula Mae loan program.

Your Committee believes that the shortage of affordable, long-term conventional home mortgage financing will cause a greater number of potential home buyers to seek other sources of long-term financing, and the increase from \$125 million to \$225 million in revenue bonds authorized will permit a greater number of qualified persons to participate in this program.

Due to the rising sales prices of homes and the relatively small increase of incomes experienced in Hawaii, your Committee finds that the Hula Mae "target group" is contracting while Hawaii's housing "gap group" is expanding in absolute numbers. The expansion of the "gap group" is perhaps best reflected by Multiple Listing Service figures which show a 30 percent increase in home sale prices between 1979 and 1980, while median family income increased only 3.5 percent during the same period. The net result has

been that more Hawaii residents are being priced out of the housing market thus increasing the number of families in the "gap group." However, the program is prevented from expanding to assist these families because of the current statutory income limits and restrictive income adjustment factors currently employed by the Hawaii Housing Authority. Accordingly, your Committee believes that present statutory income limits should be adjusted upwards, from 115 to 125 percent of the median family income in the State as most recently published by the United States Department of Health, Education and Welfare (HEW). This statutory amendment is necessary to ensure that the program's benefits, below-market-interest-rate mortgage loans, are provided to as many eligible Hawaii residents as possible.

Your Committee also recognizes that the Hula Mae loan program eligibility requirements should be expanded so that a greater number of Hawaii residents can participate in this program. Presently, a person who owns vacant, residential land is ineligible to qualify for a Hula Mae loan to finance the construction of a dwelling unit on that land. Your Committee feels that ownership of such land should not prohibit an applicant from qualifying for a Hula Mae loan. Your Committee also believes that an applicant with less than one-half interest in real property which is not his place of residence and located in Hawaii should also be eligible to participate in the Hula Mae program.

Presently, persons who do not own residential property in Hawaii, but have an interest in residential property outside of Hawaii, are eligible for a Hula Mae loan. The intent of the Hula Mae program was to assist qualified Hawaii residents not owning property within or outside of Hawaii; accordingly, the law has been amended to expressly prohibit persons with any interest in residential property outside of Hawaii from participating in the Hula Mae program.

Your Committee's review of the Authority's current assets rules indicates that the asset limits established for program eligibility are too restrictive to apply to families in the "gap group." However, your Committee feels it inappropriate to recommend specific asset limitations by dollar amounts in the statutes as the effectiveness of such limits would not stand the "test of time" or be responsive to a changing market.

Your Committee recommends that the Authority review its rules to ensure that its determination and calculation of "adjusted household income" (as delineated in Section 356-206) is appropriate. An increase in family income limits through various adjustment factors, such as the adjustment factors similar to those currently utilized under the Federal Housing Administration's Section 235 program, may be desirable. Amendments to the Authority's rules should be made as expeditiously as possible if the Authority determines that its present application of "adjusted household income" is too restrictive.

Another concern your Committee has reviewed is the current method the Authority has established, by rule, in determining the asset limits for "eligible borrowers." The Hula Mae Program provides the Authority with a great deal of latitude in determining asset limits; however, your Committee feels that the restrictiveness of the current asset limitations are a detriment to the intent of the program.

Your Committee recommends that the Authority review its rules to ensure that the asset limitations do not affect the viability of the program, and amend these rules as expeditiously as possible should the agency find that the asset limits are too restrictive. Should an amendment to the program rules be undertaken, a more equitable method of determining assets might be to:

- (1) Exclude the amount to be used for the down payment of the home to be purchased from asset calculations.
- (2) Limit "assets" to "liquid assets" or items readily convertible to cash such as bonds and securities. Thus, illiquid retirement benefits, vacation credits, and unvested pension amounts should not be included.
- (3) Calculate assets only on the equity portion of all personal property, and not on the "fair market value" or "replacement value" of such personal property without deducting liabilities such as loans on such property. Under present rules, for example, if the applicant has purchased an \$8,000 car financed by a 100% loan, the Authority interprets this car to be an \$8,000 asset, notwithstanding the \$8,000 liability. This is incongruous in that the payments on the applicant's auto loan will be viewed as a long-term liability by the lending institution, and deducted from the applicant's income for the purposes of loan qualification.

Your Committee has amended the bill to allow a person who is a vendee under an agreement of sale to qualify for a loan under the Hula Mae program to satisfy the agreement of sale. Additionally, your Committee has amended the bill to allow a downpayment

to be made in an amount up to twenty-five percent (rather than twenty percent) of the fair market value of the property. Your Committee feels that these two amendments will also assist in alleviating some of the program implementation problems due to rising property values and market interest costs.

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

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2029-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2029-80, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 785-80 Housing and Hawaiian Homes on H.B. No. 2067-80

The purposes of this bill are to amend Section 209 of the Hawaiian Homes Commission Act, 1920, as amended, in three ways:

- (1) By relaxing the blood requirement from 50 per cent to 25 per cent for surviving spouses and children designated as successors;
- (2) By eliminating the requirement that a lessee must name a designated successor at the time a homestead award is made;
- (3) By restricting the Department of Hawaiian Home Lands, when a deceased lessee has failed to designate a successor upon his death, to designate only the surviving spouse or children as successors.

The intent of the Hawaiian Homes Commission Act is to return the native Hawaiian to the land in order that the Hawaiian race may be perpetuated. However, under present conditions where many homesteader spouses and children do not meet the minimum blood requirement, the strength which comes from continuity in the land is absent. Lowering the blood requirement will provide a sense of family security based on the knowledge that succeeding generations will be able to benefit from the labor and efforts of the present lessee. This assurance may act as a motivation toward responsible stewardship of the land.

The second purpose enumerated allows the designation of an heir at the time a homestead award is made, or at a later date. The designation of an heir is a decision of such magnitude, comparable to the drawing of a will, that it should not be made a condition of receiving a homestead award.

The third purpose enumerated places restrictions on the Department's selection of a successor. This would alleviate the difficult task with which the Hawaiian Homes Commission is confronted of selecting a successor from a long list of potential heirs ranging from surviving spouses of deceased children to nephews and nieces.

Your Committee has made numerous amendments for style and clarity.

As expressed in the justification sheet submitted with this Administration bill, the intent of the bill is also to allow the Department to appoint a spouse (or the lessee's children where there is no spouse) who is at least one-quarter Hawaiian, where the lessee did not designate a successor. Inasmuch as the original draft of the bill required such a person appointed by the Department to be qualified as a lessee (one-half Hawaiian), the bill has been amended accordingly.

Although your Committee concurs with the intent and purpose of this bill, it finds that there is a need for additional information concerning the conflicting needs of non-native Hawaiian successors and those on the Hawaiian Home Lands waiting list. Your Committee respectfully requests that the Committee on Ways and Means look more closely at the concerns and desires of applicants on the waiting list when it considers this bill.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2067-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2067-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 786-80 Housing and Hawaiian Homes on H.B. No. 2072-80

The purposes of this bill are to: (1) provide general excise tax exemptions to persons and entities who contribute toward the development, construction, or occupancy of government assisted housing; and (2) to provide that for a non-profit organization qualified under Federal housing law, the income earned and obligations issued which are declared to be exempt from Federal taxation shall also be exempt from all State taxation.

More specifically, the bill:

(1) Expands 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) Expands the applicability of qualifying housing (from only multi-unit property) to single family, multiple-unit, or mixed use residential property;

(3) Expands the program applicability (from three specifically cited outdated Federal programs) to all State and Federal government assistance programs, to obviate continual statutory amendment in accommodating future Federal public law and Federal rule amendments;

(4) Provides 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); and

(5) Amends 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.

These provisions 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 deleted Section 1 of the bill which would delete exemptions to specific projects developed under prior Federal programs inasmuch as this may require persons managing those projects to reapply with the Hawaii Housing Authority for certification.

Your Committee has made an amendment to the bill to clarify that rental management income for a project certified by the Authority is qualified for the exemption.

Your Committee has added two new sections to the bill which would allow a residential housing project owned and operated by a non-profit or limited distribution mortgagor who obtains mortgage insurance or guarantee under a Federal program (rather than only under one of three specifically cited outdated programs) to be exempt from real property taxes. These amendments were included in a similar bill introduced during the last legislative session, and the Hawaii Housing Authority asked your Committee to add these exemptions into the bill.

Your Committee has made other amendments for reasons of style and clarity without altering the intent of the bill.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2072-80, H.D. 1, as amended herein, and recommends that it pass Second

Reading in the form attached hereto as H.B. No. 2072-80, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 787-80 Housing and Hawaiian Homes on H.B. No. 2344-80

The purpose of this bill is to amend section 213 of the Hawaiian Homes Commission Act of 1920 by increasing the ceiling from \$5,000,000 to \$6,000,000 on aggregate deposits into the Hawaiian Home Education Fund commencing after June 30, 1980, by providing that the entire thirty per cent of the revenue derived from the State cane leases and water licenses be deposited into the Hawaiian Home Education Fund.

The intent of this amendment is to provide for the continuation of education projects under the Act 4 program of the Hawaiian Homes Act, inasmuch as the present ceiling has curtailed deposits into the Education Fund and will curtail disbursements when the Fund is depleted.

Your Committee would like to clarify that the designation in Article XII, Section 1 of the State Constitution of "thirty per cent of the State receipts derived from the leasing of cultivated sugar cane lands... or from water licenses" transferred to the Native Hawaiian Rehabilitation Fund, is distinct and separate from the thirty per cent amount referred to in this bill.

Your Committee has amended the bill to make technical and style amendments.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2344-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2344-80, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 788-80 Housing and Hawaiian Homes on H.B. No. 2660-80

The purpose of this bill is to clarify existing laws relating to sale of dwelling units purchased from the Hawaii Housing Authority.

Under Section 359G-8, Hawaii Revised Statutes, the Hawaii Housing Authority, in setting prices for dwelling units for sale to eligible purchasers, need not include certain costs, including any amounts subsidized by the Authority, to increase the selling price of the units. However, the statutory scheme of Chapter 359G provides for recovery of these costs when a purchaser subsequently sells the unit.

Currently, Section 359G-9.2, Hawaii Revised Statutes, among other things, authorizes the Authority to recover subsidies when a unit is sold more than ten years after the date of purchase from the Authority. However, the section is unclear as to the responsibility of the Authority to recover certain costs which may have been expended and chargeable to the unit but may not be included within the word "subsidy." This bill clarifies Section 359G-9.2 by authorizing the Authority to recover, in addition to any "subsidy," any other "amount" expended by the Authority and chargeable to the unit being sold by good accounting practice.

It is the understanding of your Committee that the words "subsidy" and "amount" should be distinguished in the following manner. A "subsidy" includes known costs up to the time of sale of the unit which are readily identifiable in a subsidy agreement executed between the purchaser and the Authority. The word "amount" includes any other costs expended by the Authority after the establishment of the sales price but incurred during the development, sale or intervening years after sale through warranty costs or other unforeseen circumstances.

This bill also clarifies that sums excluded from the sales price under the general excise tax exemption allowed in Section 359G-15, Hawaii Revised Statutes, shall not be considered a subsidy.

Your Committee has amended the bill for reasons of style and clarity without affecting the substance of the measure.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2660-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2660-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 789-80 Housing and Hawaiian Homes on H.B. No. 2723-80

The purpose of this bill is to expand the housing loan program established under Act 50, SLH 1979, to provide that funds authorized may be used to finance construction and permanent mortgages secured by rental housing projects, and to authorize the issuance of revenue bonds for that purpose. Presently, funds received from bonds issued under the program can only be used to finance permanent mortgages of homes sold to qualified purchasers.

During the last three legislative sessions, your Committee has received numerous testimonies from the general public, interested business groups, and professional organizations regarding the lack of rental housing units, indicating that Hawaii's rental housing market is in the midst of a crisis due to a rapidly depleting rental housing inventory as evidenced by low vacancy rates, the lack of new construction of rental housing, and increasing rental rates.

More than half of Hawaii's families rent their homes, and the maintenance of a substantial rental inventory is critical to the well-being of the total housing market. Between 1970 and 1979, the rental housing stock had shrunk relative to the total housing inventory and growth in the number of households.

This depletion of Hawaii's rental housing inventory through conversions and lack of production is occurring at a time when the State is experiencing the lowest vacancy rate within this decade. The vacancy rate for Honolulu owner-occupied and rental units fell to 1.1 percent in April, 1979, is much lower now, and is considered to effectively constitute a no-vacancy situation.

The primary reason for the decrease in rental housing stock is directly related to the lack of new construction, and on a more limited basis, the conversion of rental housing to condominium ownership. The underlying determinant of limited rental housing production is the uneconomic aspect of holding a large equity position in residential rental units. Decreasing tax benefits, increasing land costs, increasing construction costs, increasing financing costs, increasing labor costs, demand for constructing units for sale, and better investments for large investors, hamper the production of rental units.

This bill proposes to provide incentives to the private sector to produce rental housing without massive government intervention and subsidies. The program will pave the critical financing path between industry producers and existing government rental housing assistance programs, thereby enabling both the private sector developers and the State to effectively utilize available government assisted housing programs.

The bill provides the Authority with the power to make interim and permanent mortgage loans to "eligible developers" who wish to develop rental housing. It is your Committee's intent that a public housing agency, such as the Authority, may also qualify as an "eligible developer." This will ensure that such rental projects will be constructed if the private sector is not willing to participate in this program.

The bill also transfers the revenue bond appropriation of \$22.5 million made under Act 138, SLH 1978, which was authorized for rental housing projects to this proposed program and increases the authorization by \$100 million, for a total of \$122.5 million. This appropriation of \$122.5 million will be added to the current authorization of \$125 million for the Hula Mae permanent financing for housing sales program, but will be kept separate for the specific purpose of interim and permanent rental housing financing. The amendments to the statutes propose to utilize the basic provisions of the Hula Mae program as they apply to the "mechanical" aspects of the revenue bonds.

Your Committee has made numerous amendments to the bill to correct technical defects and improve style. The bulk of the seemingly substantive amendments made by your Committee arise as a result of disagreement over the conceptualization of the House amendments to existing law. The Act as it now exists categorizes the housing loan programs according to the type of contractual agreement the Authority has entered into with financial institutions. For example, where the Authority contracts with lenders to provide funding for future loans to be made, this program is called the advance commitments program. Where the Authority contracts with lenders to make eligible loans in the Authority's name, the program is called the eligible loan funding program. Where the Authority contracts to purchase eligible loans made by lenders in the lenders' names, which loans will then be assigned to the Authority, the program is called the purchase of existing loans program. Thus, the designation of the new function as a

"rental housing program," which more aptly describes the type of property financed, is inconsistent with the other program nomenclature which operationally describes the functional aspects of the Authority's contractual agreements with financial institutions. Your Committee has deleted the sections on "Rules; rental housing program" and "Rental housing program," and substituted various amendments to existing sections to incorporate reference to "eligible project loans" into the applicable existing programs and the Authority's rules.

Your Committee has deleted the requirement that the qualified developer not prepay the eligible project loan during the first twenty years, and has required the Authority to adopt rules regarding prepayment. Your Committee has deleted the requirement that the Authority be given the first option to purchase the project during the first twenty years at a price determined by a specified formula. Your Committee feels that these two amendments will provide more flexibility in implementation than would the statutory requirements. Based on experiences of the Act 105 development program and the testimony of numerous private sector representatives, the buyback seems to cause more problems than it purports to solve. The statutory buyback language under the Act 105 program, for example, has the dubious distinction of having been amended six times in the nine years after its initiation.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2723-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2723-80, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 790-80 Housing and Hawaiian Homes on H.B. No. 3052-80

The purpose of this bill is to prevent the lapsing of the unexpended and unencumbered portion of \$3.5 million in general funds appropriated to the Hawaii Housing Authority by the legislature in 1947, and to provide that moneys may be appropriated out of the general fund to the Hawaii Housing Authority by way of advancement at any time.

The 1978 Constitutional Convention proposed an amendment to the State Constitution, which was ratified by the general electorate on November 7, 1978, relating to the lapsing of appropriations. The amendment, codified as Article VII, section 11 of the State Constitution, requires that all appropriations from the general fund be for a specified period of time not to exceed three years. The constitutional amendment also provides that any appropriation from the general fund effective on the date of the amendment's ratification, which is unencumbered on June 30, 1980, shall lapse. Thus, this bill is necessary to prevent such a lapse.

Your Committee has made style and technical changes to the bill.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 3052-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3052-80, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 791-80 Transportation on H.B. No. 2339-80

The purpose of this bill is to amend Section 462A-15, Hawaii Revised Statutes, by deleting the provision which requires the pilot association to maintain liability insurance coverage which protects the State against liability arising out of or caused by any acts or omissions of an association pilot.

The Hawaii Pilots Association and the Board of Pilot Commissioners testified that prior to enactment of the state pilotage law the pilots were employees of the State, and the State was obligated to carry liability insurance to protect itself against liability arising out of or caused by any acts or omissions of their pilots.

Chapter 462A, as passed by the 1978 Legislature, contained a provision permitting the pilots to form an association in order to provide the necessary arrangements and facilities for the rendering of pilotage services, and requiring such association to maintain liability insurance coverage to protect the State. The amount of insurance was to be specified by the Board of Pilot Commissioners.

In the April, 1979 case of State of Washington v. M/V Dilkara, 470 F.Supp. 437 (W.D. Wash. 1979), the DILKARA, with a compulsory, state-licensed pilot on board, struck

a bridge owned and operated by the State of Washington. The state sued DILKARA to recover damages to the bridge. As a defense, DILKARA asserted that the state was precluded from recovering because it was vicariously liable for damage caused by the pilot's negligence. DILKARA contended that because of the state's extensive regulation and control over the pilot, any negligence of the pilot should be imputed to the state on a respondeat superior basis. The Washington statute involved in this case is much like the Hawaii Revised Statutes. Under the Washington statute, a board of pilotage commissioners is vested with broad powers to regulate the activities of pilots, including the power to issue pilot licenses, to promulgate rules promoting efficient and competent pilotage services, and to adopt procedures for enforcing the board's rules and the provisions of the statute itself.

The Court dismissed DILKARA's defense, holding that the licensing and regulation of the pilots "does not create an employer/employee or principal/agent relationship between the state and the pilots," *Id.* at 439, and concluding, "more than mere licensing and regulation is required for liability." *Id.* The court noted that the compulsory pilot law does not change a pilot's long-established status as an independent contractor, hired by the vessels.

The Attorney General of the State of Hawaii, in an opinion dated May 27, 1977 held that if the pilots are no longer State employees, the State of Hawaii would not be liable for any damages caused by a pilot except where the proximate cause of the injury was (1) the conformance by the pilot to standards set by the Board of Pilot Commissioners which are clearly inadequate; or (2) the negligent licensing of an unqualified individual by the Board as a certified pilot. In the history of state pilotage in the United States, there has been no case found where a state or municipality has been successfully sued for the actions of a state licensed pilot.

Because the potential liability of the State is relatively insignificant, your Committee agrees that the liability insurance requirement should be eliminated.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2339-80 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. 792-80 Transportation on H.B. No. 2541-80

The purpose of this bill is to establish an agency called Van Go Hawaii to develop, promote, manage and operate a van pool program within the State.

The Department of Transportation submitted testimony stating that the van pool project is a partially federally funded demonstration project to encourage state highway agencies to expend funds apportioned under Sections 104(b)(1) and (b) of Title 32, United States Code, to increase the use of car pools in urban areas.

The Department of Transportation had been expending these funds in coordination with the Department of Planning and Economic Development (State Energy Office) and the City by establishing the VAN GO HAWAII program. A consultant firm was employed to develop and administer the program.

In early 1979, State Resolution No. 437 directed the Department of Transportation to assume management of the program on July 20, 1979. Pursuant to the Resolution, the Department of Transportation took control of the program, but in doing so has encountered some problems. This bill will alleviate those problems by creating an agency which will have the power and authority to efficiently and effectively promote van pool and car pool programs.

Your Committee has amended the bill by:

- (1) Inserting "car pool" in conjunction with "van pool" wherever pertinent. The purpose of this amendment is to include car pools with van pools as programs under Van Go Hawaii.
- (2) Adding a representative from business and a representative from labor to the board. The purpose of this amendment is to involve potential participants of the program.
- (3) Deleting the requirement that a resident of a county in which a van pool or car pool program is initiated become a member of the board for that program. The

requirement was confusing as it implies that a separate board would be responsible for each county while the balance of the law states that one board will direct the activities of Van Go Hawaii.

- (4) Requiring Van Go Hawaii to submit annual reports of its financial status with supporting statements and an operating budget for the following fiscal year.
- (5) Providing that moneys in the Van Go Hawaii revolving fund may be deposited in a federally insured financial institution.
- (6) Making changes for the purposes of style and clarity which have no substantive effect.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2541-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2541-80, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 793-80 Transportation on H.B. No. 2680-80

The purpose of this bill is to permit reasonable access to motor vehicle registration records contained in the statewide traffic records system while maintaining safeguards to ensure that any information obtained will not be used to invade the privacy of individuals.

Currently, Section 286-17, Hawaii Revised Statutes, allows access to the information contained in the statewide traffic records system under limited circumstances. This bill expands access to motor vehicle registration information to those persons who request such information and who will not use names and addresses of individuals for commercial solicitation.

Under the provisions of this bill, the Director of Transportation will release information in the statewide traffic records system to (1) any person, in response to a request from a state governmental agency, and (2) to a person determined by the director to have legitimate reasons to obtain the information for verification of vehicle ownership or for research or statistical purposes.

Any person in the second category must file an affidavit with the Director of Transportation stating the reasons for obtaining the information and assuring the director that the information will only be used for the reason stated.

If a person who qualifies to receive information requests the entire file of the motor vehicle registration information contained in the statewide traffic records system, the Director will furnish the information only upon entering into an agreement to provide the information for a fee as set by the Director. In order to safeguard the privacy of individuals, it is mandatory that the person requesting the information agree to protect the individual identities contained in the information and not use the names for compiling a mailing list for commercial purposes. A surety bond in the amount of \$25,000 must be posted to assure compliance with the agreement.

Your Committee agrees that the provisions of this bill allow reasonable access to information contained in the statewide traffic records system while protecting the privacy rights of individuals whose names appear in the records.

Your Committee has amended the bill by deleting the proposed Subsection (d) to Section 286-172. The subsection, which gives the director of Transportation the authority to adopt rules, is unnecessary because Section 286-171 confers rulemaking powers to the Director.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2680-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2680-80, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 794-80 Transportation on H.B. No. 2897-80

The purpose of this bill is to broaden the power of the Department of Transportation over harbors and maritime operations by allowing the Department of Transportation

to enter into a lease of a special facility and to issue special facility revenue bonds.

The bill authorizes the Department of Transportation to engage in and issue up to \$20,000,000 in revenue bonds for special facilities projects relating to water transportation. Section 2 is patterned after Sections 261-51 through 261-55 of the Hawaii Revised Statutes, which authorize the Department of Transportation to engage in and to issue \$25,000,000 in revenue bonds for special facility projects related to aeronautics.

Your Committee notes that although the special facility revenue bonds are to be issued in the name of the Department, neither the credit of the State nor that of the Department can or will be pledged to repay the bonds; nor will the special facility itself serve as security for that purpose. Instead, the bonds are to be repaid from, and secured solely by the rentals at the special facility which will be assessed and collected by the Department in an amount sufficient to retire the bonds and to pay certain administrative costs.

Your Committee finds that the Federal Maritime Commission regulatory controls allow those engaged in providing domestic off-shore ocean transportation services to pass through to the rate payers or users certain costs, including cost of providing facilities essential to maintain that service. These costs are in turn, reflected in the prices the public pays for consumer goods. Thus, if the cost of includable capital financing can be kept as low as possible, the benefits will accrue to the ratepayer and ultimately to the general public. Furthermore, your Committee finds that the high cost of conventional borrowing by persons engaged in private domestic maritime activity, subject to Federal Maritime Commission regulatory controls, will have a substantial adverse impact upon the ratepayer and the general public. Your Committee therefore, finds that the public interest will be greatly serviced by authorizing the issuance of tax exempt special facility revenue bonds at lower interest rates that are attractive to investors in the bond market.

Your Committee has further amended the bill by adding a findings and purpose clause in a new Section I to reflect the foregoing concerns and findings.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2897-80, H.D. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2897-80, H.D. 3, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 795-80 Transportation on H.B. No. 3045-80

The purpose of this bill is to amend Section 286-52, Hawaii Revised Statutes, to allow the present ownership certificate of vehicles to be redesigned.

Your Committee finds from testimony presented by the Department of Finance of the City and County of Honolulu that the present format of the ownership certificate has proved confusing to automobile owners and transferees. This bill would delete the requirement of printing on the reverse side of the certificate and allow more flexibility in the redesigning of a more easily understood form.

Your Committee has amended various provisions of Section 286-52 to include the feminine gender.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 3045-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3045-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 796-80 Public Utilities on H.B. No. 182

The purpose of this bill is to require a party in cases before the Public Utilities Commission to file a motion for reconsideration or rehearing with the Commission as a prerequisite to taking an appeal to the Supreme Court, and to provide an automatic twenty day maximum stay of the PUC's order pending disposition of the motion.

Your Committee finds that there are at present no provisions in the public utility laws which allow affected parties to file a motion for reconsideration or rehearing with the PUC.

Your Committee is aware that one of the major problems in public utility cases involves the length of time between the initiation of regulatory action and the final determination of the proceeding, and that this bill would extend the delay and increase the "regulatory lag" inherent in administrative proceedings. However, your Committee finds that requiring such motions to be filed and determined prior to appeal functions to exhaust all administrative remedies and allows all parties, should an appeal be taken, to narrow the issues.

Your Committee also finds that under existing state and federal law the rules with respect to motions for reconsideration as prerequisite to judicial review vary widely. Section 10(c) of the Federal Administrative Procedures Act provides that "agency action...shall be final for the purposes of (judicial review) whether or not there has been presented or determined any application for...any form of reconsideration." Thus the Federal Administrative Procedures Act abolished the necessity of seeking a rehearing as a condition of appeal, in most cases before federal administrative agencies.

In cases where the motion for reconsideration is a mere formality, courts have held that such a petition for rehearing is not a condition for judicial review. The controlling test of whether the motion for reconsideration is a prerequisite to an appeal to the courts turns upon whether such a motion would result in the agency's giving to the question at issue further considered attention. 2 F. Cooper, State Administrative Law 583. This requirement of "reconsideration before appeal" and the administrative problems engendered is illustrated by the Illinois experience. Under some specific statutes relating to designated agencies, the Illinois code provides that a petition for rehearing must be filed before an appeal to the courts will lie. If the agency grants the petition for rehearing and thereafter enters another final order favoring the original petitioner, agencies have required that a second petition for rehearing - asking for a reconsideration of the second final order - must be filed before the case can be taken to the courts. The Illinois experience may be what can be expected in Hawaii under this bill. If the petitioning party is successful, and the Commission enters a second final order, the statute, literally read, requires that the party in whose favor the original decision was rendered will now have to file for a reconsideration of the second final order before an appeal can be lodged with a reviewing court.

A second problem with the bill as drafted is the added costs to public interest parties who seek a reversal of the PUC order. These public interest parties often represent unique interests in the community, bring forward differing perspectives, and advance the public interest. In recent years the role of public interest litigants has become vital to the regulatory process. The role of Life of the Land in litigation with Hawaiian Electric Company to eliminate advertising and promotional expenses as legitimate operating expenses in In re Hawaiian Electric Co. [535 P.2d 1102 (1974)] and in In re Hawaii Electric Co., [60. Hawa. 627 (1979)] where an individual intervenor appealed the PUC decision to the State Supreme Court and successfully challenged Hawaii Electric's long-standing declining block rate design, are illustrative of these current developments. To add additional procedural obstacles to these "public interest intervenors" would discourage their participation, add to their expenses and costs and deprive the community of needed input.

Because of these problems, the bill has been amended to provide for the increased role of public interest intervenors by providing for the compensation and reimbursement of reasonable legal fees and costs whenever such parties contribute, in whole or in part, to the decision and rule-making function of the Commission.

The problem of public participation in administrative proceedings has been a focus of scholarly and judicial scrutiny for over a decade. The Senate Committee on Governmental Affairs on public participation in regulatory agency proceedings, recommended in 1977 that regulatory agencies should implement their own programs to compensate eligible participants in agency proceedings.

The Federal Trade Commission in 1975, in 15 U.S.C. Sec. 57a (h)(1) was authorized to provide reasonable attorneys fees, expert witness fees and other costs of participating in rule-making proceedings to any person who had an interest which would not otherwise be adequately represented in such proceeding and who was unable to effectively participate due to a lack of financial resources.

Two recent cases indicate the scope of this "compensated public interest" participation. In Mountain States Telephone and Telegraph v. Public Utilities Commission (Colo. 1978), the Colorado Public Utilities Commission directed Mountain Bell to pay attorneys fees, expert witness fees and costs incurred by the Colorado Municipal League, acting as a protestant-intervenor. Mountain Bell argued that the Commission had no authority to make such an award. In sustaining the award to Municipal League, the Colorado

Supreme Court noted that the power to authorize the award of attorneys fees and other legal costs before administrative bodies was generally a legislative prerogative. Under the Colorado Constitution and statutory law, as in Hawaii, legislative authority over public utility matters had been delegated to the utility commission. Moreover, in making this delegation the legislature had not put any restriction on the PUC's authority to award fees and costs. Since the Commission had allowed Mountain Bell to charge off attorneys fees and legal costs as proper operating expenses, in rate proceedings, the Municipal League's fees and costs should also be accorded the same treatment. The Municipal League's fees and costs were for the purposes of protesting higher telephone rates on behalf of the consumers and should be compensated on that basis. The Commission found that the Municipal League's testimony, evidence, and exhibits materially assisted the agency in fulfilling its statutory duty to determine the just and reasonable rates. Since the Municipal League's fees and costs were reasonable and rendered a benefit to the general public, Mountain Bell was ordered to compensate the protestant-intervenor.

A similar case came before the California Supreme Court in Consumers Lobby Against Monopolies v. Public Utilities Commission, 602 P.2d 1268 (Calif. 1979), where the Court authorized payment in quasi-judicial reparation proceedings, but not in a quasi-legislative rate-making docket. In a concurring opinion by Justice Frank Newman, the dissenters observed that a rate-making proceeding requiring taking and weighing evidence, determination of fact based upon the considerations of the evidence and the making of an order supported by the record had a quality resembling that of a judicial proceeding. Justice Newman would have allowed compensation to parties and intervenors in rate-making proceedings where they are based on the "record", with hearings, testimony and witnesses. The appropriate test for the award of fees and costs in an administrative proceeding is whether or not the agency's actions are "trial-type" proceedings - where attorneys fees are appropriate because the attorneys perform the kind of adversary tasks that are characteristic of a lawyer's function.

As to the appropriate standard of compensation for the public interest intervenors or parties, most commentators look to the "contribution" made, in whole or in part, to the decision or rule. Ernest Gellhorn, in a report on public participation for the Administrative Conference of the United States [Ernest Gellhorn, Public Participation in Administrative Proceedings, 81 Yale Law Journal 359, 396-397 (1972)] notes that intervention in administrative hearings could be encouraged by allowing public interest groups to recover attorneys' fees and legal costs when their participation made a contribution to the decision. Professor Gellhorn observed that in the regulated or public utilities area, where the number of parties is limited, fees and costs could be assessed without much difficulty by shifting them to the opposing parties.

Roger Cramton, chairman of the Administrative Conference, also came out for public compensation for public interest parties and intervenors [R. Cramton, "The Why, Where and How of Broadened Public Participation in the Administrative Process" 60 Georgetown Law Journal 525, 544-545 (1972)]. As to the determination of the fees and costs, Dean Cramton noted:

"(d)evices to reimburse public interest groups for litigation expenses could be put into operation either before or after the actual intervention and participation. An advance determination would have to be made on the basis of relatively limited material relating to the group and the position it sought to assert. An after-the-fact determination, although requiring the public interest group or its lawyers to take the risk that reimbursement would not be available, would have the advantage of being made on the basis of the contribution that the intervening group made to the case. The judgment could not be solely on the basis of whether the intervention was totally successful in its aims, since an effective illumination of matters that resulted in an improved agency decision should be viewed as a positive contribution."

The recently enacted Public Utilities Regulatory Policies Act of 1978, Section 122, provides for compensation for public interest intervenors in utility rate making proceedings. Section 122 of PURPA provides that if no effective alternative is available for representation and the consumer substantially contributed to the approval, in whole or in part, to the position advocated by the intervenor, the intervenor shall be compensated. PURPA provides that the utility shall be liable for the compensation to such consumer for reasonable attorney's fees, expert witness fees and other reasonable costs incurred in the preparation and advocacy of the intervenor's position, including fees and costs associated with judicial review of the action.

This bill, as amended, would provide for the compensation of public interest intervenors and parties, who make a substantial contribution to the proceeding, whether their position or contentions are accepted or not by the Commission. This bill provides for the active intervention by diverse groups in the rate making, rule-making and certification

process, with reasonable compensation. As a check upon the expenses attributed to these proceedings, the Commission can limit the groups at the intervenor stage and at the compensation phase. Given these checks, the Commission, the utility and the Public Utilities Division can insure against the baseless and inflated claims for compensation by public interest intervenors and control the exact number of party-intervenors eligible for "compensated participation." This funding of diverse interests by the utility, will assure that the full spectrum of interests are adequately represented and their position intelligently advocated before the Commission. The utility is protected against a multitude of party-intervenors by the Commission's authority to limit party-participants and the stipulation that "compensation" will be provided only upon a showing of "substantial contribution" to the Commission decision, rule or certification process.

Your Committee has also amended the bill to make the procedures for reconsideration, rehearing and appeal applicable to proceedings under the Hawaii Water Carrier Law.

Your Committee on Public Utilities is in accord with the intent and purpose of H.B. No. 182, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 182, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Yamasaki, Anderson and Soares.

SCRep. 797-80 Transportation on H.B. No. 2834-80

The purpose of this bill is to exempt antique motor vehicles from the state annual motor vehicle weight tax.

Currently, Section 249-2, Hawaii Revised Statutes, provides for a reduced annual tax on antique motor vehicles. This is accomplished by taxing such vehicle at a flat \$10.00 per year rate rather than by weight.

Your Committee finds that antique motor vehicles contribute to the desirable goal of preservation of our past and are often utilized for the benefit of the public through displays, use in parades, and other exhibitions. Your Committee further finds that antique motor vehicles, by definition, are operated on the highways primarily for the purpose of historical exhibition or other similar purposes, and such limited use of the highways does not justify imposing a highway use tax against such vehicles.

Your Committee received testimony from the Commission on the Handicapped on the problem of the mobility handicapped who must drive heavier vehicles in order to meet their unique transportation needs. Under the existing law many disabled veterans are allowed an exemption from this tax. Your Committee recognizes the need to extend this exemption to include all mobility handicapped persons and has amended the bill accordingly.

Your Committee has also amended this bill by making non-substantive changes for reasons of style and clarity.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2834-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2834-80, 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 Cobb and Soares.

SCRep. 798-80 Ecology, Environment and Recreation on H.B. No. 2328-80

The purpose of this bill is to assist the Department of Transportation in the administration and operation of State Boat Harbors by providing statutory authority for determining the true owner of a vessel in order for the owner to obtain a Mooring Permit. The bill further provides a definition of an "owner" of a vessel.

Presently, the Department of Transportation requires documentary proof of ownership of a vessel prior to issuing a Permanent Mooring Permit for mooring in a State small boat harbor. The person seeking a permit or renewal of a permit is required to produce either a valid State registration certificate or U.S. Coast Guard documentation certificate on which the owners are listed. In the event of doubt concerning ownership of a vessel, the Department will also examine any financing statements relating to the vessel that are on file with the Conveyances Division, Department of Land and Natural Resources, as authorized by the Uniform Commercial Code (Section 490: 9-407, H.R.S.). The

problem exists in that the filing of such financing statements is purely voluntary on the part of financing parties and institutions. Further, the Department does not have access to financing statements for vessels financed out of state, or any means to detect a full-payment purchase of a vessel.

Your Committee has amended the second paragraph in Sec. 226-21.1(d) by adding a lessee to the definition of "owner." It was noted that the preceding paragraph stated that "...the department shall not renew or issue a permit to a person who is not the owner or lessee of the vessel..." while making no provision to include a lessee in the second paragraph. An additional change was made in the second paragraph, line 14, by amending the term "security party" to "secured party" which is the correct legal term.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 2328-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2328-80, H.D. 2, S.D. 1, and be referred to the Committee on Transportation.

Signed by all members of the Committee.

SCRep. 799-80 Ecology, Environment and Recreation on H.B. No. 800

The purpose of this bill is to establish a Washington Place Oversight Commission for the preservation and restoration of the home of Hawaii's last monarch, Queen Liliuokalani.

The bill provides for a commission to consist of the spouse of the governor, all spouses of former governors of Hawaii, living in Hawaii and willing to serve as members, and six additional members to be appointed and subject to removal by the governor. The duties of the Commission will include reviewing and approving plans for major renovations, assisting in the development of plans for restoration and preservation, assisting in programs to enable the people of Hawaii to enjoy Washington Place, inquiring into possible acquisition of artifacts and personal belongings of Queen Liliuokalani, and to coordinate with private agencies for the preservation and restoration programs.

Your Committee finds that Washington Place is rich in historical heritage and its preservation will enhance the history of Hawaii.

The bill has been amended to allow the appropriation of \$5,000 to be expended for fiscal year 1980-1981, by changing the lapsing date to June 30, 1981 from June 30, 1980.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 800, H.D. 2, as amended herein and recommends that it pass Second Reading in the form attached hereto as H.B. No. 800, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 800-80 Ecology, Environment and Recreation on H.B. No. 2454-80

The purpose of this bill is to permit the counties to enter into "put or pay" type contracts in connection with waste disposal facilities financed by pollution control bonds.

The counties must be able to enter into put or pay contracts in order to assure bond investors that the facilities will be able to operate successfully. A put or pay contract will insure the facility operator of a continuous and a minimum supply of solid waste so that the facilities can operate at a profit. If the counties do not supply the minimum amount, they would be obligated to pay an agreed upon amount or make agreed upon adjustments.

Your Committee has amended the bill to correct a typographical error.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 2454-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2454-80, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 801-80 Ecology, Environment and Recreation on H.B. No. 1977-80

The purpose of this bill is to bring State water pollution control laws into conformity with Federal regulations regarding the discharge of effluents from pretreatment plants into State waters, or publicly owned treatment works, or sewerage systems.

Presently, the discharge of effluents from pretreatment plants and the monitoring of such plants are not regulated by the State. Your Committee finds that regulation of both is necessary for the abatement of problems relating to toxic industrial pollutants.

Your Committee has made non-substantive grammatical changes to conform with the Ramseyer format.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 1977-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1977-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 802-80 Human Resources on H.B. No. 366

The purpose of this bill is to amend the Civil Service Law to remove the restriction that limits "hiring above the minimum step" to only classes SR-18 and above.

Your Committee finds that current statutes mandate that all initial appointments be made at the first step of a salary range. However, when the recruitment of an employee in classes SR-18 and above is not practicable at the normal first step, the director of personnel services may, after appropriate notice and advertising, recruit at any step within the applicable salary range at which a suitable employee can be recruited.

This current provision on hiring above the minimum step was intended to provide the director with the flexibility to respond to specific recruitment needs of the State in relation to the changing labor market conditions. Your Committee feels, however, that this flexibility is limited by the exclusion of classes below SR-18. According to the department, there is some difficulty in recruiting in such classes as Respiratory Technician II (SR-16), X-Ray Technician (SR-16), Physical Therapist II (SR-15), Occupational Therapist II (SR-15), and Licensed Practical Nurse I (SR-10).

Your Committee feels that the removal of the current limitation will allow the director the full flexibility to respond to special recruitment needs.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 366 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 Anderson and Soares.

SCRep. 803-80 Human Resources on H.B. No. 850

The purpose of this bill is to amend the workers' compensation law to provide benefit rate adjustments for employees who have been totally and continuously disabled for over two years, whenever the statutory maximum weekly compensation rate is changed by law.

Your Committee finds that under the current statute, workers' compensation benefit payments to the totally disabled are based on the statutory maximum amount allowed at the time that the injury occurred. Therefore, there currently are workers who were totally disabled years ago who are receiving benefits as low as \$75, \$50, \$35, and even \$17.50 and less.

The present law contains no provision for increases in total disability benefits although the maximum weekly compensation rate is adjusted upward from time to time by statutory amendment. The maximum weekly benefit rate is presently \$215 per week.

Your Committee further finds that totally disabled workers who were injured years ago, and who receive workers' compensation based on the benefit rates effective at the time of injury, are in need of financial assistance in light of today's economic situation. This bill assists beneficiaries who have, until now, attempted to subsist on benefits that are well below the maximum weekly benefit level which is allowed for totally disabling injuries today.

After due consideration, your Committee has substantially amended this bill as follows:

(1) Benefit adjustments under this bill, as amended, are limited to those employees who were awarded compensation before February 1, 1980 for permanent and total disability (PTD), and shall not apply to those employees who were awarded compensation for temporary and total disability (TTD). Your Committee feels that PTD cases are more critically in need of benefit adjustments because these individuals will never return to gainful employment.

(2) The language of the benefit adjustment formulas has been refined and clarified without effecting a net change in the amount of supplemental benefits to be paid under this Act.

(3) A distinction has been made between those benefit adjustments to be paid by the commercially- and the self-insured employers, and those benefit adjustments to be paid by the State directly from the special compensation fund. This distinction is necessary to provide statutory authority for adjustments under two essentially different instances.

(4) Formulas for benefit adjustments to be paid from the special compensation fund to those PTD's who: (1) are receiving benefits at a fifty per cent rate; and (2) are no longer receiving benefits, have been added to this bill, as received. These individuals were not clearly included for benefit adjustments under the language of this bill, as received.

(5) Any reference to "continuous disability for over two years" as a qualification for benefit adjustments is deleted to obviate costly medical reviews of workers' compensation cases under this measure, as amended.

Your Committee further finds that the cost of implementing this measure is approximately \$1,300,000.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 850, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 850, 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 Anderson and Soares.

SCRep. 804-80 Human Resources on H.B. No. 995

The purpose of this bill is to clarify the existing statutes regarding the Employees' Retirement System (ERS). Although many of the amendments are housecleaning items and reflect current administrative practices, there are also substantive changes to the law.

Section 1, (1) clarifies "elective officer" and specifically excludes from this definition persons elected to the Constitutional Convention. As elected officers, Constitutional Convention delegates do not have the option of membership in the ERS and are also excluded from membership under rules adopted by the retirement system because they are employed for three months or less.

Section 2, (2) redefines police officers and firefighters as "general employees" to make them eligible for election to the Board of Trustees. Pursuant to section 88-102, Classification of members, there are four groups of members: general employees of the State, general employees of the counties, teachers, and police officers and firefighters. Under section 88-24, Composition of board, members of the system may elect three board members, two who must be general employees and one who must be a teacher. The amendment removes the statutory barring of police officers and firefighters from running for election to the Board of Trustees.

Section 2, (3) repeals section 88-32 relating to the independent medical review board. A recent Hawaii State Supreme Court decision held that appeals of adverse decisions to the medical board did not provide the member with the type of hearing required by the Administrative Procedure Act. Procedural rules were subsequently adopted by the trustees to conform to the court ruling, thereby making the independent medical review board obsolete.

Section 2, (8) excludes from membership credit the period during which certain civilian field personnel of the Hawaii National Guard became members of the federal retirement system when these personnel so chose on January 1, 1969. This exclusion applies

to those employees who later quit federal employment to return to work for the State or county.

Section 2, (10) provides that the membership of an employee holding more than one position, appointment, or office shall be limited to only one position of the employee's option. However, an employee who has two part-time positions of the same class may base membership on both positions, provided that the two positions do not exceed 100 per cent of the full-time equivalence.

Section 2, (11) clarifies the provision regarding per diem workers. In the early 1950s, the retirement law was amended to provide membership to per diem county road workers who were at that time, excluded because of the part-time nature of their work. The law, however, did not specify that only county road workers were covered, so presently, anyone paid on a per diem basis may claim prior service.

This amendment restricts prior service credit to only those per diem employees who were county road maintenance workers after December 27, 1927.

Section 2, (12) allows only those workers with five or more years of service to purchase their previous service through a lump sum payment. This prohibits any worker who has left service, withdrawn his contributions, and subsequently returned to work, from purchasing all of his previous service and retiring after working only a few months. Under current statutes, a member who does this may, with 10 years of previous service, receive under Option Five, a substantial monthly pension for life. This section will apply only to those who become members after December 31, 1979.

Section 2, (14) of this bill as amended by your Committee, amends section 88-62, Return to service of a former member. Under current statutes, all of his contributions to the retirement system must be returned to him if he has not already withdrawn them. Further, credit for previous service may be regained by purchasing it in accordance with this chapter, and service requirement must be fulfilled in order for the member to qualify for any benefit.

This policy discriminates against those who have left with five or more years of service, did not withdraw their contributions and are, therefore, already vested. This amendment changes the law to cover only those with less than five years of service, and provides that to be eligible for a service retirement after returning to service, an employee must meet the minimum service requirement without including any previous service purchased in accordance with Section 88-59, Acquisition of credit for previous service.

Section 2, (24) as amended, clarifies that any police officer, firefighter, corrections officer or sewer worker can not retire under the "25 and out" provision unless the employee has had 25 years of service in the aforementioned capacities, of which the last five years must also have been in such capacities. Currently, an employee with 25 years of any type of service is eligible to retire without the age reduction penalty as long as the last five years of service were as a police officer, firefighter, corrections officer or sewer worker.

Section 2, (15) of this bill as amended changes section 88-96, Rights of members separated from service, and 88-97, Return to service of a member who has vested benefit status.

Section 88-96 presently provides that the contribution of any separated member shall be returned upon request. Further, no interest shall accrue to a member's account after four years, and if he has five or more years of service, he may attain vested status by filling out proper forms within four years. Vested status makes him eligible for a service retirement at age 55 years with benefits based on the formula existing at the time of his separation from service.

Section 88-96 currently provides that a member who has attained vested status and later returns to active service shall (1) become a member again; (2) fulfill the membership requirement; and (3) have his retirement benefit consist of his vested benefit plus whatever other benefit had accrued as a result of his new period of membership.

The above provisions create an unfair situation when the member finally retires, particularly if his initial vested benefit had been based on a formula which produced an amount less than the current formula in use. In the case of an individual who initially withdraws all of his contributions and later returns to service, all previous service can be purchased and computed under the current formula.

Moreover, the present law does not prohibit a vested person from unvesting by requesting and having his contributions refunded before he returns to service. For this reason,

those with five or more years of service do not officially establish a vested status since this could put them at a disadvantageous position.

Accordingly, the first change in this section provides that anyone with five or more years of service and who left his contributions in the retirement system shall be deemed vested without the necessity of filling out forms for such purpose. The second change provides that if a vested member returns to active service, his benefit will be computed in accordance with the present statutes if he has less than five years of service after his return. However, if he has five or more years of service after his return, then all of his service shall be computed under the existing formula if the benefits so provided are greater than if computed in accordance with the current statutes.

Your Committee has amended this bill by amending section 88-61, Termination of membership, to remove the six month deadline now applicable to elected officers and judges who wish to terminate membership in the retirement system when their allowance reaches seventy-five per cent of their average compensation. Your Committee finds no criteria or justification for the six month deadline. If a qualifying individual fails to exercise the option to retire within six months, additional benefit does not accrue and the excess contribution, after attaining the seventy-five per cent limitation, is refunded to the member. Additionally, your Committee has amended this bill to allow a person still in active service, but who has terminated membership under section 88-61 (c) to be reinstated in the system upon application thereto.

Your Committee has further amended the bill to delete the provision in section 88-73(3) requiring that a member of the legislature shall attain the age of sixty-five before receiving a retirement allowance while continuing to fill his elective position. It is this Committee's contention that the age requirement is discriminatory in nature.

Your Committee has further amended this bill by renumbering each subsection accordingly, and making other technical nonsubstantive changes.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 995, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 995, 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. 805-80 Human Resources on H.B. No. 1610

The purpose of this bill is to amend the Public Employees Health Fund Law to require public employers to pay additional medical plan costs attributable to improved pregnancy benefits mandated by a 1978 amendment to the 1964 Civil Rights Act.

Your Committee finds that the health fund's board of trustees modified its 1979-80 Fiscal Year medical plan benefits in compliance with Public Law 95-555, the Pregnancy Discrimination Act. This federal law requires all private and public employers to amend their employee benefit plans to eliminate discriminatory practices based on pregnancy, childbirth or other related conditions. The health fund's medical plans presently treat these medical conditions as any other illness or injury.

Your Committee further finds that the state attorney general has issued an opinion that public employers have been in violation of Public Law 95-555 since July 1, 1979. State and county public employees are currently paying the entire amount of the federally mandated benefit plan improvements that should otherwise be partially paid for by public employers.

It is the intent of your Committee that of the \$426,000 appropriated by this bill, \$161,000 shall be used to retroactively reimburse public employees for premiums paid in Fiscal Year 1979-80, and \$265,000 shall be for the anticipated pregnancy related benefit improvements for FY 1980-81.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1610, 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. 806-80 (Majority) Human Resources on H.B. No. 1933-80

The purpose of this bill is to establish within the department of labor and industrial relations a career planning and employment counseling program for public high school

students throughout the State.

Your Committee finds that there is currently no adequate, concerted statewide effort to provide guidance and trained counseling to high school students in the area of career development. The education and training that high school students now receive are not tangibly and effectively linked to future careers, and as a result, many of these students are alienated upon leaving high school and upon facing on-the-job situations.

Accordingly, this measure requires the department to provide information and to counsel students on career fields and occupations, current and future job opportunities, educational and skill requirements, earning prospects, post-high school educational and vocational training, and financial aid for such post-high school education and training. This program shall be implemented in concert with the department of education.

Additionally, this bill appropriates \$231,000 for fiscal year 1980-81 for the purposes of this Act. This appropriation shall be used to hire seven career counselors (one per school district), seven assistants, and one program administrator.

Your Committee feels that this career planning and employment counseling program will be an important constituent in current efforts by individual high schools to provide career guidance and occupational preparation.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1933-80, 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 except Senators Anderson and Soares.
Senator Abercrombie did not concur.

SCRep. 807-80 Human Resources on H.B. No. 2141-80

The purpose of this bill is to amend the Pension and Retirement Systems Law to permit surviving spouses of pensioners who were receiving pensions granted by special acts of the legislature to receive the amount of the pension even though the surviving spouse was not married to the pensioner at the time the pension was first granted.

Your Committee finds that under current statutes, a surviving spouse of a pensioner is entitled to receive a portion of or the full amount payable to the pensioner. However, the surviving spouse of a pensioner who was granted a pension by a special act of the legislature is ineligible to receive that pension unless that surviving spouse was married to the pensioner at the time the pension was first granted. Your Committee feels that this measure extends equitable treatment to a surviving spouse of a pensioner who is granted a pension by a special act of the legislature.

Your Committee notes that this bill also removes the sixty per cent limitation on the amount payable to the surviving spouse, and that this bill applies only to those pensioners dying on or after July 1, 1979.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2141-80, 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 except Senator Anderson.

SCRep. 808-80 Human Resources on H.B. No. 2181-80

The purpose of this bill is to reduce the amount of unemployment compensation payable to an individual for any week beginning April 1, 1980 by the amount of pension or retirement benefit the individual is receiving from a government or private pension plan which is reasonably attributable to such week.

Your Committee feels that the enactment of this bill by April 1, 1980 is necessary to conform the Hawaii Employment Security Law to the pension reduction requirement in section 3304(a)(15) of the Federal Unemployment Tax Act (FUTA). Compliance with the federal statutes will ensure federal certification of Hawaii's employment security law for employer tax credit, and federal grant for administration of Hawaii's unemployment insurance program.

Paragraph (3) of this bill provides for the deduction of an individual's entire prorated weekly amount of pension or retirement pay from his weekly benefit amount as required by section 3304(a)(15), FUTA. This bill also provides for different contingencies if

Congress amends section 3304(a)(15), FUTA. Paragraphs (1) and (2) of this bill provide for less stringent deductions if Congress amends the federal law to limit deduction to only those pensions to which a base period employer has contributed, and permits states to take into consideration pension contributions made by employees. Other provisions in this bill provide for repeal or postponement of any pension reduction requirement if Congress repeals or postpones the effective date of section 3304(a)(25), FUTA.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2181-80, 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. 809-80 Human Resources on H.B. No. 2625-80

The purpose of this bill is to provide for an occupational information coordinating committee to develop an occupational information system for planners and to deliver career information to students, trainees and job seekers by the Department of Labor and Industrial Relations.

The Hawaii State Occupational Information Coordinating Committee (HSOICC) has been mandated by federal law and should be provided for in Hawaii law so that its work may be implemented as an ongoing practice. The HSOICC and its advisory committees are made up of a number of agencies and boards. A Hawaii occupational information system is to be developed so that a standard set of demand and supply data and projections can be used for training, education and employment program planning. The HSOICC should manage, and the Department of Labor and Industrial Relations operate, a career information delivery system which uses this data.

Your Committee has amended the bill by deleting Section 2 which makes an appropriation of \$39,000 to establish a Hawaii career information delivery system. Your Committee has also made nonsubstantive technical amendments to the bill.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2625-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2625-80, 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. 810-80 Human Resources on H.B. No. 2634-80

The purpose of this bill is to amend the State's Compensation Law and Collective Bargaining Law to authorize a reduction in the number of steps within the existing salary ranges for white collar and blue collar public employees.

Under the current state Compensation Law, blue collar public employees are subject to a five-step salary structure (each succeeding step in the salary structure signifies a higher compensation rate than the previous step), and white collar public employees are subject to a ten-step salary structure. The number of steps in both instances is fixed by statute and this number can not be changed by negotiation between the public employer and the bargaining unit; these steps were established before the enactment of the State's public employee Collective Bargaining Law.

Upon passage of the Collective Bargaining Law in 1970, salary rates for public employees became negotiable, and salary increases for public employees were effected with each negotiated contract. The costs of these negotiated pay increases in addition to statutory incremental step advancements granted to public employees eventually became an enormous financial burden to the State. Therefore, effective July 1, 1976, the legislature prohibited the granting of step advancements to public employees in any fiscal year that a negotiated increase in the salary schedule of any bargaining unit is effected.

Your Committee finds that the combination of the foregoing influences -- the prohibition of step advancements in any fiscal year that a pay increase is effected, yet pay increases being regularly negotiated and effected under collective bargaining -- has rendered the original concept of incremental step advancement functionally obsolete. Your Committee agrees with the provisions of this Act:

(1) This bill deletes the obsolete pay rates set forth in current salary schedules for blue collar and white collar public employees. These pay rates are obsolete because they were established before enactment of the Collective Bargaining Law, and these

rates have been changed through the negotiation and renegotiation of public employee contracts which supersede statutes.

(2) This measure amends the Compensation Law to reflect the current practice of establishing pay rates for public employees. Under this bill, public employees subject to the Collective Bargaining Law ("included" employees), shall negotiate pay rates; in the case of public employees who are not subject to the Collective Bargaining Law ("excluded" employees), pay rates shall be adjusted under chapter 89C, which permits the chief executives of each civil service jurisdiction to adjust, among other things, the compensation rates of excluded employees.

(3) Notwithstanding item (1) and (2) above, this bill retains the grid characteristics of the salary structure for blue collar and white collar employees by setting parameters for a five-step, fifteen-grade, blue collar salary structure; and a ten-step, thirty-one-range, white collar salary structure, thereby preserving legislative purview of public employee compensation.

(4) With the deletion of obsolete pay rates; the establishment of statutory parameters for setting compensation rates of blue collar and white collar public employees; and the retention of the grid characteristics of the compensation schedules, this bill further provides that a "model conversion plan" to reduce the number of steps in the public employee Compensation Law shall be subject to negotiations between the public employer and the exclusive representatives of the appropriate bargaining units at the latter's option (in the case of excluded employees, the conversion shall be subject to chapter 89C). If the exclusive representative exercises the option to negotiate a model conversion plan, the plan must be agreed to before December 31, 1980. This affords the parties to negotiations sufficient time to conduct the next round of negotiations on wages during 1981. If a model conversion plan is not agreed to by the foregoing date, negotiations shall be based on the existing five-step and ten-step ranges, as the case may be.

Your Committee further finds that any model conversion plan agreed to between the employers and the exclusive representative shall provide, among other things:

- (1) that the objective of the plan is to reduce the number of steps within each salary range to a specific number;
- (2) that the agreement shall not be terminated until the reduction to the specified number of steps is achieved; nor shall the agreement be modified except by written mutual agreement of the parties;
- (3) that effective July 1, 1981, at least one step shall be deleted each fiscal year;
- (4) that all negotiations on wages, to be effective July 1, 1981 and subsequently, shall be based exclusively on the model conversion plan;
- (5) that all employees shall be paid in accordance with the rates negotiated for the steps on the revised salary schedule within their applicable salary ranges;
- (6) that the agreement shall not preclude the payment of a bonus or conversion differential if it is not to be considered as an adjustment to an employee's basic pay rate.

This bill further provides that a conversion in the number of steps for excluded employees shall be subject to chapter 89C (relating to adjustments for excluded employees). After due deliberation, your Committee has amended subsection (e) on page 24 to provide that if a model conversion plan is not developed for included employees in a collective bargaining unit, no conversion plan shall be developed for excluded employees who are under the same compensation plan as the employees included in that collective bargaining unit. Other technical, non-substantive amendments have been made to this bill.

Your Committee notes that this bill also amends other pertinent provisions of the Collective Bargaining Law and Compensation Law to conform to the intent and purpose of this Act.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2634-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as H.B. No. 2634-80, 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. 811-80 Human Resources on H.B. No. 3006-80

The purpose of this bill is to amend various sections of chapter 581, Hawaii Revised Statutes, Office of Children and Youth (OCY), to update several provisions dealing with the operations and functions of the OCY.

The OCY was established under Act 207, SLH 1976. Your Committee finds that since this agency's inception, several of its operational and functional responsibilities have become outdated, unrealistic, or unenforceable. This bill amends the OCY statute as follows:

(1) Section 1 relieves the OCY director from sole responsibility for the coordination of programs and services in behalf of children and youth in the State. Your Committee feels that the OCY has no line authority to solely coordinate statewide programs, and that the agencies which deal with the OCY are best served when the OCY functions as an enabling and facilitating arm of State government to promote the coordination of these programs as provided in this bill.

This section also clarifies the OCY's responsibility to assess the policies and practices of other agencies impacting on children and youth by allowing the director to select which assessments are to be conducted, thereby recognizing OCY's limited resources and consequent inability to assess the activities of all these other agencies.

Your Committee further finds that the OCY has engaged hundreds of selected volunteers for useful and necessary tasks, and this section allows the director to reimburse OCY volunteers for expenses incurred in the conduct of OCY business.

(2) Your Committee further finds that due to the limited resources of the OCY, the research which it conducts can only be done on a selected basis. Section 2 of this bill makes the OCY's conduct of research optional instead of mandatory; the OCY may, however, develop and pilot programs when no other public or private agency is able to develop programs to fill a particular gap or critical need area.

Additionally, this bill brings the monitoring and coordinating function of OCY to a less extensive and more manageable level in recognition of the limited resources of OCY; and redefines and clarifies the OCY relationship to the county jurisdictions in carrying out OCY monitoring and coordinating responsibilities under this chapter.

Your Committee further finds that the OCY has already received \$70,000 in federal funds to maintain a data and information system, and this section enables the OCY to maintain this system as part of its general duties. Additionally, your Committee finds that certain county jurisdictions do not have local "county" committees on children and youth. This section of the bill deletes the word "county" on page 6, line 2. Your Committee feels that the word "local" preceding "county" on the same page and line is sufficient to accomplish this section's intent.

(3) Section 3 of this bill increases the number of OCY advisory council members from nineteen to twenty-one by adding one ex-officio member (the chairperson of the University board of regents) and one regular member (at-large). Your Committee finds that lower education is represented on the Council with the ex-officio membership of the chairperson of the board of education, and the ex-officio membership of a University representative as provided in this bill is desirable to accommodate the concerns of the large segment of youth at the University. The addition of one at-large member is to maintain the proportion of ex-officio members to regular members. Your Committee further finds that currently, four members of the advisory council shall be under the age of twenty-six upon appointment to this body. This bill raises the age limit to thirty to provide the council with increased flexibility whereby young adults under the age of twenty-six at the time of initial appointment to the advisory council may be reappointed to a second four-year term.

(4) Your Committee further finds that current statutes do not provide a procedure for designating a substitute for regular members who are unable to attend meetings of the advisory council. This bill provides such a procedure. Additionally, this section of the bill clarifies the statutory language relative to the designation of a substitute for an ex-officio member who is unable to attend meetings of the advisory council.

(5) Act 187, SLH 1976 transferred the functions of the now defunct youth affairs section of the office of information to the OCY. Among these functions was the direct-duty service of conducting youth internship programs. Your Committee finds that this youth internship function has never been funded, has never been implemented, and is duplicative of other educational training duties conducted by other State agencies. Section 5 of this bill deletes this function from the OCY statute.

After due consideration, your Committee has amended the section of the bill dealing with the reimbursement of volunteers by making a reference to chapter 90, State Policy Concerning the Utilization of Volunteer Services. Your Committee feels that this amendment more fully serves the intent and purpose of this section of the bill.

Your Committee has made other technical, nonsubstantive, clarifying amendments to this bill.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 3006-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3006-80, 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. 812-80 Human Resources on H.B. No. 1313

The purpose of this bill is to amend the current definition of "Adult family boarding home" in the Social Services and Housing Law by increasing the allowable number of adults unrelated to the family who may reside in these homes from "three" to "four".

Your Committee finds that under this bill, the number of facilities available to adults needing services provided by adult family boarding homes is effectively increased. This increase from "three" to "four" residents allows these persons to continue living in the community as an alternative to institutionalization. Also, this increase provides a financial benefit to operators of these homes since overhead costs can be distributed over a greater number of clients. Your Committee further finds that these boarding homes provide vital services to needy persons, at a cost much less than what the State would otherwise pay if these individuals were institutionalized.

Your Committee notes that the increase from "three" to "four" allowable residents under this bill exceeds the legally permissible limits of unrelated individuals living with a family under county zoning codes. Your Committee has been assured by the Department of Social Services and Housing that appropriate measures are being taken to resolve this apparent conflict.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1313, 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. 813-80 (Majority) Human Resources on H.B. No. 1685

The purpose of this bill is to establish a statutory basis for the department of social services and housing (DSSH) to apply liens to real property owned by individuals applying or currently receiving assistance under one of the department's program.

This bill grants the DSSH the statutory power to implement rules and regulations under Chapter 91, Hawaii Revised Statutes, to clearly delineate in which programs and under what conditions the real property liens shall be applied. This bill specifically limits the amount of the obligations which shall be secured by the lien on home property lived in by the assistance household to \$20,000. Any assistance in excess of \$20,000 shall remain unsecured. This provision ameliorates the hardship which is imposed if the debt owned under the lien on home property were to increase, consequently eliminating an individual's equity in his home.

Your Committee finds that financial and administrative advantages exist in applying the liens on real property for both the DSSH and the recipients of public assistance. The department has had difficulties under presently available techniques of establishing the amount and value of real property an individual can possess in order to be eligible for assistance programs. One problem is the valuation of the individual's property, especially when the interest is less than fee simple ownership. A second concern is the potential hardship placed on individuals owning a home, who must liquidate their real property holdings immediately before applying for much needed assistance.

The authorization to impose a lien on real property allows the DSSH to grant assistance to needy individuals while assuring that the State will be repaid through the satisfaction of the lien when the lien obligation is fulfilled. Implementing the lien provision in the department's procedures eliminates some of the current problems. For example, an elderly couple with a home in which they have lived for thirty years shall not be forced

to sell their home, if they need assistance from the department. The department shall take a lien on the property for the amount of assistance granted, provided that the amount secured by the lien on their home property will not exceed \$20,000. At a later time, the couple could eliminate the lien by paying the obligation, or when the real property is sold or transferred the lien could be satisfied.

This bill provides protection for both the interests of the department on behalf of the State and the applicant or recipient. The lien will be recorded in the Bureau of Conveyances or with the Land Court and will remain until the obligation is satisfied. Further, the lien will take priority over subsequent liens on the property, except tax liens. Finally, the department can enforce its lien in the appropriate court.

The applicant or recipient real property owner is not forced to sell his interest immediately upon requesting assistance, but under situations specified by the department, the department may enforce the lien to collect the repayment of the assistance at a later time. If the real property owner dies, exemptions for funeral expenses, expenses of the last sickness, cost of the administration of the estate, and support for the widow and children shall be settled before the lien obligation is satisfied. Furthermore, if a surviving spouse, minor child, or any physically or mentally handicapped child occupies the real property, then the lien shall not be enforced at that time. In the event there exists disagreement between the recipient or applicant and the department over the amount owed on the real property lien, the individual has the right under H.R.S. Sec. 346-12 and Hawaii Public Welfare Manual Section 2500 to a fair hearing.

Your Committee further finds that a number of states have instituted lien provisions on real property in administering their public assistance programs. Legal challenges to the use of liens in state public assistance programs claiming violations of federal laws and constitutional rights have been successful. Furthermore, the United States Supreme Court has upheld states' welfare department implementation of lien provisions.

This bill does not provide for interest to accrue on the amount of public assistance obligation represented by the lien. The computation of interest would be unduly burdensome to administer and would not significantly contribute to the purpose of the real property lien provisions.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1685, 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.
Senator Abercrombie did not concur.

SCRep. 814-80 Human Resources on H.B. No. 1805-80

The purpose of this bill is to amend section 183-3 of the Forest Reservation Law to remove a discriminatory provision relating to the qualifications of the state forester.

Your Committee finds that the present statute can be interpreted to mean that the state forester position is available only to a qualified male. This interpretation can result in the exclusion of qualified women for consideration for the state forester position. This bill deletes the word "man" and substitutes "person" in the statute.

Your Committee further finds that there are women qualified for the state forester position. This bill complies with the State's policy governing equal opportunity and nondiscrimination, and recognizes that there are qualified women for the position. Your Committee further finds that this bill does not detract from the original intent of the law.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1805-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 815-80 Human Resources on H.B. No. 1813-80

The purpose of this bill is to conform Chapter 76, the Civil Service Law to the principle of equal rights. Specifically, this bill provides that marital status shall be another prohibited basis for discrimination. Other changes are substitutions of the masculine gender with a neuter gender.

Your Committee has made the following amendments to this bill:

(1) The term "marital status" is deleted from the policy section of this bill. The Equal Employment Opportunity Commission (EEOC) regulations and the Equal Employment Opportunity Act of 1972 which are applicable to State and county governments do not identify marital status per se as a prohibited basis of discrimination, as marital status is considered to be discrimination based on sex when used against married women. Your Committee finds that current sex discrimination statutes provide sufficient protection to affected individuals.

(2) A new section has been added to the Civil Service Law to (1) clarify the pay and benefit status of an employee who is removed from active duty pending an investigation of charges brought against that employee; and (2) establish procedures for providing a suspended, demoted, or dismissed employee a written statement of reasons for such action.

Your Committee finds that current statutes do not contain provisions for the pay and benefit status of an employee who is removed from active duty pending an investigation of charges brought against that employee. This bill, as amended, allows an appointing authority to place an employee on leave without pay (LWOP) pending the outcome of the investigation. If the employee is absolved of all charges, the employee shall be entitled to full pay and benefits for the period of LWOP; if the employee is suspended, the appointing authority may convert an appropriate portion of the LWOP to a suspension, and the employee shall be entitled to full pay and benefits for that portion of the LWOP which is not converted to a suspension; if the employee is dismissed, the employee shall remain on LWOP until the effective date of dismissal, and shall not be entitled to pay or benefits for the full period of LWOP. Additionally, this bill, as amended, provides for timely written notice of a suspension, demotion, or dismissal action to an affected employee, and requires a copy of the written statement to be filed with the director of personnel services for recordkeeping purposes only. Your Committee finds that the failure to comply with this requirement in the past has been used as grounds for invalidating disciplinary action.

Under this bill, as amended, your Committee intends that investigation of charges against a public employee shall be expedited and appropriate actions taken in an organized and timely manner.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1813-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1813-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 816-80 Human Resources on H.B. No. 1826-80

The purpose of this bill is to replace the word "widows" with the phrase "surviving spouses" as it applies to limitation of other statutes under the Pension and Retirement Systems Law.

Your Committee finds that this bill conforms to recently adopted federal regulations concerning the use of nondiscriminatory terminology.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1826-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 817-80 Human Resources on H.B. No. 1957-80

The purpose of this bill is to clarify the manner in which the director of personnel services shall certify a list of eligibles to fill two or more positions in a class in the civil service system.

Your Committee finds that for many classes of work, e.g., clerk typist, adult corrections officer, para-medical assistant, there is frequently more than one vacancy to be filled. In such instances, the director may receive requests from several appointing authorities or several requests from the same department. The current statute allows the director to certify a list of five or fewer eligibles for each vacant position. Where the score of the fifth eligible is identical to any others, those other eligibles shall also be certified.

However, the statute does not provide for the certification of eligibles where there is more than one vacancy.

Your Committee further finds that to solve the problem of multiple vacancies in one class, the department has promulgated rules to permit the referral of an additional eligible for each additional vacancy; five eligibles for one vacancy, six eligibles for two vacancies, etc. This method is also being used by the Federal government. In this manner, unnecessary delays in filling the vacancies are prevented. This measure amends the pertinent paragraph in section 76-23 on filling vacancies to reflect this practice.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1957-80, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 818-80 Human Resources on H.B. No. 1997-80

The purpose of this bill is to amend Section 26-14, Hawaii Revised Statutes, to correct the statutory discrepancy which exists in the number of members serving on the Board of Social Services.

Your Committee finds that the present statute requires that the Board of Social Services consist of nine members, one from each senatorial district and three at-large members. The addition of two senatorial districts raised the total number of senatorial districts from six to eight, thereby creating a discrepancy in the number of members serving on the Board relative to the statute.

This bill requires that the Board consist of three members selected at-large and one member from each senatorial district, rather than stating a specific number. The wording will obviate further amendments to the statute when reapportionments of legislative districts are made.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1997-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 819-80 Human Resources on H.B. No. 2178-80

The purpose of this bill is to enable the employment security appeals referee to statutorily establish the fee for attorneys or agents who represent unemployment insurance claimants in proceedings before the referee.

Your Committee finds that under current statute, attorneys or agents who represent claimants can charge a maximum fee of ten per cent of the benefits that the claimant receives if the appeal is won. If the appeal before the referee is lost, the attorney or agent can not charge a fee.

Prior to July 1976, the department of labor and industrial relations penalized individuals by imposing a five-week period of disqualification for benefits. This meant that if a claimant's weekly benefit amount was \$100, and if the claimant was disqualified for five weeks, the total penalty was \$500 (5 weeks X \$100 per week). If the claimant appealed this decision and won, the referee approved a maximum fee of \$50 (ten per cent of \$500) for the attorney or agent.

In 1976, amendments were made to the law that now impose an indefinite period of disqualification. Consequently, if a claimant wins his appeal, the attorney or agent's fee is ten per cent of an indefinite amount; this amount determined by the weekly benefit amount times the number of weeks of disqualification. Because the indefinite period of disqualification leads to delay and additional work for the department, the referee's office has used ten per cent of the maximum total benefits payable as the amount allowable for the attorney or agent's fee. For example, if the claimant's weekly benefit amount is \$100 X 26 weeks = \$2,600 maximum total benefits payable X ten per cent = \$260; a maximum fee of \$260 is approved.

This bill establishes the fee statutorily based on the "average benefit duration" which is computed by the department by dividing the number of weeks compensated during a year by the corresponding number of first payments made during the year. For example,

the average benefit duration for 1979 was 13.5 weeks. Under this measure, if a claimant's weekly benefit amount was \$100, a fee of \$135 would be approved ($\$100 \times 13.5 = \1350 X ten per cent = \$135).

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2178-80, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Anderson and Soares.

SCRep. 820-80 Human Resources on H.B. No. 2179-80

The purpose of this bill is to amend the Hawaii Revised Statutes by adding a new chapter entitled "Boiler and Elevator Safety Law" to establish the purpose, scope and authority for the safety inspection program for boilers, pressure vessels, elevators, amusement rides and related equipment.

Your Committee finds that the statutory basis for the existing boiler, elevator and amusement ride inspection program is incorporated in Chapter 396 (Occupational Safety and Health). Jurisdiction is limited to places of employment as defined in 396-3, and consequently does not cover boilers, elevators, amusement rides and other equipment housed in locations not qualifying as places of employment. Your Committee feels that boiler and elevator inspectors should have access to any facility which houses such equipment requiring inspection to insure the public safety. This bill provides for such broad coverage.

Your Committee also finds that Chapter 396-4(b)(7) prohibits advance notice of inspection except under tightly controlled situations. Because boiler and elevator inspections are calendar-based, advance notice is usually required, and often necessary, to coordinate required inspections with elevator maintenance companies and to avoid disruption in public transport systems. Your Committee feels that such legal constraints upon issuing advance notice may unduly hamper the ability to conduct timely and essential inspections. This bill provides for greater flexibility in this area.

Your Committee further finds that present means of enforcing compliance with established codes and standards are inadequate and are limited to withholding operating permits or lodging complaints with occupational safety inspectors against operations without a permit. In cases where the offending facility is not classified as a "place of employment," no enforcement power exists. This bill provides for civil penalties as a means of enforcement. Additionally, this bill repeals certain sections of the Hawaii Occupational Safety and Health Law, Chapter 396, Hawaii Revised Statutes, which are rendered unnecessary or are superseded by the new chapter enacted by this bill.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2197-80, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 821-80 Human Resources on H.B. No. 2362-80

The purpose of this bill is to add a new definition of "domiciliary care" to the statute relating to the department of social services and housing.

Your Committee finds that presently, there is no statutory definition of "domiciliary care". This bill defines the term to mean the provision of twenty-four hour living accommodations and personal care services to adults unable to care for themselves by persons unrelated to the recipient in private residences or larger facilities; additionally, "domiciliary care" is the type of care provided by licensed adult family boarding and care homes. This bill eliminates the confusion as to the nature of care provided under "domiciliary care".

Your Committee notes that another administration bill, H.B. No. 2073-80, H.D. 1, relating to vocational rehabilitation, delete's the term "domiciliary" from the definition of physical restoration services under the vocational rehabilitation section of the law, because services in this section are generally short-term in nature, while domiciliary care has been interpreted to mean long-term care. Your Committee feels that the term and definition of domiciliary care more appropriately belongs in the section relating to the department of social services and housing rather than in the section relating to vocational rehabilitation. This bill, along with H.B. No. 2073-80, H.D. 1, accomplishes this end.

Your Committee has made technical, nonsubstantive amendments to this bill.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2362-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2362-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 822-80 Intergovernmental Relations on H.B. No. 1802-80

The purpose of this bill is to remove discriminating language on the basis of sex from section 121-3, Hawaii Revised Statutes, to conform with the intent of chapter 121.

"Male employees" has been amended to read "employees" and reference to the governor, "him" has been amended to read "the governor." The former would enable participation by women in the militia of the state which by definition places no restrictions on sex, and the latter removes sexism in reference to the governor.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 1802-80 and recommends it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 823-80 Intergovernmental Relations on H.B. No. 1803-80

The purpose of this bill is to remove discriminatory language on the basis of sex from section 122-1, Hawaii Revised Statutes.

Section 122-1, Hawaii Revised Statutes, provides for the formulation of the "Hawaii State Guard" whenever any part of the national guard is in active federal service or when Congress consents thereto.

The present language in section 122-1, Hawaii Revised Statutes, precludes females from becoming members of the Hawaii State Guard unless they are commissioned or assigned officers. Since there is no justifiable rationale for this limitation, the proposed amendments would provide for female participation.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 1803-80, and recommends it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 824-80 Intergovernmental Relations on H.B. No. 2193-80

The purpose of the bill is to provide for the orderly transfer of these functions, powers, and duties, including the transfer of personnel, records, and equipment to the counties.

H.B. No. 2193-80 is the companion to S.B. No. 2219-80 which was heard before your Committee on February 15 and subsequently amended.

S.B. 2219-80 and H.B. 2193-80, in their amended forms, both seek to provide for the orderly transfer of real property tax functions, powers and duties from the State to the counties on July 1, 1981.

Both bills are similar in certain respects. Both allow discretion in the transfer of employees who do not work full time on real property taxation. Both provide that appeals filed before the transfer date shall remain under the jurisdiction of State Boards of Review. Both provide that all delinquent tax collections shall be handled by counties after the transfer date. Both permit appeals to the State court system in disputes.

Your Committee believes that the Senate version, S.B. 2219-80, S.D. 1, contains language that is more appropriate and proper. It makes explicit the authority of counties to place liens on properties with delinquent taxes and to issue subpoenas to enforce real property tax laws. It also provides that counties may continue their current practice of adopting real property tax rates by resolution.

After a public hearing and due deliberations on this bill, your Committee has decided to amend this bill by restoring the provisions of S.B. No. 2219-80, S.D. 1, with the

following exceptions:

1. Section 1 of this bill, which contains the statement of purpose was found to be more comprehensive, was retained.
2. Section 3 of this bill relating to the development of a personnel transfer plan was amended to specify that said plan be developed between the Governor and the Mayors instead of the Governor and the Council Chairman.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 2193-80, H.D. 1, as amended herein, and recommends its passage on Second Reading in the form attached hereto as H.B. No. 2193-80, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 825-80 Intergovernmental Relations on H.B. No. 2458-80

The purpose of this bill is to increase the penalty for the late tranference of ownership of a motor vehicle from \$2.00 to \$10.00.

Under present law the seller is required to notify the Division of Motor Vehicles and Licensing of any sale of a motor vehicle within 10 days or be fined not more than \$100. This notification by the seller does not provide all the required information concerning the new owner which results in numerous problems in the computerized records of the City and County. This bill will encourage early registration of transfer of ownership by the new owner.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 2458-80 and recommends it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 826-80 Intergovernmental Relations on H.B. No. 2589-80

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

This bill provides the liquor commission with guidelines which would require the commission to justify any new liquor license fee or an increase in existing fees with a direct and proportionate increase in costs and expenses directly related to operational and administrative costs incurred by the commission.

Additional provisions include procedure for changes in the liquor license fee structure and notification of such to all licensees affected under this chapter.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 2589-80 and recommends it pass Second Reading and be referred to your Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 827-80 (Majority) Education on H.B. No. 2294-80

The purpose of this bill is to provide for the establishment and maintenance of ten alternative learning centers in the Honolulu and Leeward education districts where alienated students may function at their level of proficiency and may receive opportunities to improve their self-worth and self-image through alternative settings and curricula.

Studies indicate that the overt behavior of alienated students can be a disruptive problem in Hawaii's schools. The alienated student lacks the basic skills and motivation which are necessary to foster self-improvement.

Your Committee on Education believes that the establishment of alternative learning centers will increase student levels of proficiency by providing a supportive environment for learning.

However, your Committee would like to stress that these alternative learning centers are intended to be temporary centers for learning. Their emphasis must be to return

students to regular classrooms as quickly as possible. Accordingly, your Committee has amended Section 4, page 4, line 22 to include "(d) the mainstreaming of their students as quickly as possible."

Your Committee received testimony in favor of this bill from the Department of Education.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2294-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2294-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kuroda, Ajifu and Saiki. Senators Kawasaki and Anderson did not concur.

SCRep. 828-80 Education on H.B. No. 2633-80

The purpose of this bill is to lift the restrictions that only classroom teachers may apply to participate in job sharing and that only five per cent of the eligible staff at a single school may apply to participate.

According to the Department of Education, the removal of these restrictions will allow a Department effort to fill the one hundred job sharing positions provided for in Act 150, SLH 1978.

Your Committee on Education is in accord with the intent and purpose of H.B. 2633-80 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Saiki.

SCRep. 829-80 (Majority) Education on H.B. No. 2672-80

The purpose of this bill is to 1) eliminate the maximum increase of not more than five per cent of the previous year's compensation due to the school bus contractor when school bus contracts are extended, and 2) amend the school bus contracts to require the State to compensate the contractor for fixed cost expenses incurred when a school is temporarily closed due to a collective bargaining dispute or other unexpected disruption.

Your Committee agrees with eliminating the ceiling on the maximum increase allowed. The five per cent maximum increase is restrictive under current economic conditions.

Your Committee believes that just compensation should take into account the full cost rather than ninety per cent of the cost of such operational items as fuel, wages, and equipment replacement. The bill has been amended accordingly.

The bill allows special renegotiation of the fixed costs of an existing contract if a school is closed due to a collective bargaining dispute or other unexpected disruption. However, your Committee has amended the bill to remove the requirement that the bus contractor must request payment, and that the request be made within one year.

Your Committee has also amended the bill to allow the Department of Accounting and General Services to organize an advisory committee as a source of information and exchange regarding the implementation of contracts.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2672-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2672-80, 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 Ajifu, Anderson and Saiki. Senator Kawasaki did not concur.

SCRep. 830-80 (Majority) Education on H.B. No. 3047-80

The purpose of this bill is to empower the Department of Education to charge fees for the use of public school facilities, equipment, and grounds and that all moneys collected be deposited into a special fund and expended by the Department as put forth in the Department's rules and regulations.

The Department is now required to deposit these moneys into the State Treasury as General Fund realizations. This bill will enable the Department to expend the moneys

collected from the users of facilities for: replenishment of janitorial supplies; repairs, maintenance, and replacement of equipment and facilities; and overtime custodial services.

Your Committee on Education has amended page 2, line 10 by adding the following: "as approved by the Board". This amendment has been added to further stress the important role of the Board of Education in determining departmental policy and regulation.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 3047-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3047-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Saiki.
Senators Ajifu and Anderson did not concur.

SCRep. 831-80 (Majority) Education on H.B. No. 2551-80

The purpose of this bill is to implement Section 3, Article X of the Constitution of the State of Hawaii.

This bill adds to the present law by specifying that the Board of Education shall have jurisdiction over the internal organization and management of the public school system through the Superintendent of Education.

At a hearing on this bill, the Board of Education testified it wishes to maintain jurisdiction over the appointment of its secretary. Your Committee has therefore amended the bill by deleting the phrase "and shall serve as secretary of the board" on page 2 line 2, and adding a new sentence to read:

"The board shall appoint its secretary at the first meeting after organization of the board, and at such times as may be required."

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2551-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2551-80, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Kuroda, Ajifu, Anderson and Saiki.
Senator Kawasaki did not concur.

SCRep. 832-80 Education on H.B. No. 2669-80

The purpose of this bill is to allow Department of Education hearings officers to subpoena witnesses in their administrative proceedings under Rule 49 relating to exceptional children who are handicapped, and to clarify other procedures to be followed at such hearings.

The law does not presently authorize Department of Education hearings officers to subpoena witnesses in the administrative proceedings. This bill would authorize the hearings officers to issue subpoenas, and upon application to the Circuit Judge compel attendance of such witnesses.

The Department of Education testified that the Department concurs with this bill.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2669-80, H.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Kuroda, Ajifu, Anderson and Saiki.

SCRep. 833 (Joint) Education and Transportation on H.B. No. 2196-80

The purpose of this bill is to clarify the duties and responsibilities of the various State departments over the student transportation program. The bill also allows enforcement of any rules established to be delegated to the counties or any other state agency responsible for student transportation. This bill gives better delineation of the duties and responsibilities of the Department of Transportation and the Department of Education

with regard to the student transportation program. The Department of Transportation is assigned responsibility for vehicle safety since it is the most appropriate department to handle vehicle safety. The Department of Education is given responsibility for passenger safety instruction.

Your Committees have amended the bill to give the Department of Education overall authority to coordinate the school bus transportation program.

Your Committees on Education and Transportation are in accord with the intent and purpose of H.B. No. 2196-80, H.D. 2, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2196-80, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Yim, Kuroda, Ajifu, Anderson, George and Saiki.

SCRep. 834-80 Higher Education on H.B. No. 2822-80

The purpose of this bill is to establish a revolving fund to handle moneys received from compulsory student activity fees and all other revenues received by chartered student organizations and student activity programs, except those revenues to which other special funds have prior claim.

At the present time moneys received from student activity fees and other revenues are deposited into agency fund accounts maintained by the University. A recent report, conducted in response to questions raised by the University auditors concerning the appropriateness of the agency fund designation suggested that the student funds be classified differently.

The University administration and the Associated Students of the University of Hawaii have testified in favor of establishing a revolving fund for student activity fees and revenues. It is also important that the University of Hawaii have complete jurisdiction over the revolving fund, as well as complete control over its expenditures in accordance with the policies of the Board of Regents.

The Vice President for Administration (of the University of Hawaii) testified that the language contained in the Senate Bill on this subject was preferable to the University.

Your Committee has amended the bill to reflect the position of the Senate as outlined in Senate Bill No. 2794-80, S.D. 2.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 2822-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2822-80, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 835-80 Judiciary on H.B. No. 1758

The purpose of this Act is to transfer certain programs and organizational segments among the existing 17 departments of the executive branch of the state government without altering the basic organizational structures of these departments. This reassignment of programs and organizational segments would:

- (1) comply with the requirements of Article V, Section 6 of the Hawaii State Constitution;
- (2) improve the efficiency and effectiveness of the operations of the executive branch;
- (3) improve the delivery of services and responsiveness to the needs of the people of this State;
- (4) fix responsibility and accountability for successfully carrying out programs, policies and priorities of the administration;
- (5) group programs more homogeneously to more closely relate them with the stated mission of associated departments; and
- (6) enable administratively assigned boards and commissions to have more voice in formulating their policies and priorities.

Since the last major reorganization of the state government in 1959, the State has experienced changes in societal attitudes, values and emphasis, as well as rapid developments in technology. These changes have produced new issues requiring new programs and new approaches for their resolution.

The state government has sought to meet those new issues and to implement new programs and approaches within the framework of its present structure. However, programs which essentially are intended to meet common needs have been dispersed among several agencies, and they have not received the coordination they require. Further, Article V, section 6, of the Hawaii State Constitution mandates that all executive and administrative offices, departments and instrumentalities of the state government and their respective powers and duties shall be grouped within the principal departments according to common purposes and related functions.

This Act therefore provides for the orderly transfer of programs, organizational segments, personnel, funds, records and equipment among the existing 17 departments of the executive branch of the state government. It is not intended to increase, decrease or otherwise change the statutory powers of departments and agencies unless specifically expressed. Where commissions, boards or agencies are transferred for administrative purposes, it is intended that the statutory mission and purpose of the commission, board or agency not be modified or changed in any way by the department or director acting in an administrative role as provided for in section 26-35, Hawaii Revised Statutes.

Your Committee has amended the bill by excluding transfer of the office of the public defender from the office of the governor to the department of budget and finance. Your Committee finds that the office of the public defender has operated efficiently within the office of the governor in the past. Your Committee further finds that the transfer of this legal office to any other department other than the office of the governor would pose a conflict in its purpose and function. Therefore, your Committee feels that the office of the public defender should remain within the office of the governor. Also, your Committee finds that UOH 905 is the most appropriate area within the University of Hawaii for the W.I.C.H.E. program and has specified this program area.

Your Committee has also amended the bill to make technical, non-substantive changes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1758, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1758, H.D. 2, S.D. 2, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 836-80 Judiciary on H.B. No. 1865-80

The purpose of this Act is to provide supplementary judiciary appropriations for the fiscal biennium beginning July 1, 1979, and ending June 30, 1981.

Upon your Committee's review of the proposed supplementary appropriations for judiciary operations, the following action has been taken on the items as indicated:

Court Operations.

1. Circuit Court. (JUD 111)
 - A. First Circuit. No change. All items have been found to be justified.
 - B. Third Circuit. No change. All items have been found to be justified.
2. Family Courts. (JUD 112)
 - A. Third Circuit. No change. All items have been found to be justified.
3. District Courts. (JUD 121)
 - 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. All Circuits. No change. All items have been found to be justified.

Support Services.

1. Administrative Director Services. (JUD 201) The one position for the Judiciary's Personnel Office that was deleted in the House Judiciary Committee's draft of the bill which originally proposed the addition of three such positions is reinstated at an annual salary cost of \$8,664. All other items have been found to be justified.
2. Driver Education and Training. (JUD 221) No change. All items have been found to be justified.
3. Criminal Justice Information System Data Center. (JUD 231) The House Judiciary Committee drafted the bill deleting \$37,000 from the \$87,540 originally requested in the bill for rental of computer terminals and telephone lines. Your Committee has altered this to reinstate this \$37,000 sum. All other items have been found to be justified.

In addition, your Committee has reviewed the proposed appropriation increases in the capital improvement projects originally stipulated in Section 11 of Act 208. These projects are organized under the title of Administrative Director Services (JUD 201) of the Judiciary. All appropriations have been found to be justified and are listed below:

Program and Capital Projects.

1. State Judiciary Complex, Oahu. No change. The increase reflects the construction and equipment costs for the State Judiciary Complex. Last year's budget only included funds for land acquisition.
2. Honolulu District Court, Oahu. No change. The increase provides additional funds necessary for the purchase of the site.
3. Remodeling and Upgrading Judiciary Buildings, Statewide. No change. The increase reflects additional funding needs for design, construction, and equipment.
4. Renovation of Lahaina District Court, Maui. No change. The increase provides funds for the renovation and furnishing of the Lahaina Courthouse.
5. New Capital Projects.

Two capital projects not appearing on last year's budget are proposed in this bill's capital improvement project section. The Wailuku Judiciary Complex located at the Wailuku Civic Center is to consist of the Wailuku District Court and Second Circuit Court. Appropriations for design of this complex are found to be justified.

The second additional capital project for this year consists of renovating the judiciary facilities located in the Hilo State Office Building for the purpose of expanding this facility. The appropriation for the expansion of the Hilo Judiciary facilities is found to be justified.

The cost of both the additional and new appropriations for capital improvement projects amount to the sum of \$35,663,000. This total replaces last year's CIP sum of \$5,339,000, as shown in Section 4 and Section 5 of this bill and will be funded by general obligation bonds.

New language is added to Section 6 of this bill to designate the period during which the supplemental appropriations amounts as described herein will be reserved for use. Any supplemental "appropriations made to be expended in fiscal year 1980-81 which are unencumbered as of June 30, 1983, shall lapse as of that date."

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1865-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1865-80, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 837-80 Judiciary on H.B. No. 2059-80

The purpose of this bill is to implement Article I, Section 11, of the Constitution of the State of Hawaii as proposed by the Hawaii Constitutional Convention of 1978 and ratified by the voters on November 7, 1978, which pertains to the grand jury counsel and grand jury proceedings.

Article I, Section 11, reads as follows:

"Section 11. 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 has previously addressed "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." Noting that "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", we then indicated that the legislature was not bound to implement them in strict compliance with the language of such committee report. We concluded that matters in the committee reports are "entitled to serious consideration" but are, nonetheless "only advisory". See Standing Committee Report No. 784-79, page 5.

In that spirit, your Committee notes the language of Standing Committee Report No. 69 of the Constitutional Convention of 1978 at pages 5 and 6:

"The role of counsel will be to advise the grand jury and not the witness or the prosecutor. Until now the prosecutor has served as the legal adviser to the grand jury but there seems to be a conflict between presenting evidence to a grand jury in the hope they will return an indictment and being their legal adviser. Independent legal counsel will be available to advise the grand jury on any appropriate manner. Your Committee believes that the parameters of the role of independent counsel will be determined by the grand jury but if his role is to be effective, counsel should advise the grand jury when it is appropriate rather than when asked.

"Your Committee believes that the position should not be filled by a public employee but a private practitioner knowledgeable in criminal law. It would be incongruous to appoint a prosecutor or attorney general to advise the grand jury.

"Further, the independent counsel should not be a public employee for the purpose of employee benefits. It is expected that he be hired and compensated as an independent contractor. Although his term shall be set by law, it is not the intent of your Committee to create a permanent position for someone. Rather, it is intended that the position be filled by different people. This is not to suggest a rotational system where each week or each case will see a new counsel, but that his term be long enough to establish a good rapport with the grand jury but not so long that he dominates the proceedings because of excessive familiarity with the members of the grand jury."

Your Committee notes that Article 1, Section 11, and Standing Committee Report No. 69 of the Constitutional Convention of 1978 came into existence in the face of section 612-16, Hawaii Revised Statutes, the then prevailing statutory provisions governing the grand jury procedure. Section 612-16 reads:

"[§612-16] Grand jury. (a) The court shall order one or more grand juries to be impaneled at such times as the public interest requires, provided, that there shall be an annual initial impaneling not later than January 15.

"(b) For the impaneling of a grand jury, the prospective jurors on a certified list of grand jurors shall be summoned and the names of those who are present, and not disqualified, exempted, or excused, shall be placed in an appropriate container from which a drawing by lot shall be conducted in order to draw a sufficient number of names to constitute a grand jury. The drawing shall be made in open court in the presence of the judge, no earlier than one week after a publication of notice of the time and place of drawing in a newspaper of general circulation published within the circuit for which the grand jury is drawn, provided, that if there is no such newspaper, then after at least one week's posting of such notice in at least three conspicuous places in the circuit.

"(c) A certificate listing the names of the grand jurors and stating the essential facts of the drawing, signed by the judge and attested by the clerk, shall be filed.

"(d) The grand jury, being impaneled and sworn, shall be charged by the court. In doing so, the court shall give them such information as it may deem proper as to their duties and as to the law pertaining to such cases as may come before them. The court may further charge the grand jury from time to time, as it may deem necessary.

"(e) Subject to section 612-22, a grand jury shall serve for a period of one year after being impaneled, unless sooner discharged by the court. Any vacancy occurring

on a grand jury may be filled by the court by drawing at random from names on the certified list of grand jurors."

Section 612-16(d) envisions the grand jury being informed "as to their duties and as to the law pertaining to such case" by the judge. It also provides that the court "may further charge the grand jury from time to time, as it may deem necessary."

The constitutional amendment is silent on the role of the judge, and absent any language in Article I, Section 11 and any of the committee reports of the delegates to the Constitutional Convention of 1978, your Committee construes such circumstance to be a mandate to reconcile the role of the judge and the constitutional role of the independent grand jury counsel. In this respect, such effort at reconciliation is not discretionary upon the legislature, but a mandate imposed by constitutional policy. Accordingly, we make no comment upon the wisdom or folly of constitutional policy.

Your Committee received the testimony of the attorney general, and we understand that that testimony contains the rationale by which the governor previously vetoed a similar legislative proposal during the 1979 legislative session, which was H.B. 95, H.D. 2, S.D. 2, C.D. 1.

We have amended H.B. No. 2059-80 to accommodate the attorney general's testimony.

(1) Disqualification of grand jury counsel. The attorney general suggests that the prosecution, upon petition to the chief justice, should be allowed to initiate disqualification of the grand jury counsel.

SECTION 7 of H.B. No. 2059-80 has been amended to provide such procedure.

(2) Grand jury counsel's function re advisory on matters of law. The attorney general points out that the grand jury counsel's function to advise on matters of law may be in potential conflict with the supervisory circuit court judge's duty under section 612-16(d) to "give them such information as it may deem proper as to their duties and as to the law pertaining to such cases as may come before them."

Your Committee understands that the need for the grand jury counsel was envisioned because of the absence of the court during its proceedings. We have amended SECTION 8 of H.B. No. 2059-80 to indicate explicitly that the grand jury counsel's advice to the grand jury is to be provided "during the court's absence." We think this division of labor provides a rational reconciliation of the authority of the supervisory judge under section 612-16(d) and the constitutional function of the independent grand jury counsel.

We have decided not to change section 612-16(d) in any way for the reason that when the court and the grand jury counsel are both present, the decorum of the judicial system requires the preeminence of the presiding judge. In the absence of specific indication to the contrary, we construe Article I, Section 11 to retain the traditional decorum of the presiding judge.

(3) Invasion of the province of the grand jury. The attorney general comments that the grand jury counsel's possible participation in indirect questioning of the witness or the prosecution would present the problem of possible invasion of the province of the grand jury.

Your Committee would remind the attorney general that the grand jury counsel's authority "to advise the members of the grand jury regarding matters before it" is constitutional, and therefore paramount. Conversely, it is similarly the grand jury's paramount right to be fully and adequately advised by its counsel.

No doubt, instances may arise when questions may be directed at the relationship between a grand jury and its counsel. We do not think it is necessary to proscribe the independent counsel's function other than to indicate clearly that he "shall not participate in the questioning of the witnesses or the prosecution." We do not intend that the grand jury should not obtain the grand jury counsel's aid in formulating questions that it desires to ask, so long as the impetus of the inquiry rests in the grand jury. Should the association between the grand jury and its counsel beyond such proscriptions prove problematic, we feel that case-by-case treatment of such problems can provide the only recourse under the present circumstances.

The section references in SECTION 10 of the bill have been left blank for the reason that their identity must await appropriate designation by the revisor of statutes. However, it should be observed that they refer to those provisions covered by SECTIONS 7, 8 and 9 of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2059-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2059-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 838-80 Judiciary on H.B. No. 2716-80

The purpose of this bill is to provide for a thorough review procedure of claims against the State.

Your Committee finds that the growing number of miscellaneous claims forwarded to the legislature for relief by the various state departments are all too often made without proper investigation. The present practice of filing claims with the director of finance who then refers them to the agency concerned for recommendation appears to be lacking in full review of legal and factual issues.

Your Committee agrees that a thorough review by the attorney general of all legal and factual issues would provide a better basis for submitting a recommendation for approval or denial of claims to the legislature. The amendments to HRS 37-77 made by this bill should accomplish this purpose.

Your Committee has amended this bill to provide that the attorney general, rather than the director of finance, transmit the claims to the legislature in appropriate form. We find that it is logical and efficient to have the person who reviews and recommends the claims also transmit them.

Your Committee has also made minor stylistic and grammatical amendments to this bill for the purpose of clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2716-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2716-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 839-80 Judiciary on H.B. No. 2720-80

The purpose of this bill is to appropriate \$3,500,000 for the settlement agreement negotiated between the State of Hawaii and Mark Construction, Inc. This negotiation settlement arises out of three separate lawsuits filed on behalf of Mark Construction against the State of Hawaii based on contracts awarded to this corporation for the construction of three separate federally aided highway projects on Oahu. These three lawsuits were consolidated and seek damages from the State in excess of \$12,000,000.

Your Committee has met with the attorneys representing the State and has discussed in detail the claims asserted by Mark Construction.

It is your Committee's recommendation that based on those claims, an appropriation of \$2,000,000 is justified for purposes of settling this lawsuit out of court. Accordingly, your Committee has amended this bill to reduce the amount to be appropriated to \$2,000,000.

In appropriating this amount, it is not your Committee's intention to in any way indicate the validity of the basis of these claims against the State in this lawsuit, only that this amount is believed to be a fair and just agreement and that settlement in this case is in the best interests of the State.

Further, your Committee believes the State should apply for federal reimbursement of this appropriation from the Federal Highway Administration.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2720-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2720-80, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 840-80 Judiciary on H.B. No. 25

The purpose of this bill is to provide enabling legislation for the issuance of special purpose revenue bonds for not-for-profit corporations providing health care facilities to the general public.

Your Committee strongly supports the concept of special purpose revenue bonds established under Article VII, Section 12 of the Hawaii State Constitution. We are aware that the effect of economic inflation has been greatly felt in the delivery of health care services and facilities.

We are mindful that the intent of special purpose revenue bonds is to avail lower costs to consumers. Noting the absence of any specific language in H.B. No. 25, H.D. 1, S.D. 1, referring to the ultimate accrual of benefit to the consumer, it is your Committee's expectation that subsequent authorization and utilization of the enabling provisions of this bill will provide the requisite statutory formulation for effective monitoring of the ultimate flow of monetary benefit from the advantages of financing obtained through the issuance of special purpose revenue bonds to the consumers. We find it understandable that the variety of health care projects that may be financed by this device may not allow, at this time, the easy formulation of a singular statutory provision to effectuate such operation.

Your Committee made the following amendments to H.B. No. 25, H.D. 1, S.D. 1:

1. SECTION 1 was amended to correct the reference to Article VII, Section 12, having been amended by the Hawaii Constitutional Convention of 1978. More technically, the Constitutional Convention merely proposed the constitutional amendment which was ratified by the voters. SECTION 1 was changed to reflect that correction.

2. Definition of "project agreement" was amended to reflect a technical change requested by bond experts.

3. SECTION 3 was amended to obtain better language for the severability clause.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 25, 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. 25, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Kuroda, Machida, Mizuguchi and Ushijima.

SCRep. 841-80 Judiciary on H.B. No. 1222

I. General Discussion

The purpose of this bill is to carry out that portion of the provisions of Section 12 of Article VII of the State Constitution which authorizes the issuance of special purpose revenue bonds pertaining to the assistance of 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 revenue bonds for that specific purpose.

The voter-ratified amendment to Article VII, Section 12 in 1978, approved the authorization and issuance of special purpose bonds without the same being chargeable against the debt limit, provided that the legislature determines the bonds to be in the public interest. Four separate categories, including utilities, were listed as eligible for this constitutional treatment.

For a comprehensive description of the general operation of H.B. No. 1222, H.D. 1, S.D. 2, we make reference to the first two pages and up to the second full paragraph of page 3 of Standing Committee Report No. 735-80, authored by Senator Anson Chong and the Committee on Public Utilities.

II. Changes Effected by S.D. 2

(A) Benefit of Lower Costs to Consumers. Your Committee reviewed sections -18 and -19 added by the Committee on Public Utilities and agrees with that Committee generally that the lower costs of special purpose revenue bonds must be reflected in savings to consumers if the purpose of the constitutional amendment ratified by the people of this State respecting the subject of special purpose revenue bonds is to be fulfilled.

We amended sections -18 and -19 in their entirety only because our understanding of the bond issuance procedure and the rate-making procedure indicates that there is no one-to-one relationship between them.

Generally, rate-making appropriates study of financial history and projects a rate for utility charges payable by the general public to permit the most reasonable rate possible and also allow investors, including bondholders and stockholders, of the public utility to obtain a fair return on their investments. The process of bond issuance attempts to obtain financing for capital expenditures by the public utility from the projection of its future income which will be available for timely payment of the indebtedness represented by the bonds to be issued.

Neither the scheduling of the course of events applicable to bond issuance and rate-making nor the flexibility with which each process is able to respond to the future course of economic history is identical or subject to direct correlation. As such, the ultimate savings to the public utilities by issuance of the special purpose revenue bonds are not available as fixed figures at the time of their issuance. The same becomes known only after their financial usefulness has become fully realized. On the other hand, periodic changes to rates charged the consuming public affects adjustments to correlate with changing economic climate.

Nonetheless, unless the benefits of lower costs are ultimately realized by the rate-paying consumers, the issuance of special purpose revenue bonds for utilities servicing the general public will make no sense.

In reviewing the original form of sections -18 and -19, we agree with the testimony of the chairman of the public utilities commission that these provisions technically are incompatible because they attempt to reconcile accounting concepts that have essentially different operational purposes, and which, as such, are irreconcilable. As previously observed, the economic analysis that attend rate-making may govern only on a short term basis depending on the changing economic climate, while the essence of bond issuance is to obtain long term debt commitment.

Rather than attempting to wrestle with specific accounting and economic concepts as reflected by the original language of sections -18 and -19, your Committee has replaced these sections by provisions which will generally require the public utilities commissions (1) to take appropriate measures "to ensure that the benefit of lower costs . . . are fairly and ultimately realized by rate-paying consumers", (2) to formulate appropriate methods of estimating the advantages of special purpose revenue bonds to public utilities and the manner and extent to which such advantages ultimately benefit rate-paying consumers, and (3) to take appropriate steps to ensure their public access and scrutiny.

Your Committee heard from the chairman of the public utilities commission that such commission would fully consider the benefits of special purpose revenue bonds and give those benefits to the rate-paying consumers. Section -18 nonetheless will stand as a mandate to the public utilities commission that it must do so.

Your Committee has carefully reviewed the comments made in Standing Committee Report No. 735-80 seeking the exclusion of "all equipment, facilities and property form the rate base" so that "the utility will not be allowed to earn its authorized rate of return on these facilities until the bonds have been retired or to the extent that the utility has made a contribution to the sinking fund."

Upon analysis, the costs of debt service pertaining to the special purpose revenue bonds are included in the computation of the cost of capital together with all other items of debt service in the rate-making process. The public utility is then allowed to recoup the costs of debt service upon the special service revenue bonds by the process whereby the costs of all debt, preferred stock and common stock financing are applied generally against the book value of all plant, equipment and facilities, which product is then added to operating expenses, upon which sum the allowed earnings rate is applied.

As such, there is no benefit created by the enlargement of the rate base which will not, in the normal rate-making process, be appropriately accounted for in the determination of utility rates. The exclusion of "all equipment, facilities and property from the rate base" without concomitant exclusion of the debt service from the special purpose revenue bonds will be irrational. However, the exclusion of the debt service for the bonds and their inclusion in the public utilities' operating expenses would be inordinate to the normal rate-making procedure. The characterization of special purpose revenue bonds as something other than debt financing is totally incongruent.

However, to carry out the intent that the rate payer benefit from these bonds, it should be carefully observed that despite the foregoing analysis, your Committee's

redraft of section -18 inserts the provision that the public utilities commission shall take into consideration the benefits of the change of the rate base, if any, obtained by the issuance of special purpose revenue bonds. It is this Committee's analysis that there is no benefit to the public utilities by the enlargement of the rate base. However, we have inserted the statutory language in an overabundance of caution that all appropriate benefits of lower costs shall accrue to the rate-paying consumers.

It must also be noted that the provisions of sections -18 and -19 are not intended to affect the issuance, sale or security of the special purpose revenue bonds or the security of investors.

We also comment on the reference in Standing Committee Report No. 735-80 to the pass-on of the benefits of investment tax credits or accelerated depreciation allowances attributable to equipment, facilities or other property financed through special purpose revenue bonds. The chairman of the public utilities commission testified that their use of the "normalization" method of rate-making precludes such pass-on and that the "normalization" method of accounting is currently being used in 43 other states as well as the Federal Energy Regulation Commission.

In the face of the public utilities commission chairman's testimony, we have no alternative but to defer the question of the pass-through of tax credits to a full review of the entire rate-making bases of the public utilities commission. We feel that such a review is not the proper purview of this bill, and that the ultimate benefit of lower utility costs should not be deferred pending such review.

In reviewing the rate-making and bond issuance procedures, we understand that the appropriate treatment of special purpose revenue bonds by the public utilities commission in its rate proceedings would be to allow only the cost to the public utility of paying the principal, including sinking funds, if any, interest and expenses appropriately attributed to special purpose revenue bonds. Although this is our intent, we would not tie the hands of the public utilities commission by statutory language that would at this time be confined to a specific formula. We trust that the public utilities commission will fulfill its duty to fairly allocate the ultimate benefits of lower costs to the consumers. If a precise statutory formula should prove to be desirable that will be an appropriate subject matter for future legislation.

(B) Definitions. Your Committee amended two definitions found in section -1. The definition of "energy profit" was amended by reverting to the language of H.D. 1. We were unable to discern the source of the additional language inserted by S.D. 1 which would exclude "fossil fuels" projects being financed by special purpose revenue bonds.

Finding no explanation for this in Standing Committee Report No. 735-80, your Committee deems that H.B. No. 1222 should not be enacted with such substantial limitations without a clear indication of its reasons.

We have also changed the definition of "local furnishing of electric energy or gas" only by way of technical language change without affecting its substance.

(C) Non-Bail Out. Your Committee has amended section -2 defining the powers of the department of budget and finance as to energy projects by indicating clearly that the State will not bail out a special purpose revenue bond project either by exercise of the power of eminent domain or by operating such a project.

Your Committee is aware of the comment made in Standing Committee Report No. 735-80 that decries the deprivation of "the State of its constitutional power of eminent domain and any future legislation enabling the counties or the State to purchase and operate the equipment and facilities financed by special purpose revenue bonds."

However, Article VII, Section 9, in pertinent part requires that "no special purpose revenue bonds shall be secured directly or indirectly by the general credit of the issuer or by any revenues or taxes of the issuer other than receipt derived"

Statutory commitment of the State's power of eminent domain or to the future purchase and operation of the equipment and facilities financed by special purpose revenue bonds would be in conflict with Article VII, Section 9, in that it will require the general credit of the State to secure it indirectly in allowing a lease or transfer back to the utility after condemnation. The language adopted in S.D. 2 was suggested for this purpose by the state bond counsel.

(D) Security for Bonds. We added the word "supplemental" to the concept in section -10 that "special purpose revenue bonds shall be payable solely from revenue derived

. . . under the project agreement or other supplemental agreements" The purpose of this is to specify that such other agreements must be related to the original project as amended by supplemental agreements.

(E) Validity of Bonds. Your Committee made a technical language change to section - 12 by deleting redundant phraseology from the second sentence.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1222, H.D. 1, S.D. 1, as amended herein, and recommends that it be referred to the Committee on Ways and Means as H.B. No. 1222, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Kuroda, Machida, Mizuguchi and Ushijima.

SCRep. 842-80 Legislative Management

Informing the Senate that S.R. Nos. 206 to 212 and Stand. Com. Rep. Nos. 746-80 to 841-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 843-80 Legislative Management

Informing the Senate that S.R. Nos. 213 to 221 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 844-80 Consumer Protection and Commerce on H.B. No. 1816-80

The purpose of this bill is to eliminate specific reference to married women, and to correct punctuation errors in Section 406-5, Hawaii Revised Statutes.

The intent of this bill is to eliminate discriminatory language, and not to exclude married women from eligibility for participation in a trust company's services.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1816-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yim.

SCRep. 845-80 Consumer Protection and Commerce on H.B. No. 1817-80

The purpose of this bill is to amend Section 431-442, Hawaii Revised Statutes, by deleting discriminatory terms used in the Insurance Law with respect to the right of a married woman to purchase life or disability insurance on the life or health of her husband or children. Presently, the law specifically refers to the rights of a married woman to purchase life or disability insurance on the life or health of her husband or children.

This bill deletes all references to "married woman," and substitutes it with "married person."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1817-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yim.

SCRep. 846-80 Consumer Protection and Commerce on H.B. No. 1989-80

The purpose of this bill is to delete the exception from the provisions of Chapter 465, Hawaii Revised Statutes, for a person performing any professional psychological services under the direction of an excepted person. The intent of the bill is to delete the loophole which allows a person who falls into one of the "excepted" categories from directing another uncertificated person in the performance of any professional services for which a certificate is required.

Your Committee received testimony in favor of this bill from the Board of Certification for Practicing Psychologists, and the Hawaii Psychological Association.

Your Committee has made technical changes to the bill without amending the substantive intent.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1989-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1989-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Yim and Yee.

SCRep. 847-80 Consumer Protection and Commerce on H.B. No. 2318-80

The purpose of this bill is to extend, under the sunset law, Chapter 447, Hawaii Revised Statutes, relating to the regulation of dental hygienists, to December 31, 1986.

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 H.B. No. 2318-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2318-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Yim and Yee.

SCRep. 848-80 Consumer Protection and Commerce on H.B. No. 2319-80

The purpose of this bill is to postpone the repeal of the Board of Veterinary Examiners from December 31, 1980, to December 31, 1986.

Your Committee has made technical amendments to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2319-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2319-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Yim and Yee.

SCRep. 849-80 Consumer Protection and Commerce on H.B. No. 2322-80

The purpose of this bill is to postpone the repeal of the Board of Private Detectives and Guards from December 31, 1980, to December 31, 1986.

Your Committee has made technical amendments to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2322-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2322-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Yim and Yee.

SCRep. 850-80 Human Resources on H.B. No. 1961-80

The purpose of this bill is to restore the law to its original and proper intent as it applies to vacation rights of certain public officers and employees.

Your Committee finds that section 79-1, Vacation of public officers and employees; exceptions, Hawaii Revised Statutes, provides that certain categories of public officers and employees shall not be entitled to vacation with pay, including persons employed pursuant to paragraphs (2), (3), (14) and (16) of section 76-16, Civil service exemptions, Hawaii Revised Statutes.

Section 79-1 was inadvertently affected by Act 199, Session Laws of Hawaii 1977, which among other things, changed the numbering of the paragraphs of section 76-16. The result of this renumbering of paragraphs (which did not in any manner compromise the purpose of section 76-16) is that certain employees who are entitled to vacation with pay are now technically not entitled to vacation with pay, and certain employees who are not entitled to vacation with pay are now technically entitled to vacation with pay. This housekeeping measure merely seeks to restore the law to its original and proper intent, whereby election employees, and custodians and guides at Iolani and

Hulihee Palace, and the Royal Mausoleum, among others are entitled to vacation pay.

Your Committee has made technical amendments to this bill without changing its substance.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1961-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1961-80, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 851-80 Legislative Management

Informing the Senate that S.C.R. No. 44, S.R. Nos. 222 to 225 and Stand. Com. Rep. Nos. 844-80 to 850-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 852-80 Ways and Means on H.B. No. 2132-80

In considering this bill, your Committee deleted the provisions relating to exempting homeowners associations with respect to their exempt function income and replaced them with provisions of far broader consequence. Instead of focusing on a narrow aspect of the tax structure, your Committee has chosen to provide tax relief and reform to nearly all resident taxpayers.

The purpose of this bill is to provide for tax reform and tax relief by making substantive changes to Hawaii's laws relating to the personal income tax and the general excise tax.

The Need for Tax Reform and Tax Relief

Among the 50 states and the District of Columbia, Hawaii ranks seventh in state and local tax burden, and it has occupied that position, and higher, for a number of years. Moreover, Hawaii is an unenviable first in per capita state personal income tax collections. Yet, since statehood, there has been no overall effort to ease the burden which falls so heavily on Hawaii's taxpayers.

In the past 20 years, there have been only two major tax changes, only one of which can be classified as relief. In 1965, important tax changes were made but the main purpose of the changes was to raise additional revenues. As a result, almost all of Hawaii's taxpayers found themselves paying more taxes rather than less taxes. In 1970, the Legislature did provide some relief to businesses and consumers by eliminating the more obvious pyramiding of the general excise tax on certain inter-business transactions. Other than that measure, the only relief measures of any significance were the piecemeal, albeit meritorious, programs for general excise tax credits and general excise tax credits.

Thus, for the vast majority of Hawaii's taxpayers, their situation has worsened over the years. Now, faced with the crush of double-digit inflation, many of Hawaii's people are faced with the prospect of seeing their personal and household budgets ravaged even further by forces outside of their control. The situation is one that calls for urgent and decisive action by the Legislature.

Your Committee has heard arguments that even though the Legislature is vested with the sole responsibility under the State Constitution to enact taxation policy, it should await the recommendations of the Tax Review Commission which, under the Constitution and implementing legislation passed in the 1979 session, is supposed to be appointed by July 1, 1980. However, a close reading of the intentions of those who drafted the provision for a Tax Review Commission clearly shows that it was never intended that the establishment of the commission should preempt any course of action contemplated by the Legislature. As stated by the Taxation and Finance Committee of the 1978 Constitutional Convention, "a periodic and independent assessment of the State's tax system would be useful to provide... the public with a framework by which it can assess executive and legislative actions on taxation and revenue policy." Clearly, there is the expectation that the Legislature would take action whenever its perception of the issues and solutions were clear, with the role of the commission being that of advising the Legislature as to what further changes might be desirable.

The problems faced by Hawaii's taxpayers are urgent and pressing, and the Legislature has the immediate responsibility to take action on their behalf. Your Committee believes that it can best do so through the provisions for tax relief and tax reform incorporated in this bill.

Specific Provisions for Tax Relief and Tax Reform

The bill provides for the following to bring about relief to Hawaii's taxpayers and reform of the tax system:

- (1) Exempting food and prescription drugs from the general excise tax, thereby eliminating the most regressive feature of the excise tax and bringing relief to everyone.
- (2) Increasing the general excise tax for retail goods and services, other than food and prescription drugs, from four per cent to four and one-half per cent, with the most important effect being a shifting of a higher tax burden to nonresidents who consume taxable goods and services.
- (3) Broadening the tax brackets which prescribe the rates of the individual income tax, the result being greater equity for individual income taxpayers and particularly those in lower and moderate income tax brackets.
- (4) Exempting the first \$2,000 of income on single returns and the first \$4,000 on joint returns from the individual income tax, a provision which benefits all taxpayers and again, particularly those with lower and moderate incomes.
- (5) Increasing the personal exemption to the individual income tax from \$750 to \$1,000, an across-the-board benefit which is in conformance with the federal income tax.
- (6) Providing a new residence income tax credit for the first-time buyer of a home valued at no more than \$100,000 to off-set the excise tax levied on home construction and materials.

Your Committee finds that the combined effect of the foregoing provisions would result in virtually all resident taxpayers paying less in taxes, but because of the uniqueness of their expenditure patterns, virtually all nonresidents would be paying more. At the same time, the amount of general fund revenues which would result from the reform tax structure would still be sufficient to meet estimated expenditures as constrained by the constitutional limitation on expenditures, thereby allowing government services to continue to be funded at their current and projected levels.

Your Committee notes that actual revenues to date for this fiscal year are significantly higher (14.7% growth) than previously forecast (11.6% growth). The result is not only an increase in current year revenues but a larger base from which future year revenues can be estimated. This fact combined with the dual effects of continuing high inflation and a tax structure which benefits from inflation provides the opportunity to restructure the tax system by eliminating the 4% excise tax on food and drugs, and reducing income taxes for about 99% of resident taxpayers, while necessitating only a one-half per cent increase in the excise tax for other items.

Beneficial Effects of the Bill

Elimination of the general excise tax on food and drugs - tax on food and drugs has long been criticized as a regressive tax in that it imposes a relatively heavier burden on individuals with lower incomes. Your Committee explored the possibility of increasing excise tax credits as a means of reducing the regressivity of the present system. However, the tax credit system has several built in inequities. They include the fact that the credit is rarely equal to the tax paid as consumption and thus tax liability varies according to personal preference, age, health, sex, etc. For example, the elderly are estimated to purchase three times the amount of prescription drugs bought by the average person.

Other deficiencies of the tax credit system include the inability to deal with the situation wherein over 20,000 military retirees/dependents with commissary and medical privileges do not pay excise taxes comparable to those without such privileges, yet under a tax credit system they would receive the same credits. In addition, in a tax credit system the tax is collected, held for many months and then returned (without interest) and often without any relationship to the tax actually paid.

While proposals for eliminating the general excise tax on food and drugs are not novel, few advocates of such proposals have offered concrete and sound proposals for dealing with the resulting revenue loss. For example, one seemingly plausible and politically palatable approach is to use the current state surplus to eliminate the general excise tax on food and drugs. However, such an approach would result in

a deficit of \$86 million by FY 1983 which would grow to a \$487 million deficit by FY 1985. Moreover, it would not afford any income tax relief to Hawaii taxpayers who as noted previously rank first in per capita state personal income tax payments. The revenue loss to the State from eliminating the excise tax on food and drugs, without an increase in the tax in other goods and services would necessitate curtailment of numerous government programs. It is therefore necessary to generate new revenues to make up for the loss in revenues resulting from eliminating the excise tax on food and drugs so that current governmental services can be continued.

Much apprehension has been voiced concerning the problems to be encountered by retail merchants in administering sales and distinguishing between exempt food and drug items and non-exempt goods. It is suggested that merchants, and particularly smaller merchants, will encounter considerable inconvenience and expense in having to calculate the applicable tax on purchases of food and non-food items.

Your Committee does not believe that the exemption of food and drugs provided by this bill will result in any significant problems for merchants. Admittedly there may be problems in initially having to adjust to a new system of charging the applicable excise tax on purchases and training employees. However, it should be noted that 24 states in the union presently exempt food from sales or excise taxes and merchants in these states have adapted to the distinction without significant problems. Furthermore, according to the DSSH 98% of the eligible stores in Hawaii participate in the USDA Food Stamp Program. These merchants already segregate food and non-food items and are more than willing to do so because of the large proportion of food stamp sales. Even the large supermarkets outside of the low-income areas sell as much as 30 to 40 percent of their sales to food stamp purchasers.

The contention that the exemption of foods and drugs from the excise tax will increase the administrative costs of the Department of Taxation has been allayed by the testimony of the department. Your Committee has been informed that while there may be slight increases in costs during the time a "track-record" of food and drug sales vs. other sales is being developed subsequent costs will be minimal.

Your Committee has analyzed the contention of some that the one-half per cent increase in the general excise tax would lead to price increases far in excess of the increase in the tax. Price increases in the order of nine per cent resulting from a one per cent increase in the excise tax was mentioned to your Committee. Your Committee believes that such fears are groundless. The Department of Taxation has concluded that an increase of one per cent in the excise tax would result in an additional increase of less than one-tenth of one per cent. Therefore, your Committee is confident that an increase on one-half per cent in the excise tax would have little impact on prices. Moreover, the department's analysis of the effect of the increase in excise taxes in 1966 (when it moved from 3 1/2 per cent to 4 per cent) corroborates the fact that the effects conjectured by critics then did not, in fact, materialize. Inordinate price increases are no less likely to materialize under the provisions of this bill.

It has also been suggested that exempting food and drugs from the general excise tax would have the effect of influencing consumer choices and encourage greater purchases of food and drug items over non-exempt items. While theoretically this argument may be plausible, in reality, consumers will only purchase as much food and drugs as they require. People are unlikely to increase their food consumption solely because the excise tax on food has been eliminated nor will they shift their available income from other purchases. It is quite possible that people will purchase food of a higher quality and therefore greater cost, however, such a result is socially desirable where it results in improved nutrition.

The net effect of the proposal contained in this bill is to increase the disposable income of resident taxpayers. Thus, it can be anticipated that residents will have more money available to spend in the consumer market. Furthermore, since Hawaii is an ocean-locked state, it is improbable that consumers will journey to a neighboring state where there is no excise or sales tax to make purchases solely to avoid the local tax.

Income Tax Relief - The bill provides a number of reforms designed to result in significant income tax relief. The first \$4,000 of taxable income on a joint return (\$2,000 on a single return) will be exempt from income taxes. In addition, the personal exemption will be increased from \$750 to \$1,000, and the tax brackets will be widened.

The extent of the income tax relief is such that single taxpayers with up to \$25,500 net taxable income (about 99% of single taxpayers), married taxpayers with up to \$51,200 net taxable income (about 98% of married taxpayers), and heads of households with up to \$35,400 net taxable income (over 99% of all heads of household), will all receive

income tax relief under this bill.

Shifting of the Tax Burden - The operative effect of the amendments proposed by this bill is that there will be a significant shift of the tax burden from the resident taxpayer to the non-resident taxpayer, i.e., the tourists and other transients who enjoy the benefits of this State and pay no tax except the general excise tax. This result is accomplished through the combined effects of eliminating the general excise tax on food and drugs and increasing the general excise tax on all non-exempt goods and services by one-half per cent. The effect of eliminating the tax on foods and drugs is sufficiently great so that most taxpayers will find themselves paying less in excise taxes than under the current structure. For example, your committee estimates that a family of four with an income level of \$35,000 will pay \$142 less in excise taxes than they do under the current system. However, tourists and those with very high incomes or with inordinately large taxable expenditures will pay more.

The Department of Taxation estimates that approximately 31% of the general excise tax is currently "exported", i.e., accounted for by sales of goods and services to tourists. However, some concern has been expressed that the elimination of the excise tax on food and drugs would enable tourists who stay for many months to reduce their tax liability. Your Committee notes that in 1979 less than 1% of the tourists stay more than a single month. Moreover, these long term tourists would actually pay more in taxes because they spend relatively little on food purchases for home consumption and more on dining out, in addition to such taxable expenditures as entertainment, gifts and souvenirs, etc. Most importantly, the other 99% of tourists would all contribute more in taxes than they now do. The additional revenues thus generated from the increase in the excise tax will allow tax relief to the residents of this State in the form of substantially lower state income taxes.

Although this bill proposes to shift the tax burden from the resident population to the tourists and transients, your Committee finds that it accomplishes this result in a far more acceptable fashion than a "tourist tax". Unlike a "tourist tax", this bill does not propose to single out any group in a discriminatory fashion. Rather, the changes proposed by this bill apply to every consumer equally. It is only because of the uniqueness of expenditure patterns as between residents and non-residents, that tourists and transients will be carrying a higher burden. This increased burden on the average tourist, however, amounts to approximately 27¢ a day, an amount which your Committee finds as being unlikely to have any significant effect on a visitor's decision to visit Hawaii.

Overall Benefits To Resident Taxpayers - The net effect of both the income and excise tax amendments will be to afford significant tax relief across a broad spectrum of income. For example, based on the Community Services Administration's and U.S. Bureau of Labor Statistics data on consumption expenditures for Hawaii, each of the families of four shown below will derive significant tax benefits.

TAX RELIEF IMPACT ON FAMILIES OF FOUR
AT VARIOUS INCOME LEVELS

	(\$7,710)	(\$14,870)	(\$23,099)	(\$35,602)
SAVINGS	POVERTY LEVEL	LOW LEVEL	MIDDLE LEVEL	HIGH LEVEL
Excise Tax Savings	\$ 56	\$ 117	\$ 132	\$ 142
Income Tax Savings	147	234	275	310
TOTAL SAVINGS	\$ 203	\$ 351	\$ 407	\$ 452
PERCENT SAVINGS	46%	32%	21%	13%

Your Committee notes that while the dollar amount of savings increases with income, the percentage savings decreases. Thus, the regressivity in the tax structure will be reduced. As noted previously, the tax benefits do not stop at \$35,602 but are available to those with much higher incomes.

Conclusion and Recommendation - This bill would provide permanent tax relief and would reduce the current problem of collecting excessive amounts in taxes and then having to wrestle with the greater problem of refunding taxes in an equitable and economical manner. It is your Committee's belief that this bill will address the aforementioned problem and incorporates the legislative action required to bring justice and fairness to Hawaii's taxpayers through tax relief and tax reform.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2132-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2132-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hara and Soares.

SCRep. 853-80 (Joint) Health and Education on H.B. No. 1979-80

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

Your Committees heard testimony on the companion Senate bill stating that the present law, regarding immunization, is ambiguous and can be interpreted to permit school entry on a provisional 90-day basis without a tuberculosis clearance. The proposed amendments of Sections 298-42 and 298-43, Hawaii Revised Statutes, will clarify the requirement of proper tuberculosis clearance prior to admitting a child to school for the first time.

Your Committees have made non-substantive technical changes to conform with the Ramseyer format.

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

Signed by all members of the Committees.

SCRep. 854-80 Higher Education on H.B. No. 2698-80

The purpose of this bill is to repeal Sections 304-45 to 304-49, Hawaii Revised Statutes, which relate to the Overseas Operation Program and Asian Studies.

Your Committee heard testimony from the University of Hawaii that legislation is not necessary for establishing or continuing the existence of these programs. Further, the University noted that the Overseas Operations Program was renamed the Overseas Career Program in 1965, was phased out in 1974 as a separate administrative entity, and has already been combined with the Asian Studies Program. Testimony presented by the University emphasized that support for this bill is based on its belief that it is desirable to remove from the statutes unnecessary and outdated provisions of law. However, this should not be interpreted as affecting the continued existence or the de-emphasizing of the Asian Studies Program.

Your Committee has amended the bill to correct a technical error.

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

Signed by all members of the Committee.

SCRep. 855-80 Higher Education on H.B. No. 2703-80

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

Your Committee heard testimony from the University of Hawaii and the Department of Education. The University testified in support of this bill because Section 304-20 would be updated by replacing "Teachers College" with the more correct current title "College of Education". This section is also amended to make permissive the statutory provision requiring approval from the Department of Education concerning the curriculum of the College of Education. The University further testified that from the point of view of the constitutional provision regarding the jurisdiction of the Board of Regents, the proposed amendment would be a step in the right direction. An Attorney General opinion of April 3, 1979 noted that Article X, Section 6, of the State Constitution gives the Board of Regents the power to formulate policy and exercise control over the University, including the approval of programs and curricula.

The University testified that Section 304-21, requiring the University to recognize the credits received by graduates and students of the Territorial Normal and Training

School has been moot for a long time. Section 304-22, preserving the employment status of public school teachers who were employed on September 1, 1931 is also moot. The University testified that it was desirable to weed out and repeal obsolete provisions of statutory law.

Your Committee has amended the bill to correct some typographical and stylistic errors.

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

Signed by all members of the Committee.

SCRep. 856-80 Human Resources on H.B. No. 2351-80

The purpose of this bill is to amend the Employment Practices Law to provide a limitation period for the filing of a "fair representation" suit by an employee against that employee's labor organization, and to determine when such a cause of action accrues. This bill proposes a ninety-day limitation period and also sets forth when a cause of action accrues under given circumstances.

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

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

Your Committee finds that this measure settles most of the foregoing questions and provides all parties concerned -- employers, unions, and employees -- with a certainty as to when a claim should be asserted, and also enables the disputes to be expeditiously settled.

The bill proposes that chapter 378 be amended to effectuate its purpose. Chapter 378 covers unlawful employment practices of both employers and labor organizations and part 1 thereof specifically invalidates discriminatory practices. As the essence of a "fair representation" suit is a union's breach of its duty through conduct that is arbitrary, discriminatory or in bad faith, your Committee finds it proper to place limitations related thereto in chapter 378.

This measure prescribes a limitation period for actions based upon alleged breaches of duty of "fair representation". These actions are pursued through civil suits brought directly in the courts by individuals without intervention by the department of labor and industrial relations or other government agencies.

Since claims of unlawful discrimination under other provisions of chapter 378 must now be filed within ninety days after accrual, your Committee feels that a "fair representation" claim should also be subject to a similar limitation period.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2351-80, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 857-80 Judiciary on H.B. No. 422

The purpose of this bill is to include within the offense of possession of gambling records in the first degree those persons who distribute as well as produce documents commonly used in the operation or promotion of lottery schemes and by clarifying the

definition and monetary amounts of such documents.

Your Committee received testimony that current statutes address only persons who possess gambling records but do not include those core offenders who print or distribute these articles in substantial numbers. Furthermore, the law is silent with regard to the amount a person may win before being held in violation of the gambling statute thereby resulting in an increase in the number of pool tickets with potentially high monetary gain.

Your Committee is of the opinion that by including the core offenders who distribute and produce gambling records and by specifying the amount a person may win would not only provide for more effective and economical law enforcement directed at these individuals, but also curb the number of pool tickets for extremely high amounts.

This bill has been amended to provide for technical nonsubstantive changes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 422, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 422, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 858-80 Judiciary on H.B. No. 1976-80

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

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

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

Your Committee has made two minor grammatical amendments to this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1976-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1976-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Saiki.

SCRep. 859-80 Judiciary on H.B. No. 1911-80

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

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

This bill does the following:

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

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

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

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

Section 5 amends HRS, section 142-14, to categorize the offense of petty misdemeanor consistent with the provisions of the penal code.

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

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

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

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

Section 10 amends HRS, section 271G-25, to correct erroneous references.

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

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

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

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

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

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

Section 17 amends HRS, section 333E-3, to reinsert language which was inadvertently dropped in previous revisions and to reflect changes in style.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Your Committee finds that the above corrections will facilitate the future use of the Hawaii Revised Statutes by clarifying ambiguities that presently exist.

Your Committee has amended this bill to do the following:

In Section 27, the word "or" has been added, following the semicolon in subsection 571-14(2)(A), HRS.

In Section 34, a comma has been inserted following the word "altering" in section 657-8, HRS.

In Section 39, the word "any" has been deleted and replaced by the phrase "In any" at the beginning of subsection 707-763(3), HRS.

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

Signed by all members of the Committee except Senator Saiki.

SCRep. 860-80 Judiciary on H.B. No. 2091-80

The purpose of this bill is to allow a minor victim of an offense allegedly committed by another minor to have his or her parents, guardians, or another adult present at the family court adjudication hearing during his or her testimony.

Section 571-41, Hawaii Revised Statutes, presently provides that the alleged offender may be accompanied by a parent or guardian and others whose presence is requested by the parent or guardian. The law does not provide equivalent consideration to victims.

Your Committee finds that, until very recently, victims have been the forgotten people in the criminal justice system. They are expected to report crimes, to cooperate with the police and prosecutor and to testify at hearings, in spite of threats of possible retaliation and other forms of intimidation. Yet, very little procedural protection or consideration for the victim is reflected in our law. We find that victims or witnesses who are minors are especially vulnerable, not only because of their age, but also because the offender may live in the same neighborhood or attend the same school. The establishment of the Victim/Witness Kokua Center in the office of the Prosecuting Attorney of the City and County of Honolulu, and of similar organizations nationwide, is a hopeful sign of changing social policy in this area.

Your Committee has amended this bill to include witnesses who are also minors, as well as victims. We find that the same basic considerations apply to witnesses and that they deserve similar consideration.

Your Committee further finds that this bill is necessary for the effective prosecution of offenses and is not simply a matter of courtesy.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2091-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2091-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 861-80 Judiciary on H.B. No. 2162-80

The purpose of this bill is to revise sections of Chapter 15, Hawaii Revised Statutes, which deal with absentee voting.

The intent of these revisions is to improve the absentee voting procedures in the name of increasing voter participation in our elections while ensuring voter security and confidentiality.

In the form received by your Committee, this bill attempted to revise only sections 15-4 and 15-9, Hawaii Revised Statutes. It was decided that sections from other bills dealing with the same absentee voting chapter would be added to this bill to form one cohesive legislative proposal. The changes to Chapter 15 affected by the two original sections and the added ones are as follows:

(1) Section 15-2. Adds the phrase "or any voter who is sixty-five years of age or older" to expand upon those persons eligible to vote by absentee ballot. Such an addition accommodates those individuals sixty-five years or older who previously would not have voted on election day due to incapacity or great inconvenience.

(2) Section 15-4. Permits the County Clerks to waive the requirement that requests for absentee ballots be made in person or in writing and removes the closed primary language to allow Clerks to honor requests made by telephone. The last paragraph is deleted to remove the requirement that voters who request absentee ballots and have not voted since 1968 must state their party preference.

(3) Section 15-5. Eliminates archaic language regarding the use of airmail and clarifies the time for mailing absentee ballots to voters.

(4) Section 15-6. Substitutes "return" for "reply" to conform with current usage and requires separate ballot envelopes for voted and unvoted absentee ballots.

(5) Section 15-8. Substitutes "box" for "container" and "return" for "reply" to conform with present usage. Also, "ballot envelopes of" is substituted for "ballots cast by" to indicate that ballot envelopes are deposited in absentee ballot boxes, not just ballots.

(6) Section 15-9. Revises this section to include several minor word changes that clarify the return and receipt of absentee ballots. The section adds a new paragraph that provides for return of an absentee voter's ballot at the regular polling place where the voter is registered. This additional means to complete the absentee voting process provides a convenient alternative to mailing or hand delivering the absentee ballot to the clerk's office.

(7) Section 15-10. Substitutes "return" for "reply" to conform with current usage and adds "ballot envelopes" to conform with the amendment proposed to Section 15-6.

(8) Section 15-12. Substitutes "return" for "reply" to conform with present usage.

(9) Section 15-13. Substitutes "return" for "reply" to conform with present usage.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2162-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2162-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 862-80 Judiciary on H.B. No. 2167-80

The purpose of this bill is to review and amend chapters 11, 12, 13, 13D, 16, 18, and 19, Hawaii Revised Statutes, pertaining to elections:

1. Section 11-1. Deletes the language from the definition of "special election" which restricts such elections to those "to be held to fill a vacancy" because the Board of Education and the Office of Hawaiian Affairs, Board of Trustees elections are now described as "special elections."
2. Section 11-12. Clarifies the language permitting 17 year olds to register to vote if they will become 18 years old before the date of the next election.
3. Section 11-26. Removes the language describing functions of Boards of Registration because this language properly belongs under Part III. "Board of Registrations."
4. Section 11-41. Adds the language removed from Section 11-26 describing functions of Boards of Registration.
5. Section 11-92. Makes stylistic changes and also removes references to specific types of public buildings to be used as polling places because police stations are not used in Hawaii at the present time and only one fire station is currently used as a polling place.
6. Section 11-111. Removes the language dealing with "specimen ballots" and substitutes requirements for informational posters containing facsimile ballots to conform with present practice and to better assist voters in understanding the contents of the ballots before voting.
7. Section 11-112. Adds the identification of ballot sets to the kinds of information permitted to be prepunched on ballots because in primary elections, voters will receive ballots for all parties along with the nonpartisan ballot. Section 12-31 requires that the ballot not be counted if the voter votes for candidates of more than one party. The ballot set codes cannot be identified with the names of the voters; however, the pre-punched ballot set code will allow the computer to detect such crossover voting when it occurs.
8. Section 11-114. In conformance with section 13-3, the Board of Education is removed from the order of offices listed on the ballot and further, the chief election officer's authority for determining the physical characteristics of the ballot is removed because it is more appropriate in section 11-119.
9. Section 11-119. Adds language removed from section 11-114.
10. Section 11-132. Removes requirement that precinct officials "set apart" the area 1000 feet around a polling place because adequate posting of such a large area, especially in urban areas, is beyond the capability of precinct officials in the time available to them, especially in view of the other responsibilities they have prior to the opening of the polls.
11. Section 11-134. Substitutes "nonreusable seal" for "lock" as the means for securing ballot boxes because nonreusable seals with recorded serial numbers provide better ballot security. Also, removes authority to open ballot boxes for early collection of ballots because greater security has been achieved by requiring that sealed ballot boxes be transported to the counting center.
12. Section 11-135. Provides that, in the early collection of ballots, the ballots must be returned to the counting center in sealed ballot boxes to provide greater ballot security.
13. Section 11-137. In conformance with Article II, section 4 of the Constitution and section 12-31, the choice of party or nonpartisan ballot is added to that information about voting which must be kept secret and also provides that unvoted ballots in primary elections be collected and their identification be kept secret. Further, "drop" is changed to "deposit" to conform with present usage.
14. Section 11-138. Pursuant to the new provision in section 11-137, removes the prohibition against reentering voting booth after voting because voters who spoil ballots, or, in new primary elections, who have not properly segregated voted and unvoted ballots, must be permitted to re-enter voting booths to properly complete their voting cycle.

15. Section 11-140. Requires voter to mark a spoiled ballot to insure secrecy and removes the requirement that a precinct chairman indicate the reason for spoilage on a ballot because secrecy is required by the State Constitution and the Hawaii Revised Statutes and no purpose is served by the requirement that the reason for spoilage be indicated.

16. Section 11-152. Requires ballots to be taken in sealed ballot boxes to the counting center to ensure ballot security.

17. Section 11-155. Provides that compilation, certification and release of election results take place after expiration of time for bringing an election contest, thus, clarifying the time frame for such action.

18. Section 12-3. Adds to the nomination paper a certificate that the candidate has complied with the resignation from public office requirement of the Constitution (Article II, section 7).

19. Section 13-3. Clarifies description of the order of names on the Board of Education ballot.

Present language indicates that departmental school district candidates would be listed twice on the ballot. That is not the intention of the section.

20. Section 13-4. In conformance with section 13-3 and 17-6, adds the phrase "the special election held in conjunction with" the general election. Deletes "by the governor."

21. Section 13D-5. Pursuant to section 13D-4 adds the phrase "the general election held in conjunction with" the general election.

22. Section 16-12. Pursuant to Article II, section 4 of the Constitution and section 12-31, Hawaii Revised Statutes, amends item 4 to require voting machines to automatically lock out other parties once a voter selects a party ballot in primary elections.

23. Section 16-. New section, presently undesignated, conforms with current practice by providing authority for unscored absentee ballots to be punched at the counting center to reflect votes cast by absentee voters.

24. Section 18-1. Substitutes congressional districting adopted on recommendation of 1973 Legislative Reapportionment Commission.

25. Section 19-6. Eliminates item 9 which makes a false statement a misdemeanor in an absentee voter affidavit because affidavits are no longer required for absentee voting.

This bill is basically a housekeeping measure. Testimony in favor of the changes in the bill was received from the lieutenant governor's office and the office of the city clerk. Pursuant to this, your Committee has made the following alterations to this bill to better effectuate its housekeeping purposes:

1. The language describing the minimum age at which a person is qualified to register to vote is simplified in section 11-12.

2. Section 11-119, has been amended to provide for delivery of absentee ballots to each clerk on the fifteenth rather than the tenth day prior to the date of any election. This change was advocated by the lieutenant governor's office and the association of county clerks to conform this section with changes made to sections 11-118, 17-3, 17-6 and 17-7 which refer to the filling of vacancies for certain elective offices. These changes are reflected in H.B. No. 2162-80 - S.B. No. 2033-80 pertaining to vacancies and was formally amended in S.B. No. 2031-80 which proposed this sole change to section 11-119, Hawaii Revised Statutes.

3. The House bill referred to this Committee provided in section 11-132 that a person campaigning within a 1,000-foot radius around a polling place will be guilty of a misdemeanor offense. However, there is no language in the section providing for how such an individual will know when he is within the restricted area and thus violating the purpose of the section. To this end, language is hereby added calling for the posting of a map in a conspicuous place that designates the boundaries of the 1,000-foot area.

4. Section 11-134 is revised at the end by adding the phrase "except on the island of Niihau as distinguished from a counting center. Other polling places where an electronic

voting system is employed must transport their sealed ballot boxes to counting centers for opening.

5. The seven sections of the bill which dealt with chapter 15, Absentee Voting, are deleted. Another elections bill being recommended by this Committee includes these sections and the changes made therein.

6. Lastly, technical corrections were made where necessary to present this bill in proper form.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2167-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2167-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 863-80 Judiciary on H.B. No. 2810-80

The purpose of this bill is to clarify section 11-25, Hawaii Revised Statutes, by specifying that challenges to the registration of voters in the special election for members of the Board of Trustees, Office of Hawaiian Affairs, may be made only by voters who are likewise registered to vote in that election. In addition the bill clarifies that such challenges may be made prior to the election day.

In its current form, present law appears to permit any voter on election day to challenge the registration status of those voters who are registered to vote in the election for members of the Board of Trustees, Office of Hawaiian Affairs.

Your Committee received testimony on March 17, 1980, from the lieutenant governor's office and the Association of Clerks and Election Officers of Hawaii. Both offices endorsed the changes to section 11-25 made by this bill.

Several minor word and grammatical changes were made to this bill to correct technical errors and further clarify its intent.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2810-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2810-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 864-80 Ways and Means on H.B. No. 584

The purpose of this bill is to require the children's mental health services branch of the department of health to coordinate delivery of mental health services to children, to require the departments of health and education and the children's mental health services branch to develop a memoranda of agreement relating to services to children, to require the statewide children's mental health services plan to be developed in five-year cycles, and to require a biennial review of progress made toward such plan.

Your Committee heard the companion Senate measure, S.B. No. 1982-80, and concurs with the intent of the bill to delineate and strengthen the relationship between the departments of health and education.

Your Committee on Ways and Means has made technical, nonsubstantive amendments to this bill for purposes of style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 584, 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. 584, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 865-80 Ways and Means on H.B. No. 1762-80

The purpose of this bill is to appropriate moneys out of the general revenues of the State to compensate specific persons pursuant to the Criminal Injuries Compensation Act. This bill appropriates (1) \$223,396.45 for claims awarded by the criminal injuries compensation commission; (2) \$46,556.53 for 40 victim awards in 1979 and \$49,859.69

for 50 victim awards in 1980 as authorized by the commission; and (3) \$100,000 to compensate victims and their providers under chapter 351, Hawaii Revised Statutes, during the fiscal year July 1, 1980 to June 30, 1981.

Your Committee agrees that the awards are justified under the Criminal Injuries Compensation Act.

Your Committee has amended this bill by deleting the section which appropriates \$100,000 to compensate victims and their providers during fiscal year 1980-1981. Your Committee feels that it is desirable to maintain legislative scrutiny of payments under the Criminal Injuries Compensation Act instead of allowing unilateral award by the commission. Because of this amendment, sections 4, 5, and 6 in the bill as received have been renumbered as sections 3, 4, and 5, respectively, and reference to section 3 on line 14 of page 16 of the bill as received has been deleted.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1762-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1762-80, S.D. 2.

Signed by all members of the Committee.

SCRep. 866-80 Ways and Means on H.B. No. 1991-80

The purpose of this bill is to make various amendments to chapter 452, Hawaii Revised Statutes, which regulates the massage industry.

The bill (1) amends chapter 452, Hawaii Revised Statutes, to make changes in terminology; (2) requires that massage therapists and massage establishments be "licensed" instead of "certificated" and that "out-call massage services" be licensed under this chapter; (3) requires that the department of regulatory agencies employ an executive secretary and clerical help to assist the board; (4) provides that a person convicted of a felony or a misdemeanor involving moral turpitude may be denied a license; (5) deletes provisions on officers and specifies that a chairperson shall be elected; (6) increases and separates the various fees; and (7) provides penalties for knowingly employing unlicensed persons to perform massage services.

Your Committee has heard testimony on S.B. No. 1995-80, S.D. 1, which is the companion to this bill. Since the Senate Committee on Consumer Protection and Commerce, from which H.B. No. 1991-80, H.D. 1, S.D. 1, was referred, has amended the bill to be substantially similar to S.B. No. 1995-80, S.D. 2, as passed by the Senate, your Committee is sufficiently informed on this bill.

Your Committee has made nonsubstantive amendments to correct technical, clerical, and grammatical errors in the bill as received. These amendments are:

(1) The word "chairman" has been changed to "chairperson" on line 3 of page 5 and line 10 of page 12;

(2) The word "rules" has been added on line 17 of page 5. The word was inadvertently left out;

(3) The underscored material beginning with the comma and ending with "license" on line 19 of page 5 has been placed after the bracketed word "certificates" to conform to bill drafting style;

(4) The provisions of section 425-6(c), Hawaii Revised Statutes, beginning on line 21 of page 5 have been corrected grammatically;

(5) The word "at" on line 11 of page 7 has been changed to "as";

(6) The colon on line 2 of page 8 has been replaced with a period;

(7) A bracketed period has been placed after "application" on line 14 of page 11 and a bracketed comma has been placed after "required" on line 4 of page 14;

(8) The words "of massage," on line 19 of page 11 have been bracketed;

(9) The semi-colon on line 6 of page 12 has been replaced with a comma;

(10) The comma on line 7 of page 12 has been placed within the end bracket;

(11) The brackets around the word "court" on line 21 of page 14, which were inadvertently left out, have been inserted in the proper place and bracketed; and

(12) "Hawaii Revised Statutes" and appropriate commas have been placed after "425-13" on line 20 of page 16.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1991-80, 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. 1991-80, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 867-80 Ways and Means on H.B. No. 1992-80

The purpose of this bill is to amend section 26-9, Hawaii Revised Statutes, in regard to the department of regulatory agencies' rule-making powers and setting of fees.

Although a majority of the individual statutes dealing with the department of regulatory agencies provide for rule-making powers, a number of those enacted prior to the enactment of chapter 91, Hawaii Revised Statutes, do not expressly grant the director of regulatory agencies those powers. This bill would clarify the director's power to adopt rules.

Further, the bill authorizes the director of regulatory agencies to increase or decrease certain fees assessed or charged by the boards and commissions placed within the department for administrative purposes to maintain a reasonable relation between the revenues derived from the fee, and the cost or value of services rendered. The bill also allows the director to establish separate fees for application, examination, and licenses for the professional and vocational licenses granted by the various boards and commissions.

Finally, the bill makes a "housekeeping" change to delete language stating that the director shall be the state fire marshal, in accord with the deletion of this duty by Act 241, SLH 1978, and to delete the "board of photography" repealed by Act 24, SLH 1979.

Your Committee notes that the new provision in section 26-9(j), Hawaii Revised Statutes, will over the years make statements in the Hawaii Revised Statutes regarding the fees affected thereby obsolete. Therefore, in order not to mislead the public which may assume the fees set forth in Title 25, Hawaii Revised Statutes, and elsewhere in Hawaii Revised Statutes, are current, your Committee has added a new section 2 directing the director of regulatory agencies to prepare and submit a bill to the legislature prior to the 1981 session conforming the sections in Title 25, Hawaii Revised Statutes, and elsewhere in the Hawaii Revised Statutes to the provisions of section 26-9(j), Hawaii Revised Statutes, relating to fees, and renumbered sections 2 and 3 accordingly.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1992-80, 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. 1992-80, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 868-80 Ways and Means on H.B. No. 2059-80

The purpose of this bill is to implement Article I, Section 11, of the Constitution of the State of Hawaii as proposed by the Hawaii Constitutional Convention of 1978 and ratified by the voters on November 7, 1978, which provides for independent counsel for the grand jury.

Your Committee has made technical, nonsubstantive amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2059-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2059-80, S.D. 2.

Signed by all members of the Committee.

SCRep. 869-80 Ways and Means on H.B. No. 2071-80

The purpose of this bill is to require the department of social services and housing to license independent group residences in accordance with federal regulations.

Independent group residences are facilities which allow elderly, handicapped, or disabled persons to live independently in a group arrangement. The federal Department of Housing and Urban Development (HUD) has issued regulations which require state licensure or certification of such residences in order for the residents to qualify for housing assistance payments under HUD's "section 8" program.

Your Committee feels that the section 8 program is an important one for the people of the State, and that conformance to the regulations of the program should be made to ensure maximum participation under the program.

Your Committee has made the following amendments to the bill as received:

(1) The full name of the department of social services and housing is provided on line 10 of page 2 for clarification purposes;

(2) The word "facility" has been changed to "residence" on line 5 of page 4 and lines 1 and 5 of page 5 for uniformity; and

(3) A statutory reference identifying the federal "section 8" program is provided on page 5.

In addition, your Committee has made technical, nonsubstantive changes primarily to conform to bill drafting style. The changes to the bill as received are as follows:

(1) "United States" is spelled out fully on line 1 of page 1;

(2) "Section 8 Housing Assistance Payments Program" has been set in lower case throughout the bill;

(3) Commas have been placed after "certify" on line 1 of page 2, "handicapped" on line 9 of page 3, and "diet" on line 12 of page 4;

(4) The words "as follows" have been added after "read" on line 19 of page 2; and

(5) The word "non-profit" on line 3 of page 5 has been changed to "nonprofit".

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2071-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2071-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 870-80 Ways and Means on H.B. No. 2131-80

The purpose of this bill is to amend section 235-2.3, Hawaii Revised Statutes, of the income tax law by adding a new subsection (k) which provides that the deferral of the tax which otherwise would be levied on the gain resulting from the sale of a principal residence shall be limited to the taxpayer who purchases a replacement residence within the State or is a resident taxpayer of the State.

Internal Revenue Code section 1034 (which is operative for the State with no modification) provides for a postponement of the tax which would otherwise be levied on the gain resulting from the sale of a personal residence. A taxpayer who replaces a principal personal residence within the prescribed time, at a purchase price equal to or more than the adjusted sales price of the old residence, does not report the gain as taxable income but adjusts the basis of the new residence to the extent of the gain.

Internal Revenue Code section 1034 has no requirement as to the location of the replacement residence and Hawaii, in conforming the Hawaii Income Tax Law to the Internal Revenue Code, did not provide for any restriction.

This bill will limit the application of Internal Revenue Code section 1034(a) (nonrecognition of gain) to taxpayers purchasing a replacement residence within the State or to resident taxpayers who are taxable upon their entire income, computed without regard to source within the State.

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. 2131-80, as amended herein, and recommends that it pass Second Reading in the

form attached hereto as H.B. No. 2131-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 871-80 Ways and Means on H.B. No. 2361-80

The purpose of this bill is to allow the director of social services to determine the amount of the maximum shelter allowance of a recipient of public assistance who is residing in a residential treatment facility. Basically, two criteria are imposed on the director in determining the maximum shelter allowance.

(1) The amount must be equal to the cost of the residential treatment facility for providing shelter to the recipient; and

(2) The amount cannot exceed the amount of the applicable maximum shelter allowance established by law for a recipient of public assistance residing in nondomiciliary shelter.

Currently, there are inequities in the amounts of public assistance which recipients in residential treatment facilities may receive. Because of the lack of clear guidelines in this matter some recipients in residential treatment facilities are eligible to receive a monthly total of \$297 in shelter allowance and basic needs allowance; and others are eligible to receive a flat monthly amount of \$191. This results in a potential \$106 difference between the amounts which recipients may receive for residing in basically the same type of facility.

This bill proposes to correct the inequities by providing uniformity in determining the amount of maximum shelter allowance for recipients residing in residential treatment facilities.

Your Committee has heard testimony of the department of social services and housing on the companion to this bill, S.B. No. 2323-80. Since this house bill has been only amended in a nonsubstantive manner by the House of Representatives, your Committee feels that the testimony heard on S.B. No. 2323-80 suffices for the purposes of this house bill.

Your Committee has amended this bill by correcting a clerical error.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2361-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2361-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 872-80 (Majority) Ways and Means on H.B. No. 2634-80

The purpose of this bill is to amend the State's Compensation Law and Collective Bargaining Law to authorize a reduction in the number of steps within the existing salary ranges for white collar and blue collar public employees.

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 H.B. No. 2634-80, 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. 2634-80, H.D. 2, S.D. 2.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 873-80 Ways and Means on H.B. No. 2647-80

The purpose of this bill is to clarify the statutes relating to limitations imposed upon vehicle and vehicle load weight and size, to specify the fees to be charged for permits for non-conforming vehicles, to specify the minimum fines based on excess weight and dimension which may be imposed on violators of the restrictive statutes, and to permit motor carrier safety officers to have the same authority as police officers in enforcement of vehicle and vehicle load limitations. The purpose of the bill has been amended to make the imposition of minimum fines charged to violators of the restrictions mandatory.

Your Committee has made technical amendments for the purpose of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2647-80, 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. 2647-80, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 874-80 Ways and Means on H.B. No. 366

The purpose of this bill is to eliminate the restriction on hiring above the minimum step.

Previously, hiring above the minimum step was limited to the classes of SR 18 and above. By removing the limitation, the director of personnel services will have more flexibility in meeting the changing employment needs in government.

Your Committee has made a technical amendment and added a new section to indicate the effect of the brackets in this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 366 and recommends that it pass Third Reading in the form attached hereto as H.B. No. 366, S.D. 1.

Signed by all members of the Committee.

SCRep. 875-80 Ways and Means on H.B. No. 1945-80

The purpose of this bill is to require the sellers of solar energy devices to disclose what portion of the price charged for such devices is attributable to items unrelated to the device itself and to restrict the solar tax credit to that portion of the price directly related to the installation and operation of the solar energy device.

The intent of this bill is to inform the consumer of the true cost of a solar energy device and the extent to which the total purchase price has been inflated due to the costs of incentives to promote the sale of the device.

Your Committee has already heard S.B. No. 1893-80 which is the companion bill to H.B. No. 1945-80 and believes this bill to be in the interest of consumers.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1945-80, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 876-80 Ways and Means on H.B. No. 1981-80

The purpose of this bill is to increase the recording fees charged by the bureau of conveyances, which have remained unchanged since 1951.

Your Committee concurs with the need to raise these rates to cover administrative costs during these inflationary times.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1981-80, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 877-80 Ways and Means on H.B. No. 2074-80

The purpose of this bill is to amend section 231-15, Hawaii Revised Statutes, relating to tax returns by extending the provisions governing the signing thereof to statements and other documents. This bill also amends section 235-62, Hawaii Revised Statutes, to allow the use of computer printouts in the filing of withholding taxes.

Under current law, only returns may be signed by duly authorized persons other than the taxpayer. This proposal would extend this convenience to all other documents required by the state tax department.

This bill also allows businesses to meet the withholding tax filing requirements by using electronic data processing copy in lieu of the regular forms provided by the tax department, a practice permitted by the federal Internal Revenue Service.

Your Committee has made technical style changes to the bill and changed the effective date to the date of the bill's approval, inasmuch as retroactivity is unnecessary.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2074-80, as amended herein, and recommends that it pass Second Reading in the form attached as H.B. No. 2074-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 878-80 Ways and Means on H.B. No. 2093-80

The purpose of this bill is to increase witness fees in criminal cases for per diem attendance and per mile travel. The present fees were set in 1972 and are not appropriate, considering inflation, for the 1980s. This bill also deletes reference to "or ship" as a means of travel between islands since current travel is by plane and not by ship.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2093-80, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 879-80 Ways and Means on H.B. No. 2133-80

The purpose of this bill is to amend section 235-63, Hawaii Revised Statutes, to change the date for filing of withholding tax statements from January 31 to the last day of February.

Presently, all employers must file on or before January 31 copies of withholding statements of employees and reconciliation forms. The department of taxation favors the date change proposed by this bill to reduce the numerous requests for extension to file these forms. The change in the state filing date would also conform to the federal filing date and regularize procedures for employers.

Your Committee has amended this bill to change the effective date to the date of the bill's approval, inasmuch as retroactive application is unnecessary.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2133-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2133-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 880-80 Ways and Means on H.B. No. 2134-80

The purpose of this bill is to clarify the time for filing the general excise tax annual return.

This bill establishes a more equitable filing date by specifying that the annual return is to be filed on or before the twentieth day of the fourth month following the close of the taxable year. Presently, the filing date is set at April 20 and results in differing grace periods following the close of the year among the taxpayers who are required to file annual returns. For example, taxpayers whose tax years are based on a fiscal year of July to June would have a period of ten months in which to file their annual return while taxpayers whose tax year ends on March 31 would have only 20 days.

Your Committee has amended this bill by inserting the word "corporation" at page 2, line 4, of the bill as received, to be among those enumerated entities permitted to designate an individual to sign the tax return. The term "corporation" is included in the present statute but appears to have been inadvertently deleted in the bill as drafted for introduction.

Your Committee has amended the effective date of the bill to be "upon approval" since retroactive application might result in penalties being imposed unfairly on taxpayers without proper notice of the change in filing date.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2134-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2134-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 881-80 Ways and Means on H.B. No. 2135-80

The purpose of this bill is to increase the fee for copies or certification of tax returns to \$1 per page.

The fee presently authorized by section 231-16, Hawaii Revised Statutes, is 50 cents. Under section 92-28, Hawaii Revised Statutes, the department of taxation has increased this fee to 75 cents, the current actual charge for copies or certification of pages of tax returns. The additional increase proposed under this bill to \$1 is recommended to keep pace with inflation. Your Committee agrees that this increase is necessary and reasonable.

Your Committee has amended the effective date from January 1, 1980 to the date of the bill's approval inasmuch it would be impractical to assess the increase retroactively.

Your Committee has also made minor style changes to conform to the Hawaii Legislative Drafting Manual.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2135-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2135-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 882-80 Ways and Means on H.B. No. 2219-80

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

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

Your Committee finds that there is little or no revenue effect in the provisions of this bill.

Your Committee has amended this bill by adding "Hawaii Revised Statutes" to the heading in section 2 to make clear that section 235-2.3, Hawaii Revised Statutes, is being amended and by correcting the statutory language.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2219-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2219-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 883-80 Ways and Means on H.B. No. 2357-80

The purpose of this bill is to permanently place the Hawaii criminal justice information data center within the department of the attorney general for administrative purposes, effective July 1, 1981, and to provide guidance as to the purpose of this data center.

Chapter 846, Hawaii Revised Statutes, currently provides that the data center be attached to the judiciary for administrative purposes.

Your Committee has made technical, nonsubstantive amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2357-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2357-80, S.D. 2.

Signed by all members of the Committee.

SCRep. 884-80 Ways and Means on H.B. No. 2454-80

The purpose of this bill is to permit the counties to enter into "put or pay" type contracts in connection with waste disposal facilities financed by pollution control bonds.

The counties must be able to enter into put or pay contracts in order to assure bond investors that the facilities will be able to operate successfully. A put or pay contract will insure the facility operator of a continuous and a minimum supply of solid waste so that the facilities can operate at a profit. If the counties do not supply the minimum amount, they would be obligated to pay an agreed upon amount or make agreed upon adjustments.

Your Committee has amended the bill by making typographical corrections to conform the bill to the Hawaii Revised Statutes and other nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2454-80, 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. 2454-80, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 885-80 Ways and Means on H.B. No. 2496-80

The purpose of this bill is to require the board of land and natural resources to submit information regarding all proposed (after June 30, 1980) agricultural park projects to the legislature.

Your Committee has amended this bill to require legislative approval prior to any agricultural park designation becoming final or the development of any agricultural park.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2496-80, 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. 2496-80, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 886-80 Ways and Means on H.B. No. 2577-80

The purpose of this bill is to exempt trusts organized and operated exclusively for religious, charitable, scientific, or educational purposes from the general excise tax.

Your Committee has heard the companion bill S.B. No. 2600-80 substantive provisions of which are identical to H.B. No. 2577-80.

Your Committee has amended H.B. No. 2577-80 as received by deleting section 1 and renumbering existing sections.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2577-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2577-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 887-80 Ways and Means on H.B. No. 2822-80

The purpose of this bill is to establish a revolving fund to handle moneys received from compulsory student activity fees and all other revenues received by chartered student organizations and student activity programs, except those revenues to which other special funds have prior claim.

Your Committee has made technical, nonsubstantive amendments to this bill for purposes of style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2822-80, 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. 2822-80, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 888-80 Ways and Means on H.B. No. 2889-80

The purpose of this bill is to authorize the director of the office of consumer protection to compensate witnesses for testifying in any court proceeding or case which the office of consumer protection is empowered to investigate.

This bill makes an appropriation of \$5,000.

Your Committee on Ways and Means has heard testimony on companion bill S.B. No. 3108, S.D. 1, and concurs with its version.

Your Committee has therefore amended H.B. No. 2889-80, H.D. 2, by removing the \$5,000 appropriation.

Your Committee has renumbered sections 4 and 5 of the bill as received, to be sections 3 and 4, respectively and made technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2889-80, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2889-80, H.D. 2, S.D. 1.

Signed by all members of the Committee.

SCRep. 889-80 Ways and Means on H.B. No. 2944-80

The purpose of this bill is to clarify the parameters of the State's area of responsibility in providing emergency medical services; to insure that the department of health and the various counties presently providing emergency ambulance services will continue supplying the present level of services; to provide that the department of health have more flexibility in contracting for emergency medical services; and to provide that payments to contractors be made at least on a quarterly basis by the department of health for these services.

Presently, the department of health must contract with the counties if they apply to operate emergency ambulance services within their respective counties, and the department of health has no discretion to contract for such services with other contractors even if they may provide more cost-effective services.

Your Committee and the Committee on Health in an informational hearing on a similar senate bill relating to emergency medical services, received testimony by the department of health recommending a change in the procedure for contracting for emergency ambulance services by making it discretionary rather than mandatory for the department of health to contract with the counties for these services.

Your Committee and the Committee on Health also received testimony by the City and County of Honolulu (which presently provides emergency ambulance services for the island of Oahu) opposing such a change, on the grounds that the change would jeopardize both the long-term viability of its system, and the future employment of its current employees.

Your Committee proposed the change in the senate version of this bill to allow the department of health to assume an equal bargaining position for the contracting of these services rather than be statutorily mandated to contract with the counties.

Your Committee found no problem with Article VIII, Section 5 of the State Constitution, which requires the State to share in the cost of any new program or income in the level of services of an existing program as the State is already required to fund any such program or change in the level of service.

Your Committee acknowledges the successful role that the City and County of Honolulu has played in providing one of the nationally acclaimed programs in emergency medical services. However, your Committee feels that the department of health should not be required to contract with the counties if better cost-effective programs exist.

Accordingly, your Committee has amended the bill by changing the word "shall" to "may" on page 2, line 1 and by deleting the two provisos on page 2, lines 2 through 7.

These amendments will not preclude the department of health to contract with the counties for emergency ambulance services nor will they preclude the department of health and the counties presently providing these services from maintaining the present level of services.

Your Committee has deleted the provisos requiring the department of health and the counties to "make every effort to continue the level of services under existing programs" and makes note in this report that both parties should strive to work in concert to insure that the people of the State of Hawaii receive quality emergency medical services.

Retaining the provisos in this bill would statutorily "handcuff" the parties to continue the existing level of services until a statutory amendment is made. There would be no flexibility in increasing or decreasing present level of services. Your Committee feels that the concerns as expressed in the provisos would be more effectively asserted in this report and in provisos contained in the budget bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2944-80, 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. 2944-80, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 890-80 Ways and Means on H.B. No. 3045-80

The purpose of this bill is to amend section 286-52, Hawaii Revised Statutes, to allow the present ownership certificate of vehicles to be redesigned.

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. 3045-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3045-80, S.D. 2.

Signed by all members of the Committee.

SCRep. 891-80 Ways and Means on H.B. No. 1606

The purpose of this bill is to change the public employer's monthly contribution to the health fund.

Your Committee is in agreement that such a change is necessary because of the inflationary increase in premiums over the years. This bill proposes to alleviate the increased financial burden that has been placed on employees as premiums have continued to rise over the years.

Your Committee is concerned, however, about the rocketing costs of health benefits which are resulting in a heavy burden on the public coffers. Since 1978, medical insurance premiums have increased by 25%. Testimony received from the Public Employees Health Fund indicates that one year from now, in 1981, medical insurance premiums are expected to increase by an additional 23%.

The \$2,085,800 appropriation provided in this bill for increased employer contribution for health fund benefits for active employees for the fiscal year 1980-81 fails to reveal the true cost to the State of increasing health insurance costs. By statute, the State pays for 100% of the health insurance premiums for retirees. For fiscal year 1980-81 alone, the additional cost to the State as a result of the increase in medical insurance premiums for retirees amounts to approximately \$2,160,000. Thus, the total increased cost to the State for fiscal year 1980-81 is more than \$4,240,000.

Your Committee is seriously concerned about the future cost to the State and the counties for provision of such health fund benefits. Recent action by the Board of Trustees of the Public Employees Health Fund in restructuring medical insurance rates has resulted in an increased cost to the State of more than \$400,000 through a shifting of costs to retirees who have all of their premiums paid by public employees.

It is the belief of your Committee that further legislative consideration of the rising costs of health care for all segments of society is necessary as the burgeoning costs of health care continue to further consume an increasingly larger share of State appropriations and burden both public employees and the public at large.

Your Committee has amended this bill as received by:

- (1) Replacing the dollar amount of \$12.44 with \$14.14 on line 7, page 1.
- (2) Replacing the dollar amount of \$39.66 with \$45.08 on line 8, page 1.

(3) Replacing the dollar amounts of \$1,133,980 and \$1,145,607 on line 23, page 3, and line 1, page 4, respectively, with the single dollar amount of \$2,085,800.

(4) Adding a lapsing provision and date.

(5) Deleting the comma after the word "provided" on line 11, page 1.

(6) Changing the effective date from July 1, 1979 to July 1, 1980.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1606, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1606, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 892-80 Ways and Means on H.B. No. 1610

The purpose of this bill is to require public employers to pay additional monthly contributions to the public employees health fund for the payment of the monthly charge attributable to the special benefit improvements for pregnancy, childbirth, and other related medical conditions within an employee-beneficiary's health benefits plan which are mandated by a 1978 amendment to the federal Civil Rights Act retroactive to July 1, 1979. To accomplish this purpose, the bill proposes to establish a new section with the provisions in chapter 87, Hawaii Revised Statutes, which provides the Hawaii public employees health fund law. In addition, the bill proposes to appropriate \$426,000.

Public Law 95-555, which amends the Civil Rights Act of 1964, as amended, requires women affected by pregnancy, childbirth, or related medical conditions to be treated the same for all employment-related programs, including fringe benefits, as other persons not so affected but similar in their ability or inability to work. Public Law 95-555 further requires employers to make up the differences that exist between coverage for pregnancy and childbirth and coverage for all other illnesses and disabilities. Under this federal mandate, the board of trustees of the Hawaii public employees health fund has implemented necessary benefit changes since the health benefits of the fund did not conform. The public employers, however, have not had to increase their contributions for the new benefits because amounts of their contributions are statutorily established. Thus, the state attorney general has ruled that public employers are in violation of Public Law 95-555.

Your Committee is in agreement with the concept of the bill. Substantive amendments, however, have been made primarily because of anticipation of passage of complementary legislation.

First, the payment period for the additional contributions for the special benefit improvements under the bill is changed to July 1, 1979 to June 30, 1980. In the bill as received, the additional contributions were a permanent requirement. Your Committee has made this amendment in anticipation of the passage of House Bill No. 1606, H.D. 2, which raises the statutory contributions amounts of public employers. It is assumed that the increased amounts will provide sufficient coverage.

Second, because the previous amendment requires the additional payment only for a retroactive period, and is then only a one-time payment, the requirements of the bill are now proposed as nonstatutory law. Since it is a one-time payment, it is not desirable to have the provisions in the Hawaii Revised Statutes. The language of section 1 of the bill as amended by your Committee has been further conformed to the nonstatutory and one-time status.

Third, the purpose of the appropriation in section 2 of the bill as received has been amended to specifically state that it is for the State's share of the payment. In addition, the language has been conformed to standard appropriation clause language and the appropriation reduced to \$161,000.

Fourth, section 3 of the bill as received has been deleted as no longer necessary. Because of this, section 4 in the bill as received has been changed to section 3.

Fifth, the effective date has been changed to July 1, 1980. This has been done to make the entire period for which payment must be made to be retroactive. Your Committee feels that this will simplify administration.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1610, H.D. 1, as amended herein, and recommends that it pass Third Reading

in the form attached hereto as H.B. No. 1610, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 893-80 (Majority) Ways and Means on H.B. No. 1607

The purpose of this bill is to allow the public employees' health fund to transmit employer contributions for a public employee's child who is eligible for dental benefits to the dental plan of an employee organization if the employee participates in the employee organization's dental plan.

Presently, under the public employees' health fund, dental benefits are provided to children of public employees but not to public employees themselves. Thus, some employee organizations of public employees are considering or have implemented nongovernmental dental plans for their members to fill this health care gap. This bill, then, allows the transmittal of the employers' statutory contributions for children to the dental plan of their employee-parents, instead of keeping the children's dental plan and contributions under the public employees health fund. This allows both employee-parents and their children to be covered by the same dental plan.

The bill may also have the effect of lowering employer contributions. Under paragraph (2) of the new section 87- , the contributions to the employee organizations' dental plans must be the lesser of the statutory contribution amount or the actual cost. If the actual cost is lower than the statutory amount, the employer contributions will be lower. The bill provides that employer contributions cannot exceed the statutory amount even if the actual cost is higher.

The testimony of the immediately concerned parties was favorable. The board of trustees of the public employees health fund indicates that the bill will not have significant program or financial impact. The board also indicates that this method of distributing employer contributions for dental benefits is similar to the method presently used under the fund's group life insurance plan. Various employee organizations, including the Hawaii Government Employees Association, also testified favorably on this bill. One of the employee organizations has indicated that employer contributions may in fact be reduced if a family dental plan, instead of an exclusively parent plan, could be organized.

Finally, your Committee finds that this bill is favorable because:

- (1) It may be economically beneficial to public employees under their present or planned employee organization's dental plans;
- (2) It does not significantly impact upon the operations of the public employees health fund; and
- (3) It does not require additional employer contributions and may potentially decrease employer contributions.

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. 1607, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1607, S.D. 2.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 894-80 Ways and Means on H.B. No. 1684

The purpose of this bill is to amend section 346-37, Hawaii Revised Statutes, 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 or 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, including medical assistance or food stamps is granted, and 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; or burial payments when, at the time of application for burial payment, the extent of the decedent's income and resources are not fully disclosed as required by the department; and

(4) Medical and burial payments from third parties who are liable for these payments.

This bill provides for the department to be subrogated to any right or claim that a claimant (which includes an injured or diseased person, his guardian, or the personal representative, estate, dependents or survivors of the deceased person) has against a third person to the extent of the amount of medical assistance or burial payment furnished or to be furnished by the department.

The bill also provides that a lien in the amount of medical assistance and burial payment, attach to proceeds of the suit or settlement where third party liability exists or where the issue of such third party liability is settled or compromised without a finding of liability. Notice requirements for lien attachment and provision for an administrative hearing to air lien disputes are also included.

Your Committee agrees with the intent of the bill that the department be subrogated to any right or claim that a claimant has against a third person to the extent of the amount of medical assistance or burial payment furnished or to be furnished by the department.

However, your Committee feels that such subrogation should be limited to rights or claims for special damages and not include rights or claims for general damages.

Your Committee finds that the nature of the claims for medical assistance or burial payments are as special damages and that it would be inequitable to allow the department to be subrogated to the extent of claims for general damages. General damages include damages for pain and suffering, loss of limbs and physical disability incurred, while special damages would include medical payments and burial payments made. Your Committee feels that such subrogation should be limited to similar claims against third parties as are reflected in special damage claims.

Accordingly, your Committee amended said bill by:

1) Specifying on page 3, line 12 that the department shall be subrogated to any right or claim that a claimant has against a third person for special damages if the department provided medical assistance or burial payment to a person who was injured, suffered a disease or died under circumstances creating a tort or other liability against some third person.

2) Specifying on page 4, line 10, that the department's lien created in the amount of medical assistance and burial payments be made against proceeds from special damages awarded in the suit or settlement of the third party liability claim.

These amendments would insure that the department will be subrogated to the amounts of medical assistance or burial payments furnished or to be furnished by the department and that the department will have a lien in the amount of the medical assistance and burial payments made against proceeds of the third-party suit or settlement, but provides that such subrogation or liens will be directly related to the amounts of special damages claimed.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. 1684, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. 1684, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 895-80 Ways and Means on H.B. No. 2633-80

The purpose of this bill is to lift the restrictions that only classroom teachers may apply to participate in job sharing and that only five per cent of the eligible staff at a single school may apply to participate.

Your Committee has made nonsubstantive, technical amendments to this bill to utilize Ramseyer bill-drafting style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2633-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2633-80, S.D. 1.

Signed by all members of the Committee.

SCRep. 896-80 Ways and Means on H.B. No. 2660-80

The purpose of this bill is to clarify existing laws relating to the sale of dwelling units purchased from the Hawaii Housing Authority.

Your Committee has amended the bill as received by inserting between the words "received" and "by" on line 14, page 4, of the bill as received, the phrase "from housing or housing projects, including all gross proceeds received" which was apparently dropped in typing section 359G-15 of the Hawaii Revised Statutes and made other technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2660-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2660-80, S.D. 2.

Signed by all members of the Committee.

SCRep. 897-80 Consumer Protection and Commerce on H.B. No. 159

The purpose of this bill is to amend Section 448-5, Hawaii Revised Statutes, by requiring one out of ten members on the Board of Dental Examiners to be a duly licensed dental hygienist who has been practicing dental hygiene in the State 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.

Your Committee feels that a trained dental hygienist could provide valuable professional input into the operation of the Board and that it is pertinent to provide for the representation of a dental hygienist on the Board that regulates this profession.

Your Committee has amended the bill to increase Board membership from ten members to eleven members by adding one more dentist member to the Board. Additionally, the bill has been amended to provide that the Board may decide which members may participate in licensing and examination procedures for dentists. The provisions regarding quorum have been deleted inasmuch as Section 92-15, Hawaii Revised Statutes, provides general language regarding quorum for boards and commissions.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 159, 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. 159, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Saiki and Yee.

SCRep. 898-80 Consumer Protection and Commerce on H.B. No. 721

The purpose of this bill is to require creditors, sellers, and lessors to use written agreements which are understandable to the average person in (1) residential leases, and (2) consumer transactions involving less than \$25,000 for personal, family, or household purposes.

This bill requires such agreements, entered into after June 30, 1981, to be written in a clear manner using words with common and everyday meanings, but does not prohibit words or phrases required by state or federal law, rule, or regulation.

This bill permits, after June 30, 1986, a consumer, or class of consumers, to sue for actual damages resulting from non-compliance by a creditor, seller, or lessor. The bill also permits the Attorney General or the Director of the Office of Consumer Protection to bring an action to restrain and prevent any violation.

Your Committee notes that anyone who attempts in good faith to comply with the provisions of this bill would not be liable, and that no action may be brought after both parties to any agreement have fully performed their obligations.

Your Committee further notes that non-compliance would not render any agreement void or unenforceable.

Your Committee emphasizes that, in mandating the use of "words with common and everyday meanings", it is not the legislative intent of this bill to prohibit the use of technical terms, provided that such terms are clearly explained. Your Committee also intends that the "good faith" defense should be broadly interpreted, and that plain understandable language is capable of legal precision.

Your Committee also emphasizes that "plain language" should be clearly understood to be in reference to the English language, and not that of any socio-ethnic group.

Recognizing that Article XVI, Section 13, of the Hawaii State Constitution espouses plainly worded governmental writing, your Committee believes that business agreements should also be plainly worded so that the parties clearly understand what is expected of them, and thereby avoid litigation which frequently ensues from misunderstanding.

It is your Committee's intent that a "written agreement" exclude third party warranties in favor of the consumer inasmuch as the creditor should not be held responsible for incoherence, or lack of clarity, or use of technical language in a contract over which the creditor has no control.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 721, 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 Saiki and Yee.

SCRep. 899-80 Consumer Protection and Commerce on H.B. No. 1422

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

Presently, Section 467-3 provides that four members of the Commission shall constitute a quorum to do business. In 1978, the Legislature increased the number of members on the Commission from seven to nine by adding two lay persons representing the public, but the quorum provision was inadvertently unchanged upward to provide for a majority number for quorum purposes. This bill would eliminate the statutory requirement that four members constitute a quorum, thus, allowing the general statutory provisions contained in Section 92-15, which specifies that a quorum, when not otherwise specified, shall be a majority of all the members.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1422, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1422, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carroll, Saiki and Yee.

SCRep. 900-80 Consumer Protection and Commerce on H.B. No. 1806-80

The purpose of this bill is to amend Section 431-412, Hawaii Revised Statutes, by deleting the discriminatory wording used in the Insurance Law with respect to life or disability insurance issued to minors.

Presently, the law gives the primary right to the minor's father to surrender, make loans and to exercise any rights or privileges reserved to the minor provided the policy premium is not paid by the minor or unless the policy otherwise provides.

This bill gives the primary right to either or both parents instead of only to the father.

Your Committee has amended the bill to reinsert the provision providing the applicability of this subsection in the event of the death of the father, and has broadened applicability to include death of the mother in conformity with the general intent of this bill.

Other non-substantive amendments have been made to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1806-80, as amended herein, and recommends that it pass

Second Reading in the form attached hereto as H.B. No. 1806-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Saiki and Yee.

SCRep. 901-80 Consumer Protection and Commerce on H.B. No. 1827-80

The purpose of this bill is to amend the language of Section 425-125, Hawaii Revised Statutes, by eliminating references to specific gender.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1827-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Ushijima, Saiki and Yee.

SCRep. 902-80 Consumer Protection and Commerce on H.B. No. 1829-80

The purpose of this bill is to clarify the bank examiner's discretion to conduct extra examinations or to devote extraordinary attention to the affairs or the condition of any bank, trust company, building and loan association, fiduciary company, industrial loan and investment company, or licensee under Chapter 409 whenever the bank examiner determines that it is necessary. Additionally, the bill deletes discriminatory references to gender in Section 401-15, Hawaii Revised Statutes.

Your Committee has amended the bill to correct typographical errors and to add the word "by" between the words "produced" and "any" in line 11, page 3, to correct an apparent inadvertent omission in Section 401-15.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1829-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1829-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Ushijima, Saiki and Yee.

SCRep. 903-80 Consumer Protection and Commerce on H.B. No. 1871-80

The purpose of this bill is to amend Section 408-15(a), Hawaii Revised Statutes, to include industrial loan companies within the usury exemptions.

Your Committee has amended the bill to provide that industrial loan companies may look to the State usury law for exemptions, as contained in S.B. No. 2519-80.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1871-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1871-80, 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, Saiki and Yee.

SCRep. 904-80 Consumer Protection and Commerce on H.B. No. 1880-80

The purpose of this bill is to require automobile manufacturers to reimburse their dealers for warranty parts used and repairs performed.

Your Committee finds that dealers are presently reimbursed in part for their repair work done while automobiles are still under warranty. This bill will allow the dealers to be fully reimbursed.

Your Committee has amended the bill, after hearing testimony and agreement from manufacturers as well as dealers' representatives, to remove the requirement that parts used in warranty repairs be reimbursed at actual cost or retail price. Your Committee also corrected some technical errors in the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1880-80, H.D. 1, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1880-80, H.D. 1, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Yim, Carroll, Saiki and Yee.

SCRep. 905-80 Consumer Protection and Commerce on H.B. No. 1969-80

The purposes of this bill are to: 1) amend Section 502-12, Hawaii Revised Statutes, to require the Bureau of Conveyances to include an index of agreements of sale in their master index; 2) amend the Land Reform Act, Section 516, Hawaii Revised Statutes, to include two- as well as one-family dwellings; and 3) amend the Land Reform Act to permit persons purchasing property subject to an agreement of sale to purchase the leasehold interest which the State has condemned, to allow those persons to purchase the fee simple title to their houselots.

The Bureau of Conveyances currently maintains a master index of all deeds and instruments left for record. An index for agreements of sale would expedite title searches for persons currently converting from leasehold to fee simple ownership of their residential property.

The present Land Reform Act does not allow owners of duplexes to purchase the fee simple title to their residential property, and this bill would give these residents the same opportunity to convert that owners of single-family dwellings currently have. This bill would also allow the purchasers under agreements of sale to purchase the fee simple title to their property. The Land Reform Act does not clearly specify whether persons with agreements of sale can or cannot purchase fee interest in their property; thus this ambiguity in the present law has prevented persons under agreements of sale from executing conversion contracts. Agreements of sale are often entered into when it is difficult to obtain conventional financing in a tight money market and when first-time homebuyers cannot afford large down payments.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1969-80, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Saiki and Yee.

SCRep. 906-80 Consumer Protection and Commerce on H.B. No. 1993-80

The purpose of this bill is to amend the definition of "principal collector" as that term is defined in Act 76, Session Laws of Hawaii 1979.

Under the existing statutes, Chapter 443 relating to the Collection Agency Board is to be repealed on December 31, 1980 and Act 76, Session Laws of Hawaii 1979, relating to collection agencies will take effect on that date.

Your Committee has amended the bill to repeal Act 76, Session Laws of Hawaii 1979, and postpone the repeal of the Collection Agency Board until December 31, 1986. Thus, the original language contained in the bill has been deleted. A description and explanation of the amended bill is contained in the following portions of this report.

Upon the convening of the 1979 Regular Session of the Legislature, the Collection Agency Board established by Chapter 443, Hawaii Revised Statutes, was scheduled to be repealed effective December 31, 1979, under Section 26H-4, Hawaii Revised Statutes. Pursuant to the statutory scheme of Chapter 26H, Hawaii Revised Statutes (Hawaii Regulatory Reform Act), the 1979 session of the Legislature considered the question of whether or not Chapter 443 should be re-enacted, modified, or allowed to expire.

As a result of its deliberations, the Legislature enacted Act 76, Session Laws of Hawaii 1979. Section 1 of Act 76 extended the existence of the Collection Agency Board for one year, until December 31, 1980. Section 2 of the Act created a new chapter regulating collection agencies (without providing for a Board) to become effective upon the repeal of the Collection Agency Board on December 31, 1980. However, Act 76 was enacted with an effective date of December 31, 1980, applicable to both Sections 1 and 2 of the Act. Therefore, technically, Section 1 of Act 76 was not effective to extend the existence of the Collection Agency Board at the time of its scheduled repeal on December 31, 1979.

As a result of the form in which Act 76 was enacted, Section 26H-4, Hawaii Revised Statutes, as it appears in the 1979 supplement, contains two repeal dates for the Collection Agency Board (one effective as of December 31, 1979 and the other effective as of December 31, 1980) with appropriate annotations by the Revisor of Statutes. As amended, this bill deletes both repeal dates and sets a new repeal date of December 31, 1986. Further, inasmuch as it is your Committee's intent that the Collection Agency Board be continued, the bill provides that Section 2 of Act 76, 1979 (which, as indicated earlier sets up a

chapter governing collection agencies without a Board to be effective December 31, 1980), is repealed.

Your Committee has been informed that under case law relating to statutory interpretation, Act 76, Session Laws of Hawaii 1979, would be interpreted to have extended the existence of the Collection Agency Board to December 31, 1980, in accordance with the legislative intent. To reaffirm this intent, and to ensure technical compliance with drafting procedures, the bill as amended, contains a section (Section 3 of the bill, as amended) re-enacting Chapter 443 in the form it existed on December 31, 1979.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1993-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1993-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Ushijima, Saiki and Yee.

SCRep. 907-80 Consumer Protection and Commerce on H.B. No. 2026-80

The purpose of this bill is to amend Section 373-10, Hawaii Revised Statutes, which gives the Director of Labor and Industrial Relations the power to make rules as to the fees employment agencies may charge. This bill will repeal the power of the Director to set fees, and require instead that employment agencies file a schedule of their placement fees with the Director.

The bill provides that the fee schedule may not be changed more than once during a calendar year. The bill requires that a request for a change be filed with the Director, to become effective upon approval of the Director, but not earlier than thirty days after the request is filed. The bill also requires that the contract between the applicant and the employment agency be in writing, and contain in bold print in a conspicuous border the gross amount of the fee and time period on which the fee is based. The bill also requires that a copy of the agreement be delivered to the applicant.

The bill also requires that no employment agency charge or collect any registration fee or advance payment for services to be rendered in finding employment. The bill also makes unlawful the charging of a fee higher than the fee listed in the schedule filed with the Director.

Your Committee has amended the bill to include language contained in the amended Senate companion bill, with the differences as follows:

- (1) The amended bill provides that the schedule or change of schedule becomes effective upon approval of the Director, and requires the Director to take action to approve or disapprove within sixty days.
- (2) The amended bill provides that a copy of the contract be "provided" (rather than "delivered") to the applicant.
- (3) The amended bill deems that the charging, demanding, or collecting of a fee which is greater than the applicable fee listed in the schedule filed is a violation of Chapter 373 (rather than "unlawful").
- (4) Inasmuch as the House version disallows an agency to charge or collect a registration fee or advance payment, the amended bill includes those activities to be deemed in violation of the Chapter.
- (5) The bill also amends the requirement that the fee charged be included in the contract, to require that the estimated fee charged be included. Testimony submitted by the Director of Labor and Industrial Relations indicated that the fee may not be specifically computable in advance.

Your Committee has also amended the bill by rearranging material for clarity and style.

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

Signed by all members of the Committee.

SCRep. 908-80 Consumer Protection and Commerce on H.B. No. 2284-80

The purpose of this bill is to require sellers of uncooked thawed foods which resemble the physical appearances of the fresh food, to label such food to notify the consumer that such food had been frozen and thawed out. Foods that have been processed by grinding or dehydration are exempt from this requirement.

Your Committee finds that this bill will insure the consumer's right to know regarding the product they are purchasing.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2284-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Yim, Carroll, Saiki and Yee.

SCRep. 909-80 Consumer Protection and Commerce on H.B. No. 2339-80

The purpose of this bill is to amend Section 462A-15, Hawaii Revised Statutes, by deleting the provision which requires the pilot association to maintain liability insurance coverage which protects the State against liability arising out of or caused by any acts or omissions of an association pilot.

The Hawaii Pilots Association and the Board of Pilot Commissioners testified that prior to enactment of the state pilotage law the pilots were employees of the State, and the State was obligated to carry liability insurance to protect itself against liability arising out of or caused by any acts or omissions of their pilots.

Chapter 462A, as passed by the 1978 Legislature, contained a provision permitting the pilots to form an association in order to provide the necessary arrangements and facilities for the rendering of pilotage services, and requiring such association to maintain liability insurance coverage to protect the State. The amount of insurance was to be specified by the Board of Pilot Commissioners.

In the April, 1979 case of State of Washington v. M/V Dilkara, 470 F.Supp. 437 (W.D. Wash. 1979), the DILKARA, with a compulsory, state-licensed pilot on board, struck a bridge owned and operated by the State of Washington. The state sued DILKARA to recover damages to the bridge. As a defense, DILKARA asserted that the state was precluded from recovering because it was vicariously liable for damage caused by the pilot's negligence. DILKARA contended that because of the state's extensive regulation and control over the pilot, any negligence of the pilot should be imputed to the state on a respondeat superior basis. The Washington statute involved in this case is much like the Hawaii Revised Statutes. Under the Washington statute, a board of pilotage commissioners is vested with broad powers to regulate the activities of pilots, including the power to issue pilot licenses, to promulgate rules promoting efficient and competent pilotage services, and to adopt procedures for enforcing the board's rules and the provisions of the statute itself.

The Court dismissed DILKARA's defense, holding that the licensing and regulation of the pilots "does not create an employer/employee or principal/agent relationship between the state and the pilots," *Id.* at 439, and concluding, "more than mere licensing and regulation is required for liability." *Id.* The court noted that the compulsory pilot law does not change a pilot's long-established status as an independent contractor, hired by the vessels.

The Attorney General of the State of Hawaii, in an opinion dated May 27, 1977 held that if the pilots are no longer State employees, the State of Hawaii would not be liable for any damages caused by a pilot except where the proximate cause of the injury was (1) the conformance by the pilot to standards set by the Board of Pilot Commissioners which are clearly inadequate; of (2) the negligent licensing of an unqualified individual by the Board as a certified pilot. In the history of state pilotage in the United States, there has been no case found where a state or municipality has been successfully sued for the actions of a state licensed pilot.

Because the potential liability of the State is relatively insignificant, your Committee agrees that the liability insurance requirement should be eliminated.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2339-80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 910-80 Consumer Protection and Commerce on H.B. No. 2555-80

The purpose of this bill is to require solar energy device dealers to maintain a bond in an amount of \$5,000 with the Director of Regulatory Agencies, and to establish procedures regarding action for claims against solar energy dealers.

Your Committee has amended the bill to clarify the intent that clerks and cashiers need not be bonded. It is your Committee's intent, however, that commission sales persons who are acting as sole proprietors not be excluded, but be subject to the bonding requirement.

Your Committee has also made style and technical amendments without altering the intent of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2555-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2555-80, 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, Ushijima, Saiki and Yee.

SCRep. 911-80 Consumer Protection and Commerce on H.B. No. 2572-80

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

This bill would add a new paragraph to Section 460J-15(a) to provide that any licensee convicted of certain crimes committed in the performance of his duties as a licensee may have the license revoked, suspended, or made non-renewable. This bill would also clarify what appears to be an omission in the law by requiring that liability insurance for fumigation work is required in a policy amount of not less than \$100,000. Present insurance requirements are silent as to liability coverage for fumigation work.

Your Committee has amended the bill to decrease the liability amount for fumigation work to \$50,000 and to include all violations of Chapter 708 as ground for revocation, suspension, or non-renewal of license. Other technical amendments have been made to the bill.

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

Signed by all members of the Committee except Senators Saiki and Yee.

SCRep. 912-80 Consumer Protection and Commerce on H.B. No. 2666-80

The purpose of this bill is to delete those sections of Chapter 476, Hawaii Revised Statutes, which relate to the disposition of collateral upon default by a retail buyer.

Your Committee finds that Sections 476-24 through 476-28 and Sections 490:9-501 through 490:9-507 overlap substantially with regard to procedures for disposition of collateral upon default by a borrower under a security agreement. Because of this overlap of jurisdiction, the two respective procedures provide confusing and conflicting rules for disposition of repossessed collateral. To avoid such confusion, and because your Committee believes that the Uniform Commercial Code has broader applications and more clearly defined procedures, your Committee agrees with the intent of the bill to delete the affected sections of Chapter 476.

Your Committee has amended the bill to correct typographical errors.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2666-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2666-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 913-80 Consumer Protection and Commerce on H.B. No. 2733-80

The purpose of this bill is to amend Section 445-9, Hawaii Revised Statutes, by changing the penalty for failure to notify the county treasurer within thirty days of the close out, transfer, or assignment of the business for which a license is held. The bill changes the penalty from a fine of \$100, to a fine "not to exceed \$100," to allow discretion in determining the fine for minor violators as compared to the chronic and intentional offenders.

Your Committee has made technical amendments to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2733-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2733-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Ushijima, Saiki and Yee.

SCRep. 914-80 Consumer Protection and Commerce on H.B. No. 2795-80

The purpose of this bill is to clarify that members of the Board of Examiners of Nursing Home Administrators include two administrators actively engaged in nursing home administration for the duration of their terms on the board.

Your Committee has amended the bill for reasons of style and clarity without affecting the substantive intent.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2795-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2795-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 915-80 Consumer Protection and Commerce on H.B. No. 2892-80

The purpose of this bill is to allow banks to maintain electronic customer communication terminals without regard to the geographic location of the electronic terminal.

Under the present Section 403-53, Hawaii Revised Statutes, the District of Honolulu is divided into three geographic branch zones within which a bank can establish a maximum of four branch banks. With the advent of electronic devices capable of providing limited banking services without the need for bank personnel to be available, there has apparently arisen a question whether or not such an electronic device is considered a branch bank within the meaning of Section 403-53. This bill would make it clear that banks may establish and maintain electronic banking terminals without regard to their geographic location pursuant to rules adopted by the bank examiner.

Your Committee has amended the bill by adding a provision requiring any bank or service corporation of a bank holding company utilizing electronic banking terminals to make the equipment and services available to any other bank which requests to share the use of the equipment and services and agrees to pay a pro rata share of the costs involved.

Your Committee has also amended the bill by making non-substantive style changes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2892-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2892-80, 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, Ushijima, Saiki and Yee.

SCRep. 916-80 Consumer Protection and Commerce on H.B. No. 2367-80

The purpose of this bill is to close a loophole in present law which has permitted certain retailers to avoid State liquor taxes by purchasing liquor through military post exchanges.

Your Committee heard considerable testimony on this bill and its Senate companion bill, and has amended the bill by inserting "at rest" language contained in S.B. No.

2407-80, S.D. 1. A description of the amended bill follows:

Section 1 of the bill amends Section 281-3, Hawaii Revised Statutes, to require that all liquor purchased from out-of-state suppliers "come to rest" at the importing wholesaler's warehouse. Section 281-3 presently makes it unlawful "for any person, not having a valid wholesale license...to import any liquor from without the State..." In practice, however, certain retailers have found ways to circumvent the law. A common procedure is for the retailer to find a wholesaler, who, for a nominal fee, designates the retailer as his "agent." The retailer then purchases liquor from out-of-state suppliers and has it shipped directly to his premises. On paper, the transaction is made to appear to be a purchase and importation by the wholesaler and a subsequent sale by the wholesaler to the retailer. In fact, the wholesaler never sees the liquor and has nothing to do with the transaction other than selling the retailer the use of his wholesale license. Known as "clearing," this practice permits the retailer to, in effect, import liquor into Hawaii notwithstanding the prohibition of such importations under Section 281-3.

By amending Section 281-3 to require the wholesaler to take physical control of the liquor and deleting language in Section 281-31 which has been interpreted to permit indent (drop) shipments to retailers from out-of-state suppliers, it is anticipated that the class of clearing which is purely a paper transaction will be eliminated. This should facilitate liquor control and taxation and avoid the development of certain anticompetitive practices such as the "tied house." Twenty-seven of the thirty-four states which have a system of liquor control similar to Hawaii's have adopted some form of "at rest" laws.

Section 2 of the bill amends Section 281-31, Hawaii Revised Statutes, to, first, as described above, eliminate indent shipments and, second, prevent retailers from purchasing liquor from military post exchanges. Since liquor sold by military outlets is exempt from State taxation, such purchases enable retailers to evade State liquor taxes. While it is difficult to estimate the exact dimension of the problem, it appears to be significant.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2367-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2367-80, 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, Ushijima, Carroll and Yee.

SCRep. 917-80 Consumer Protection and Commerce on H.B. No. 2368-80

The purpose of this bill is to add a new part to Chapter 281, Hawaii Revised Statutes, to provide for price affirmation for alcoholic beverages, excluding beer and wine, thereby resulting in lower prices initially to wholesalers and ultimately to the consumer.

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

Your Committee has amended the bill to provide that the bill be effective for a one year period commencing on its approval. Your Committee has also made style and technical amendments without altering the intent of the bill.

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

SCRep. 918-80 Judiciary on H.B. No. 2058-80

The purpose of this bill is to make uniform the procedures relating to the sale of real property in probate and guardianship proceedings and to ensure that all such sales are in the best interests of the decedent's or protected person's estate.

The subject matter covered by this bill was favorably considered by your Committee in its deliberations on S.B. No. 1860-80, which was reported out by your Committee in an S.D. 1 form (see Standing Committee Report No. 707-80, dated March 10, 1980) and was recommitted for reconsideration in connection with its consideration of H.B. No. 2058-80, H.D. 1.

Your Committee heard testimony from the Judiciary to the effect that the Judiciary would be satisfied with the procedures relating to the sale of real property contained in either H.B. No. 2058-80, H.D. 1, or in S.B. No. 1860-80, S.D. 1. Your Committee prefers the procedures established by S.B. No. 1860-80, S.D. 1, since they preclude the possibility that a guardian or personal representative would go to the time and expense of arranging a sale of real property only to be informed at the confirmation hearing that the court did not think such a sale to be in the best interests of the estate. The S.B. No. 1860-80, S.D. 1, procedure would reinstate the former Hawaii procedure of a separate advance hearing to determine whether or not a sale is in the best interests of the estate, and your Committee has amended H.B. No. 2058-80, H.D. 1, to so provide.

In addition, your Committee heard testimony from representatives of the professional fiduciaries that they have been consistently losing money in their probate departments over the past five years and heard testimony from the Judiciary that the Probate Court can easier administer probate estates if a statutory fee schedule is utilized rather than the vague concept of "reasonable fees" now in use. Accordingly, your Committee has amended H.B. No. 2058-80, H.D. 1, to include a statutory fee schedule for personal representatives and their attorneys and to specify the services covered by that schedule.

Your Committee has also amended H.B. No. 2058-80, H.D. 1, by adding other provisions from S.B. No. 1860-80, S.D. 1. The H.R.S. sections affected and the rationale for the amendments are as follows:

1. Section 531-29, Hawaii Revised Statutes, is amended to open up the bidding at the hearing on the confirmation of the sale of real property to include all persons submitting bids at the hearing. The hope is that higher prices will be realized for the estates selling real property.
2. Sections 560:3-715, 560:3-704, 560:3-721, and 560:5-424, Hawaii Revised Statutes, are amended in a technical manner to incorporate the changes discussed above.
3. Section 560:3-303, Hawaii Revised Statutes, is amended to increase the size of probate estates capable of being handled informally from \$30,000 to \$40,000. The Probate Court has reported that approximately twenty-five per cent of the estates under \$30,000 are handled by informal family member probate, and the hope is that even more estates will be probated in this manner which does not require the use of attorneys.
4. Section 560:3-901, Hawaii Revised Statutes, is amended to make clear that the Probate Court's order of distribution can itself act as the document conveying realty to the heirs or devisees. There is some confusion about whether or not the personal representative has to execute a conveyance document after filing of the order of distribution, and this amendment seeks to clarify the question.

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

Signed by all members of the Committee.

SCRep. 919-80 Judiciary on H.B. No. 2183-80

The purpose of this bill is to amend section 183-41, Hawaii Revised Statutes, to increase the penalty for violating zoning regulations promulgated pursuant to the section from a flat \$500 fine to \$500 per day for each day in which the violation persists.

The present penalty has not proved sufficient to stop violations of the zoning regulations in forest and water reserve areas. Violations in the last four years have increased dramatically.

Although your Committee agrees that the penalty should be increased, we believe that a \$500 per day penalty without discretion is excessive. Your Committee has amended the bill to provide for a maximum \$500 per day penalty at the discretion of the court where a person has received written notification of a violation and does not remedy it. The fine would reflect the degree of wilfulness of the violation, the case with which the violation could be remedied, etc.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2183-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2183-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 920-80 Judiciary on H.B. No. 2241-80

The purpose of this bill is to expand the protection the law currently affords to a spouse who is the victim of a non-felonious offense against the person perpetrated by the other spouse.

Section 709-906, Hawaii Revised Statutes, currently provides that a victim of spouse abuse may petition the family court for a bench warrant to issue forthwith. Section 571-14(2)(B), Hawaii Revised Statutes, grants family court exclusive original jurisdiction to try any adult charged with an offense, other than a felony, against the person of the defendant's husband or wife.

Your Committee finds that a spouse may be the victim of other non-felonious offenses against the person perpetrated by the other spouse and that the victim spouse should be able to petition the family court for a bench warrant in this situation also. H.B. No. 2241-80, H.D. 1, amends current law by making the petition for a bench warrant available in all such cases.

This bill also amends sections 52-37 and 52-68, Hawaii Revised Statutes, relating to specific duties of the police, to make it clear that the police shall enforce any restraining order to cease and desist from the commission by a spouse of any further non-felonious offense against the person of the other spouse. These restraining orders need not be limited to the offense of spouse abuse.

Your Committee has substantially amended H.B. No. 2241-80, H.D. 1. We have clarified and codified the procedure for petitioning the court and provided a penalty for a petitioning spouse who knowingly makes false statements. In addition, we have established a mandatory minimum term of imprisonment of three days for convicted repeat offenders. We have also amended section 709-906, Hawaii Revised Statutes, to make it clear that a police officer may, with or without a warrant, arrest a perpetrator of spouse abuse whether the offense was committed in or out of the officer's presence.

Your Committee has also amended section 571-42, Hawaii Revised Statutes, which sets forth the family court's procedure in adult cases. Under current law, the consent of the victim spouse is not required for the court to make "such adjustment as is practicable, without prosecution." Your Committee finds that there have been very few prosecutions for spouse abuse and related crimes. We wish to make it clear that, although the victim may be advised by a family court officer that counseling would be more effective than criminal prosecution, no "adjustment" may be made without the victim's consent.

Your Committee has deleted the grammatical and technical amendments to section 571-14, Hawaii Revised Statutes, from this bill, as these are accomplished in H.B. No. 1911-80.

Your Committee has also amended section 52-37, Hawaii Revised Statutes, by substituting sex-neutral terms for those referring to the male sex only.

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

Signed by all members of the Committee.

SCRep. 921-80 (Majority) Judiciary on H.B. No. 2646-80

The purpose of this bill is to grant arrest powers to officers of the United States Customs Service and the Immigration and Naturalization Service.

There are many areas not normally policed by state or county law enforcement officers where the deterrence of a federal officer entitled to make arrests for a state law violation is needed, i.e., restricted areas of the Honolulu International Airport, including customs and harbors areas. Disorderly conduct of passengers and other problems at customs areas, and theft and pilfering at harbors areas are major problems. In the past, federal officers have observed such law violations but have been unable to make arrests. Their authorization to make arrests pursuant to this bill solves these problems.

H.B. No. 2646-80 has been amended by substituting the word "probable" for the word "reasonable" which appears in subsection (2) of this bill. This change clarifies

the circumstances under which a federal officer may arrest a person based upon the more preferred phrase "probable cause" and employs a standard used by police officers in making arrests.

Line 6, page 1 of this bill has also been amended by deleting the word "or" and replacing it with the word "and". Such a change allows both the customs officer and the immigration and naturalization officer to arrest a person under the circumstances enumerated in the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2646-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2646-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Ushijima did not concur.

SCRep. 922-80 Judiciary on H.B. No. 2259-80

The purpose of this bill is to amend sections 710-1031, -1071, and -1074, Hawaii Revised Statutes, by changing the references in each section to the definition of "threat" from section 707-724(1) to 707-764(1).

This is a housekeeping measure necessitated by the repeal of section 707-724(1). Section 707-764(1) contains a definition of "threat" which serves as an excellent replacement for the repealed definition of section 707-724(1).

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2259-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 923-80 Health on H.B. No. 2215-80

The purpose of this bill is to provide the Department of Health the flexibility of placing school nurses at a level commensurate with the services required at a given school.

Under current law, the Department of Health is limited to providing registered professional nurses for a school health complex who are at the entry or next level. The amendment proposed by this bill will remove the restriction on the experience of nurses who are placed as school nurses.

Your Committee heard testimony on the companion Senate bill to the effect that because of new laws and changing circumstances, the responsibilities of school nurses have increased greatly during recent years. Your Committee finds that by eliminating the limitation placed on the level of nurses in our schools, the State will realize improved utilization of registered nurses and provide better and more comprehensive health care for school children.

Your Committee further finds that the School Health Advisory Committee established by Section 321-244, Hawaii Revised Statutes, has performed a useful function in helping to coordinate, guide, and evaluate the school health services program. Therefore, your Committee recommends that the Department of Health extend the existence of the Committee past the scheduled expiration date.

Your Committee has amended the bill by making changes relating to style and drafting format which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2215-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2215-80, 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, Saiki and Yee.

SCRep. 924-80 Judiciary on H.B. No. 2324-80

The purpose of this bill is to provide more effective protection to victims of spouse abuse and other domestic violence by making the law regarding temporary restraining orders with respect thereto more effective.

This bill does the following:

1. Allows the family court to extend the effective period of the temporary restraining order for multiple thirty-day periods, if necessary to prevent violence, or a recurrence of violence;
2. Explicitly authorizes a police officer to arrest a person who violates a restraining order, on probable cause, regardless of whether the violation occurred in or out of the officer's presence.

This bill has been amended to delete proposed amendments to sections 663-1.5 and 707-722, Hawaii Revised Statutes, which would have immunized an officer from civil and criminal liability if the officer had probable cause to arrest a person believed to have violated a restraining order, exercised good faith, and as to civil liability, did not use excessive force. Your Committee has deleted these provisions as being unnecessary in light of both the common law and S.B. 2870-80, S.D. 1, which has been passed by the Senate and which permits a police officer to arrest a person on probable cause for misdemeanor offenses.

Your Committee has also amended this bill to require the family court to designate an employee to assist a person in completing the court-designed application form. Our intent is to ensure that the remedy this law creates not be vitiated by the applicant's inability to properly complete the application.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. 2324-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2324-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 925-80 Judiciary on H.B. No. 2448-80

The purpose of this bill is to delete the defense of "former promiscuity" to a charge of sexual abuse in the second degree.

This amendment is in keeping with recent trends deleting such defenses and changing the rules of evidence regarding the admissibility of past sexual activity of the complaining witness in sexual offense crimes.

Your Committee has amended the bill to change a defendant's state of mind necessary for conviction from "intentionally" to "intentionally or knowingly." Your Committee feels that mere awareness of action and facts involved is all that should be necessary for conviction. This provides greater protection for the class of "status" victims identified in the statute.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2448-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2448-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 926-80 Judiciary on H.B. No. 2809-80

The purpose of this bill is to allow election officials to consolidate election precincts when natural disasters such as floods, tsunami, earthquakes, volcanic eruptions or high winds make regular polling places inaccessible to the voters, if such disaster occurs more than five days prior to an election.

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

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

Section 11-92, Hawaii Revised Statutes, has been amended to conform to certain changes made to H.B. No. 2167-80 which deleted explicit references to schools, police stations, and fire stations which may be used as polling places and substituted the more general word "publicly" owned buildings.

Your Committee has further amended this bill by making minor grammatical, punctuation and stylistic changes.

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

Signed by all members of the Committee except Senator George.

SCRep. 927-80 Transportation on H.B. No. 2086-80

The purpose of this bill is to amend Section 462A-18, Hawaii Revised Statutes (HRS), to allow the movement of vessels in state harbors without harbor pilots when the Director of Transportation declares that the vessel is in immediate danger of destruction or when a vessel poses an immediate hazard to public safety by its presence in the harbor.

The Attorney General's office has indicated that there may be a potential conflict between the provision of Chapter 462A, HRS, which requires all but exempt vessels to take a pilot, and the emergency powers granted to the Department of Transportation by Sections 266-2 and 462A-19, HRS. Your Committee feels that this bill will resolve the potential conflict between the pilotage requirement and public safety in the event of an emergency.

Your Committee has amended the bill for purposes of style and clarity.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2086-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2086-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 928-80 Transportation on H.B. No. 2127-80

The purpose of this bill is to amend Chapter 266, Hawaii Revised Statutes, by adding a new section to provide for taking custody, impounding, retaining and disposing of vessels unlawfully moored in a State harbor.

Chapter 266 now authorizes the issuance of citations, the arrest of a violator and a maximum fine of \$1,000 but does not expressly authorize the impoundment of a vessel moored in violation of the regulations. Your Committee finds that this additional sanction is necessary because the legal process now required to effect removal in these cases is usually quite lengthy and requires the expenditure of an exceptional number of man-hours on the part of the personnel from both the Department of Transportation and the Attorney General's Office. During the legal process, the vessel continues to occupy critically short moorage space or otherwise disrupt normal operations of the harbor.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2127-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 929-80 Transportation on H.B. No. 2195-80

The purpose of this bill is to amend Sections 261-12 and 261-21, Hawaii Revised Statutes, to eliminate possible constitutional challenge to the validity of airport rules and regulations.

Your Committee heard testimony from the Department of Transportation that in a recent Circuit Court case involving the Labor Day demonstration at General Lyman Field, charges against those persons arrested for violation of airport rules and regulations prohibiting entry into a restricted area of the airport were dismissed. The Court ruled that the airport regulations were defective in that they were made by the Department without proper guidance by existing statutes.

This bill clarifies the authority of the Director of Transportation to adopt rules and

specifies the penalties for violations of such rules.

Your Committee has amended the bill by making references to the Director of Transportation neutral in gender.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2195-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2195-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 930-80 Transportation on H.B. No. 2328-80

The purpose of this bill is to assist the Department of Transportation in the administration and operation of State Boat Harbors by providing statutory authority for determining the true owner of a vessel in order for the owner to obtain a Mooring Permit. The bill further provides a definition of an "owner" of a vessel.

Presently, the Department of Transportation requires documentary proof of ownership of a vessel prior to issuing a Permanent Mooring Permit for mooring in a State small boat harbor. The person seeking a permit or renewal of a permit is required to produce either a valid State registration certificate or U.S. Coast Guard documentation certificate on which the owners are listed. In the event of doubt concerning ownership of a vessel, the Department will also examine any financing statements relating to the vessel that are on file with the Conveyances Division, Department of Land and Natural Resources, as authorized by the Uniform Commercial Code (Section 490: 9-407, Hawaii Revised Statutes). A problem exists in that the filing of such financing statements is purely voluntary on the part of financing parties and institutions. Further, the Department does not have access to financing statements for vessels financed out of state, or any means to detect a full-payment purchase of a vessel.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2328-80, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 931-80 Transportation on H.B. No. 2853-80

The purpose of this bill is to amend Section 266-2, Hawaii Revised Statutes, to clarify the law relating to the authority of the State to plan, construct, operate, and maintain harbors throughout the State without the approval of county agencies.

Present statutes confer upon the Department of Transportation the authority to exercise all powers and perform all duties relating to the control and management of harbors throughout the State. This centralized authority is necessary to assure the consistent planning and development of a statewide harbors system.

Your Committee finds that the authority of the Department of Transportation may be hampered by the counties through the zoning, subdividing or permit requests necessary for the lands involved in the planning, construction and maintenance of harbors. This bill expressly allows the Department of Transportation to plan, construct, and maintain statewide harbor facilities, including the acquisition and use of lands for stockpiling dredged spoils, without the approval of any county agencies.

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

Signed by all members of the Committee except Senator Ushijima.

SCRep. 932-80 Transportation on H.B. No. 3046-80

The purpose of this bill is to redesign the motor vehicle ownership certificate and add certain desirable information relating to the motor vehicle.

Your Committee heard testimony from the City and County of Honolulu that a new redesigned motor vehicle ownership certificate will make it easier for the vehicle owners to properly complete the certificate when selling their automobiles or transferring titles of ownership. Additionally, the redesigned certificate will require that the owner fill in the odometer reading of the vehicle on the date of the transfer and will eliminate the need for completing an "Interim Certificate of Accuracy" as presently required.

Your Committee has amended this bill by making certain technical changes to comply with Ramseyer rules of bill drafting and style changes which do not affect the substance of the bill.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 3046-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3046-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 933-80 Judiciary on H.B. No. 2263-80

The purpose of this bill is to delete the use of the word "insanity" from the Uniform Limited Partnership Act, chapter 425, Hawaii Revised Statutes.

Your Committee finds that the term "insanity" to describe a particular mental disability is archaic and technically inaccurate for use in the statutes. All references to the word "insanity" have therefore been deleted and replaced by the phrase "on the order of a court of competent jurisdiction adjudicating a general partner incompetent to manage his person or his property."

This change in present law better defines the circumstances by which a partnership may be dissolved based upon the mental disability of a partner.

Nonsubstantive, technical changes have also been made to this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2263-80, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2263-80, H.D. 1, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 934-80 Ways and Means on H.B. No. 25

The purpose of this bill is to provide enabling legislation for the issuance of special purpose revenue bonds for not-for-profit corporations which provide health care facilities to the general public. The enabling legislation is necessary to implement the State's authority to issue special purpose revenue bonds under Article VII, section 12, of the Constitution of the State of Hawaii.

At this time, your Committee is in favor of the concept of allowing private, nonprofit corporations providing health care facilities to use the proceeds of special purpose revenue bonds for their capital projects. It is emphasized, however, that the use of special purpose revenue bonds is not meant for the exclusive benefit of the private corporations taking advantage of the privilege, but for the ultimate benefit of the general public in terms of better health care at reasonable cost. Since this concept is new in Hawaii, no experience can be relied upon to assess its workings. Because of this, your Committee has amended the bill to provide for more public disclosure of the financial aspects of corporations using the proceeds of special purpose revenue bonds and legislative review of the concept after some experience is attained. It is felt that public knowledge and display of the process will indicate whether the concept works as intended and lessen the chances of intended or unintended abuse.

First, a new section is added to allow the department of budget and finance full access to all financial records of the corporations using proceeds from special purpose revenue bonds and to require public disclosure of such records.

Second, another new section is added to require corporations who use the proceeds of special purpose revenue bonds to estimate and disclose the benefits derived from the use of such proceeds instead of other means of financing.

Third, another new section is added to prohibit the issuance of special purpose revenue bonds for not-for-profit corporations providing health care facilities to the general public after June 30, 1983. Your Committee feels that a legislative review of the concept should be done sometime near this date.

Your Committee has also amended the bill by taking the statutory law proposed out of chapter 39, Hawaii Revised Statutes. It is the intent of the Committee that all statutory provisions authorizing State issuance of special purpose revenue bonds for the different

public purposes be consolidated under a new chapter in the Hawaii Revised Statutes.

Your Committee has further amended the bill by amending the proposed new section beginning on page 9 of the bill as received to require the department to obtain a commitment prior to entering negotiations with a project party that the State will be reimbursed for all direct and indirect expenses. In the bill as received, such a commitment could have been obtained during negotiations. The section has been further amended to prohibit the payment of interest by the State on deposits by a project party required during negotiations.

In addition, your Committee has made nonsubstantive, technical changes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 25, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 25, H.D. 1, S.D. 3.

Signed by all members of the Committee except Senators Yim and Anderson.
Senator Kawasaki did not concur.

SCRep. 935-80 (Majority) Ways and Means on H.B. No. 1222

The purpose of this bill is to carry out that portion of the provisions of Section 12 of Article VII of the State Constitution which authorizes the issuance of special purpose revenue bonds pertaining to the assistance of 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 revenue bonds for that specific purpose.

The voter-ratified amendment to Article VII, Section 12 in 1978, approved the authorization and issuance of special purpose bonds without the same being chargeable against the debt limit; provided that the legislature determines the bonds to be in the public interest. Seven separate categories, including utilities, were listed as eligible for this constitutional treatment.

For a comprehensive description of the general operation of H.B. No. 1222, H.D. 1, S.D. 3, we make reference to the first two pages and up to the second full paragraph of page 3 of Standing Committee Report No. 735-80, prepared by the Senate Committee on Public Utilities.

Your Committee has reviewed the bill including the amendments made on sections -18 and -19 by the Committee on Judiciary and is in general accord with the intent and purpose of the bill.

Your Committee has amended the bill as follows:

(1) Amended the title of the proposed new chapter (section 2 of the referred bill) by inserting the phrase "Part ____" to specify that this Act relating to the special purpose revenue bonds assisting utilities serving the general public in providing electric energy or gas shall be only one part of a new chapter. Amendments to conform this change in title designation have been made throughout the bill. This amendment was made by your Committee to indicate the intent that all special purpose revenue bond laws shall be incorporated under one chapter in the Hawaii Revised Statutes.

(2) Amended the definition of "energy project" found in section -1 of the referred bill to read as follows:

"Energy project" means any facilities for each single project or multiproject program of a project party which is certified by the public utilities commission as being for the local furnishing of electric energy or gas; provided that any new facility for the production or generation of electric energy from fossil fuels shall not be considered as an "energy project" for purposes of this part unless specifically authorized in any Act providing for the authorization of the issuance of bonds pursuant to this part.

(3) Amended the first paragraph of section -4 of the referred bill relating to "conditions precedent to negotiating and entering into a project agreement" to read as follows:

"The department prior to entering into negotiations with any project party shall require that the State shall be reimbursed for any and all costs and expenses (direct or indirect) incurred by it in implementing this part, as determined by the department, even though a project agreement may not be entered into and may further require the deposit of moneys with the department for such reimbursement. Any amount of such deposit

in excess of the amount required to reimburse the State shall be returned by the department to the party which has made such deposit. The State shall not be required to pay to the project party any interest or earnings on such deposit."

(4) Added a new section -22 to provide that after June 30, 1983, no new special purpose revenue bond shall be issued under this part. Your Committee believes that this amendment is necessary to allow the legislature to review and assess the law after a few years of experience.

(5) Made other nonsubstantive, technical changes to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1222, H.D. 1, S.D. 2, as amended herein, and recommends that it pass reading Third Reading in the form attached hereto as H.B. No. 1222, H.D. 1, S.D. 3.

Signed by all members of the Committee except Senators Yim and Anderson. Senators Kawasaki and Chong did not concur.

SCRep. 936-80 (Majority) Ways and Means on H.B. No. 1429

The purpose of this bill is to direct the State director of finance to consider the safety and liquidity of public fund deposits and the yield offered by a depository prior to making a selection of a depository of public funds. This bill also would amend current collateral requirements for public deposits to allow the director of finance to accept all types of residential mortgages, whether or not they are insured or guaranteed by the federal government, as acceptable collateral for public deposits.

Your Committee has received testimony regarding this bill from representatives of the banking institutions in the State, the savings and loan institutions in the State, the department of budget and finance, and the department of finance of the city and county of Honolulu.

Much concern was expressed regarding various provisions of H.B. No. 1429. In particular, concern was focused on the appropriateness of accepting residential mortgages as collateral for public deposits. Testimony in this area was directed principally at two key factors which are considered in making deposits of public funds, i.e., safety and liquidity.

Your Committee has considered the testimonies which were submitted as well as the various position papers on the subject which were prepared by representatives of the savings and loan associations and the banking community. Your Committee has made the following findings:

The factor of safety is of utmost importance in making public fund deposits. The director of finance, as a trustee of public funds, is charged with the responsibility of making prudent deposits and investments of public funds. Thus, safety of the funds to be deposited must be of primary concern.

An evaluation of the safety of public deposits requires scrutiny of the financial integrity of the institution which is to be selected as a depository as well as the collateral which is to be offered to secure the public funds to be deposited. As for the former, consideration must be given to the nature of the activities of the institution as well as its past financial record and present financial condition and business practices. As for the latter, statutory requirements must be complied with. Furthermore, the director of finance must ensure that the collateral offered will fully secure the public deposits in the event that the institution should default and be unable to honor a cash withdrawal or a demand for payment of an investment note.

An integral element of the factor of safety is the liquidity of the collateral offered to secure the public deposits. Liquidity of the collateral is significant with respect to safety in that collateral offered to secure a deposit insures the safety of the deposit only to the extent that the collateral can be readily converted into cash of equal value to the secured deposit.

Your Committee has received testimony which challenges the amendments proposed by this bill on the basis that residential mortgages are not safe because they are not a suitably liquid form of collateral. It is argued that in the event that such mortgages which are offered as collateral must be foreclosed there would be problems in selling the mortgages and obtaining a price from such sale which would fully secure the public deposits so collateralized.

The arguments are well taken and the testimony offered is persuasive, however, your Committee believes that such caution must be balanced with consideration of the likelihood of having to resort to foreclosure upon the collateral and the fact that the State is likely to obtain a higher yield on deposits and investments secured by mortgages.

Your Committee finds that the amendments proposed by this bill do not require the director of finance to accept residential mortgages as collateral. Rather, the amendment merely enable the director to do so if the director finds it to be in the best interest of the State to do so. Your Committee believes that the director of finance should be able to adopt regulations which outline requirements regarding the types of residential mortgages which would be acceptable. At the very least, your Committee believes that residential mortgages accepted as collateral should be limited to owner-occupant and not investor mortgages; that such mortgages should have a principal balance of under \$100,000; an 80% or less loan to value ratio; and represent seasoned loans of over one year in age. Utilizing such standards, your Committee believes that such mortgages accepted as collateral will be adequate from a safety standpoint in ensuring that public funds will be secure.

The practical significance of the amendments proposed by this bill is that the savings and loan institutions in the State will be able to participate as depositories of public funds to a greater extent than they presently are able to. This is due to the nature of the financial activities of savings and loan institutions which engage in only mortgage loan financing rather than the wide range of financial activities of banking institutions.

Your Committee finds that a significant consideration for allowing public deposits to be collateralized with residential mortgages is to allow public funds to be deposited with savings and loan associations where the State will be able to realize a higher yield over the yield offered by other depositories. Your Committee believes that due consideration must be given to safety and liquidity by the director of finance in making deposits, however, the director should not disregard the yield which is to be obtained on deposits and investments. In past years the cash management of the State has been criticized for the poor yield obtained in public deposits. This situation has been improved considerably by the department of budget and finance in recent years. Your Committee believes that allowing the director of finance to accept residential mortgages as collateral will allow the director more flexibility in obtaining higher yields on public deposits.

Your Committee wishes to make clear that it does not support the change proposed in this bill to the existing law for reasons of equity, i.e., assuring that savings and loan associations obtain their "share" of public deposits. Nor is your Committee supporting the proposed amendment so as to allow public funds to be loaned by the depositories for residential mortgages. Rather, the aim of this measure and the intent of your Committee is to give the director of finance the flexibility to make public deposits in a manner so as to obtain the best yield with due regard being given to safety and liquidity.

Your Committee is aware of concerns which have been expressed by the department of budget and finance as to the administrative problems and cost of reviewing the mortgages accepted as collateral to determine their proper documentation and validity. Your Committee is informed that the practice in the State of California where residential mortgages have been accepted as collateral for public deposits, is that the mortgages are deposited with a bank as trustee for the collateral. The bank would conduct the necessary verification and documentation check and the depository offering the collateral would bear any processing fee. As a matter of suggestion, a similar practice could be adopted in this State.

Your Committee has amended this bill to limit the acceptability of residential mortgages as collateral for public deposits to such mortgages which are offered by depositories which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

The bill has also been amended to limit the total amount of public deposits which may be secured by residential mortgages to not more than five per cent.

Your Committee has further amended this bill to raise the collateralization ratio to 2 to 1. This amendment will ensure that in the event the mortgage collateral must be sold that the price obtained will be sufficient to cover the public funds so collateralized.

Various non-substantive technical changes have been made to the bill by your Committee.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1429, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1429, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong and Yee.
Senator Kawasaki did not concur.

SCRep. 937-80 Ways and Means on H.B. No. 1758

The purpose of this bill is to transfer certain programs and organizational segments among the existing 17 departments of the executive branch of the state government without altering the basic organizational structures of these departments.

This bill provides for the orderly transfer of programs, organizational segments, personnel, funds, records, and equipment among the existing 17 departments of the executive branch of the state government. It is not intended to increase, decrease, or otherwise change the statutory powers of departments and agencies unless specifically expressed. Where commissions, boards, or agencies are transferred for administrative purposes, it is intended that the statutory mission and purpose of the commission, board, or agency not be modified or changed in any way by the department or director acting in an administrative role as provided for in section 26-35, Hawaii Revised Statutes.

Your Committee has amended this bill by making nonsubstantive grammatical changes, deleting the transfer of the commission on the handicapped and measurement standards division, transferring the factory-built housing program to the department of social services and housing instead of regulatory agencies, marine affairs coordinator to University of Hawaii instead of planning and economic development, and the environmental quality commission and the office of environmental quality control to planning and economic development instead of health, and by deleting section 15 relating to an appropriation and renumbering section 16 as 15.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1758, 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. 1758, H.D. 2, S.D. 3.

Signed by all members of the Committee except Senators Carpenter, Yim and Anderson.

SCRep. 938-80 Ways and Means on H.B. No. 2029-80

Your Committee has amended this bill by deleting various provisions which would have the effect of expanding the eligible group of Hawaii residents who could participate in this program.

Impending congressional legislation threatens to severely restrict the amount of bonds which the Hawaii housing authority would be able to issue for purposes of the Hula Mae program. Your Committee is therefore of the belief that expanding the eligible target group of this program at this time is undesirable as already many of those within the present eligibility standards will be unable to obtain assistance through this program due to the limited funds available.

Your Committee believes that federal curtailment of mortgage loan programs like the Hula Mae program is largely due to abuses with similar programs in other cities and states have been exposed to. Unlike many of these programs which have been abused, the Hula Mae program, to date, appears to be a model for reaching the intended target group of lower and moderate income first time homebuyers. Your Committee has therefore amended the bill to incorporate restrictions in the program, which have previously been established only by rule. These include:

1. A requirement that an eligible borrower not have owned any residential property within or outside the State during the three years immediately prior to the application for a loan under the program.
2. Providing that an eligible borrower not have previously received a loan through the program.
3. Setting forth an asset limitation.

Your Committee has also amended the bill by incorporating a maximum income schedule for families of differing sizes. This schedule raises the maximum income level for an eligible borrower from 115 per cent of the median income for a family of four to 125 per cent of such median income. The schedule also closely corresponds to present income adjustments for family size established by the Hawaii housing authority with the exception of the maximum qualifying income for a single person. Under previous drafts of this bill, the combined effect of raising the percentage amount from 115 per cent to 125 per

cent of median income together with present Hawaii housing authority rules would have resulted in a single individual earning approximately \$25,000 annually qualifying for this program. Your Committee does not believe that such an individual falls within the income bracket intended to be targeted by this program. The amendments made to the bill attempt to address this problem.

Your Committee is informed that under present rules, "adjusted household income" is defined in such a manner so as to treat the gross income of a person engaged in a business as his or her income level. This rule is unduly restrictive as it would fail to reflect the actual adjusted gross income of the individual engaged in business. The bill has therefore been amended to provide a definition of adjusted household income which more closely corresponds to adjusted gross income as calculated for tax purposes.

An amendment has also been made to the bill which provides for the repeal of a section of Act 50, Session Laws of Hawaii 1979, providing for an advisory council. Your Committee believes that the council has fulfilled its role and is no longer necessary.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2029-80, 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. 2029-80, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senators Yim and Anderson.

SCRep. 939-80 Ways and Means on H.B. No. 2196-80

The purpose of this bill is to clarify the responsibilities of the various state departments regarding the student transportation program. The bill requires the department of education to adopt rules governing school vehicle passenger safety instruction, and the department of transportation to adopt rules regarding vehicle safety.

Your Committee has amended the bill to clarify that the department of education shall have the responsibility for coordinating the school bus transportation program and shall carry out this responsibility in a manner consistent with section 286-161, Hawaii Revised Statutes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2196-80, 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. 2196-80, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senators Yim and Anderson.

SCRep. 940-80 Ways and Means on H.B. No. 2458-80

The purpose of this bill is to increase from \$2 to \$10 the penalty for the late transfer of ownership of a motor vehicle.

Your Committee has reduced the penalty to \$5 and 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. 2458-80, as amended herein, and recommends it pass Third Reading in the form attached hereto as H.B. No. 2458-80, S.D. 1.

Signed by all members of the Committee except Senators Yim and Anderson.

SCRep. 941-80 Ways and Means on H.B. No. 2672-80

The purpose of this bill is to amend the law relating to school bus contracts by (1) deleting the provision limiting the compensation to an increase of a maximum of five per cent when a school bus contract is extended after its termination; (2) providing, instead, that the compensation under an extended contract may be increased by a reasonable amount using a composite weighting of inflation in the cost of operational items; (3) requiring the contractor to prepare data to justify the increase of compensation under an extended contract during renegotiation; (4) requiring the State and a contractor to enter into renegotiation for payments of fixed costs when a school is temporarily closed due to a collective bargaining dispute or other unexpected disruption; and (5) allowing the establishment of an advisory committee to serve as a source of information on school bus contracts.

Your Committee has amended the bill as received substantially.

First, the amount of increase of the compensation of an extended contract shall be by a reasonable amount for unanticipated inflationary increases in the cost of fuel. Consideration of inflation-caused increases in other operational items, as provided in the bill as received, has been deleted. Your Committee agrees that the five per cent increase limits for an extended contract should be repealed because it is too restrictive in light of certain inflationary costs, particularly in fuel costs. Your Committee realizes that a contractor has very little or no control over the cost of fuel. But, the costs of other operational items are more controllable, and a contractor should have been able to project these costs when the contractor submitted the original bid. If, as provided in the bill as received, inflation costs of all operational items are used to determine the increase in compensation of an extended contract, then the contractor would be in practically a risk-free position if an extension is granted. For these reasons, your Committee feels that consideration of fuel costs increases is sufficient. Furthermore, a contractor is not required to extend the contract. A contractor who cannot negotiate feasible terms for an extension may choose not to extend and, instead, submit a bid for a new contract.

As part of this amendment, the first full paragraph on page 2 has also been amended to provide conforming language.

Second, the provision on payments for fixed costs during a temporary closing of a school has been amended. Your Committee has changed the bill to now (1) allow, instead of require, renegotiation; and (2) provide that such renegotiation shall be allowed during "unexpected disruptions". Your Committee has amended the bill as received to give greater flexibility to the State. This flexibility is granted by allowing, instead of requiring, the State to negotiate and leaving broad the reasons for temporary closure for which renegotiation may result. Although your Committee has deleted the provision which explicitly mentions closure during collective bargaining disputes, your Committee emphasizes that "unexpected disruptions" include such disputes. Your Committee also strongly emphasizes that the temporary closure of schools due to inclement weather shall not be a valid reason for renegotiation.

Third, the provisions regarding the advisory committee have been deleted as it may result in undue interference in the contract negotiating process.

Your Committee has also amended line 3 of page 1 of the bill to correct typographical errors. The correct section which is being amended is specified "296-46.1" instead of "296-26.1". The words "Bus Contracts" have been placed in lower case. Your Committee has also bracketed the comma on line 6 of page 1 of the bill as received.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2672-80, 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. 2672-80, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Yim and Anderson.

SCRep. 942-80 (Majority) Ways and Means on H.B. No. 2720-80

The purpose of this bill is to appropriate funds for the settlement agreement negotiated between the State of Hawaii and Mark Construction, Inc.

Your Committee concurs with the judgment of the Judiciary Committee in that this is an adequate settlement amount. Your Committee agrees that this amount is a fair and just agreement and that settlement in this case is in the best interests of the State.

Your Committee has amended the bill by deleting the second paragraph on page 1 of the bill as received.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2720-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2720-80, S.D. 2.

Signed by all members of the Committee except Senators Yim and Anderson.
Senators Abercrombie and Carpenter did not concur.

SCRep. 943-80 (Majority) Ways and Means on H.B. 2729-80

The purpose of this bill is to establish the Hawaii fisheries coordinating council to advise the board of land and natural resources on matters relating to fisheries and to coordinate fisheries activities among the various federal, state, and county agencies and private industry.

Your Committee agrees there is a need for a body which can advise the department of land and natural resources and coordinate activities among the various federal, state, and county agencies and private industry. Your Committee felt, however, that the existing staff of the department of land and natural resources is adequate to provide such staff support that may be needed by the council.

Consequently, your Committee has amended the bill by removing the authority conferred upon the department of land and natural resources to hire additional personnel for the purposes of carrying out the intent of this Act and deleted the appropriation.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2729-80, H.D. 3, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2729-80, H.D. 3, S.D. 2.

Signed by all members of the Committee except Senators Yim and Anderson.
Senator Abercrombie did not concur.

SCRep. 944-80 (Majority) Ways and Means on H.B. No. 2897-80

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

The bill authorizes the department to engage in and issue up to \$20,000,000 in revenue bonds for special facilities projects relating to water transportation.

Your Committee notes that although the special facility revenue bonds are to be issued in the name of the department, neither the credit of the State nor that of the department can or will be pledged to repay the bonds; nor will the special facility itself serve as security for that purpose. Instead, the bonds are to be repaid from, and secured solely by the rentals at the special facility which will be assessed and collected by the department in an amount sufficient to retire the bonds and to pay certain administrative costs.

Your Committee has amended the bill by providing on page 13 that no bonds shall be issued under this Act after June 30, 1983. It is the understanding of your Committee that the legislature will review the provisions of this Act in the future to consider amendment of this time limitation. Your Committee also made nonsubstantive grammatical and technical changes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2897-80, H.D. 3, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2897-80, H.D. 3, S.D. 2.

Signed by all members of the Committee except Senators Yim and Anderson.
Senators Kawasaki and Abercrombie did not concur.

SCRep. 945-80 Education on H.B. No. 2292-80

The purpose of this bill is to allow the Department of Education greater flexibility in providing alternative services for youth who require educational services which are not provided for in the conventional public school setting.

Your Committee finds that many more students will be benefited by broadening the range of alternative programs available in our educational system. This bill allows a child to be exempt from compulsory school attendance if he is enrolled in an appropriate alternative educational program as approved by the Superintendent of Education in accordance with the plans and policies of the Department of Education.

Your Committee has amended the bill to correct typographical errors.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2292-80, H.D. 1, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2292-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Kuroda, Ushijima and Saiki.

SCRep. 946-80 Education on H.B. No. 2388-80

The purpose of this bill is to:

1. Avoid confusion between the terms relating to the District School Advisory Councils and the Board of Education;
2. Have the District School Advisory Council members appointed without consideration of their party affiliation;
3. Make certain technical amendments to Chapter 296, Hawaii Revised Statutes, relating to the District School Advisory Councils and school districts.

Your Committee has amended this bill by changing the phrase "District School Advisory Council" to read "School District Advisory Council," which is the term more commonly used in referring to the councils.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2388-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2388-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Kuroda, Ushijima and Saiki.

SCRep. 947-80 Education on H.B. No. 2487-80

The purpose of this bill is to repeal Section 296-46, Hawaii Revised Statutes, which requires the chief executive and police department of each county to approve the safety of motor vehicles used in transporting students.

Your Committee is aware that the Department of Transportation has been given this responsibility by the Governor through a 1979 Memorandum of Agreement. In addition, Section 286-181, addresses the same issue of pupil transportation safety.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2487-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, Kawasaki, Kuroda, Ushijima and Saiki.

SCRep. 948-80 (Majority) Education on H.B. No. 2532-80

The purpose of this act is to allow the statue entitled "The Spirit of Lilookalani", which has been commissioned by the State of Hawaii from funds appropriated and set aside for works of art by virtue of Section 103-8, Hawaii Revised Statutes, to be permanently displayed at the State Capitol Complex.

Your Committee on Education has amended H.B. 2532-80 to further say "The statue shall be situated at the site presently occupied by the replica of the Liberty Bell."

The purpose of the amendment to the bill is to place the statue at a site where the general public will be given an opportunity to view and appreciate its beauty.

Your Committee on Education is in accord with the intent and purpose of H.B. 2532-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2532-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Kuroda, Ushijima and Saiki.
Senator Cobb did not concur.

SCRep. 949-80 Economic Development on H.B. No. 1775-80

The purpose of this bill, as amended, is to provide the land use commission with land use management policies to guide its actions and its decision-making in conformance with the requirements of the Hawaii state plan.

The bill, as amended, represents a substantial change from the original bill in the following respects:

- (1) S.D. 1 does not include interim land use policies. This bill is intended to provide policies of a permanent nature, subject to change when necessary.

REASON: The various state functional plans were initially intended to supersede the interim land use guidance policies used by the land use commission in its deliberations and decision-making on petitions for amendments to land use boundaries. However, the use of twelve functional plans for this purpose could prove unwieldy, for the functional plans are vertically-oriented in their functional areas of interest. The land use management policies in S.D. 1 are required to meet the need for a compendium of policies that would address the competing interests of the various functional plans.

- (2) The proposed land use management priorities reflected on page 16 through 20 of H.B. 1775-80, H.D. 2, have been deleted because of their controversial nature which engendered much unfavorable reaction from the majority of those who testified, and because of their possible preemption of the guidelines and priorities that may be incorporated in the functional plans when they are adopted. However, certain desirable provision in the deleted pages have been incorporated in S.D. 1. In effect, the deletion of pages 16 through 20 of H.D. 2 has:
 - (a) Eliminated the compulsory need for the initiation of action by agencies of the state and county governments to downzone certain lands to comply with the management priorities.
 - (b) Eliminated the implied "untouchability" of agricultural lands (classified as prime, unique, and other important agricultural lands) when a public purpose for the use of such lands may dictate otherwise.
 - (c) Deleted reference to the 1975 State Comprehensive Outdoor Recreation Plan which was considered outdated and will be replaced by the recreational functional plan.
 - (d) Eliminated reference to "sustainable yields" of water or "recharge capacity of any ground water area" since these areas of concern are adequately covered under chapter 177, Hawaii Revised Statutes, and since the department of land and natural resources and the board of water supply and the water departments and the counties are involved, as a matter of course, in reviewing petitions for amendments to boundaries, particularly as they might affect water sources, supply, and/or facilities.
 - (e) Eliminated the one hundred yard setback from the upper reaches of the wash for resort development, particularly in light of section 205-34, Hawaii Revised Statutes, and its harsh consequences on certain landowners.
- (3) The overall orientation of H.D. 2 toward strict control, protection and preservation of lands not otherwise classified as urban has been tempered in S.D. 1 in an attempt to reach a balance between the need for planned, orderly growth vis-a-vis the need to preserve agricultural lands of importance to the State of Hawaii.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. 1775-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 1775-80, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 950-80 Economic Development on H.B. No. 1947-80

The purpose of this bill is to have the Public Utilities Commission encourage the use of non-fossil fuel generated electricity in the exercise of its authority to determine just and reasonable rates for non-fossil fuel generated electricity supplied to the public utility by a producer.

This bill is intended to encourage the immediate production by the private sector of electricity generated from non-fossil fuel sources. Your Committee finds this bill to be an appropriate statement of the public policy of this State in mandating that money now paid for imported fuel be paid instead to locally-generated electricity.

Your Committee has made non-substantive amendments for reasons of clarity and drafting style.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1947-80, 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. 1947-80, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 951-80 (Majority) Human Resources on H.B. No. 2645-80

The purpose of this bill is to add a new section to chapter 386, Workers' Compensation Law, to establish procedures for revising the medical fee schedule for workers' compensation.

Your Committee finds that currently, section 386-21 of the workers' compensation law requires the director of labor and industrial relations to establish a schedule of reasonable fees for medical care, medical services, and medical supplies provided to workers' compensation claimants. The present practice of the department is to set the fees in actual dollar amounts. The director is also required to make annual adjustments in these fees or allowable charges to reflect increases or decreases in the Consumer Price Index for the Honolulu region.

This bill converts the fee schedule of actual dollar amounts to a unit value and conversion factor system. This conversion in turn, obviates the director to annually determine and publish the individual dollar amounts or fees chargeable for the medical care, services, and supplies provided to workers' compensation claimants.

Your Committee feels that under this measure, the fees can be updated annually with minimal time and expense lost by converting the fees to fixed unit values, then multiplying them by a conversion factor. This bill does not change the present level of reimbursement or mechanism for updating of the fees based on the increase or decrease of the Consumer Price Index, but the update would occur in the form of an annual notification by the department stating the new conversion factors. This saves the department the annual cost of printing complete fee schedules, as well as permits providers to automate the workers' compensation fee pricing through computerization.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2645-80, 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.
Senator Abercrombie did not concur.

SCRep. 952-80 (Majority) Human Resources on H.B. No. 2533-80

The purpose of this bill is to amend the Occupational Safety and Health Law to clarify the protection afforded an employee where that employee refuses to perform work because of unsafe equipment or work practices.

Your Committee finds that the attorney general's office, after processing a related case on appeal, found that the overly broad and vague language regarding conditions constituting discrimination may fail in tests of constitutionality. This bill provides that an employee's refusal to perform work must be based on a reasonable fear that death or serious injury could result before the employee protection mechanism established in the law is set in motion.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2533-80, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 953-80 (Majority) Human Resources on H.B. No. 2168-80

The purpose of this bill is to amend section 89-2 (definitions) and section 89-12 (strikes, rights, and prohibitions) of the Collective Bargaining Law.

Your Committee finds that the recent United Public Workers (UPW) unit I strike manifested the need for a thorough review of the State's Collective Bargaining Law. After due deliberation, your Committee concludes that the statutes affecting essential employees and other procedural matters related to the avoidance or removal of any imminent or present danger to the public health or safety in strike situations should be amended.

The specific provisions of this bill, as received, and the manner in which your Committee has treated these provisions are as follows:

(1) This bill expands the definition of "strike to include other related activities undertaken by a public employee for the purpose of sympathizing with or supporting another group engaged in a dispute with the public employer. Your Committee finds that it is necessary to address the subject of "sympathy strike" in the Collective Bargaining Law, and agrees with this provision in the bill.

(2) Your Committee finds that although there were constant references to "essential workers" or "essential employees" by all parties involved in and concerned with the UPW strike, current statutes do not provide for a definition of nor a procedure for designating an "essential employee".

This bill defines "essential employee" to mean any employee in a position designated by the Hawaii Public Employment Relations Board (HPERB) to be necessary to avoid or remove any imminent or present danger to the public health or safety. However, your Committee feels that this definition is inconclusive relative to the respective roles of the public employer and HPERB in assigning work to and designating an essential employee, and has amended this bill to more clearly accomplish its intent. This bill, as amended, provides definitions of "essential employee" to mean an employee designated by the public employer to fill an essential position; and "essential position" to mean any position designated by the board (HPERB) as necessary to be worked in order to avoid or remove any imminent or present danger to the public health or safety. The public employer shall assign the public employee to the essential position under this bill, as amended. By the preceding amendments, (1) HPERB's authority to ensure that the public health or safety is not endangered is clarified; and (2) the public employer's management right to assign work to its employees is preserved.

(3) This bill amends section 89-12(a) to prohibit a public employee from striking unless the employee exhausts the proceedings for the prevention of any prohibited practices; and prohibits an essential employee from striking after HPERB has determined that a strike presents or would present an imminent or present danger to the health or safety of the public and has designated certain essential employees. Your Committee agrees with the general intent of these provisions, but feels that this intent can more clearly and readily be accomplished by retaining the current language of section 89-12(a), and adding the phrase ", or (3) is an essential employee," after the word "arbitration" on page 2, line 21 of this bill, as received. Your Committee has amended this bill accordingly. In this manner and by the operation of this chapter, as amended, an essential employee is expressly prohibited from striking, a prohibition which your Committee feels was an original intent of the Collective Bargaining Law at its inception.

(4) Under this bill, if a strike is "occurring or is about to occur," the public employer may petition HPERB to make an investigation; if HPERB finds that there is present danger to the health or safety of the public, HPERB shall establish specific requirements which shall be fulfilled to remove such present danger. Your Committee agrees with the general intent of these provisions, but has amended this bill to rephrase the requirements to be established by HPERB, and to include procedures for serving notice to an essential employee, and to require an essential employee to contact the public employer for a work assignment upon the essential employee's receipt of such notice.

(5) This bill mandates any affected public employer to directly petition the appropriate circuit court to enjoin violations of, or to bring about compliance with, the strike provisions of the Collective Bargaining Law. Under this provision, HPERB's authority to investigate alleged violations of the strike provisions of the law is retained, yet the public employer is accorded speedy judicial relief if violations of these provisions are confirmed by HPERB. Your Committee agrees with the intent of this provision in this bill, and has made minor technical amendments for style and clarification purposes.

(6) This bill allows each circuit court to enforce section 89-12 without regard to chapter 380, Labor Disputes; Jurisdiction of Courts (commonly known as Hawaii's Little Norris-La Guardia Act), and in its stead, this bill transfer selected provisions of section 380-7, Hearing; section 380-9, Necessity for prior findings of fact; limitation of prohibitions; and section 380-10, Appeal, into section 89-12. Your Committee finds that chapter 380 provides certain protections to employees and employee organizations during labor disputes, whether these disputes occur in the private or public sector, and transferring selected provisions of chapter 380 into section 89-12 is an unnecessary duplication of a chapter which is more pervasive in content and purpose. Your Committee has therefore amended this bill to restore the applicability of chapter 380 to section 89-12, and has deleted those selected provisions of chapter 380 contained in this bill, as received; however, your Committee has further amended this bill to prohibit the right to a jury trial in any proceedings brought under section 89-12. Your Committee feels that the right to a jury trial is inconsistent with this measure's intent to provide speedy resolutions of legal matters in public employee strike situations.

Your Committee has also made other housekeeping, technical, and nonsubstantive amendments to section 89-2 and section 89-12.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2168-80, H.D. 1, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2168-80, H.D. 1, 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. 954-80 Human Resources on H.B. No. 2372-80

The purpose of this bill is to provide public employment opportunities for severely handicapped individuals who, although qualified for certain employment, are unable to compete through the normal civil service procedure. This bill exempts from civil service those positions to be filled by severely handicapped persons who are certified by the State vocational rehabilitation office as being able to safely perform the duties of the positions.

Additionally, this bill requires State agencies and departments, and the county governments to develop and implement programs for the certification and selective employment of the severely handicapped.

Your Committee finds that frequently, the recruitment examination and selection process used by public employers to identify the best of the candidates for a job presents barriers to the severely handicapped person which are more difficult to overcome than the requirements of the job itself. This bill does not waive the actual performance requirements of the job, but rather facilitates the entry process by waiving certain civil service procedures and requirements.

This bill permits a hiring authority to request that the State vocational rehabilitation office certify a severely handicapped person for a job in which the handicapped individual is capable of performing its essential duties and functions. This procedure will not be mandatory, but may be used in future initial appointments in the civil service system.

Your Committee further finds that presently, the State vocational rehabilitation office bases its working definition of "severely handicapped" on the following definition: "Severely handicapped individual" means a handicapped individual, (1) Who has a severe physical or mental disability which seriously limits his functional capacities (mobility, communication, self-care, self-direction, work tolerance, or work skills) in terms of employability; and (2) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time, and (3) Who has one or more physical or mental disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, and end-stage renal disease, or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitation."

Because the foregoing definition is the basis of the State's definition of "severely handicapped", your Committee has amended this bill by deleting the definition of such. Your Committee feels too that although the intent of the bill is to aid the severely handicapped who, although qualified, are unable to compete in the civil service procedure, the defining statement does not make this intent clear.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2372-80, H.D. 1, as amended herein and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2372-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 955-80 Ways and Means on H.B. No. 850

The purpose of this bill is to amend the workers' compensation law to provide benefit rate adjustments for employees who have been totally and continuously disabled.

Your Committee finds that under the current statute, workers' compensation benefit payments to the totally disabled are based on the statutory maximum amount allowed at the time that the injury occurred. The present law contains no provision for increases in total disability benefits although the maximum weekly compensation rate is adjusted upward from time to time by statutory amendment. The maximum weekly benefit rate is presently \$215 a week.

Your Committee further finds that totally disabled workers who were injured years ago, and who receive workers' compensation based on the benefit rates effective at the time of injury, are in need of financial assistance in light of today's economic situation. This bill assists beneficiaries who have, until now, attempted to subsist on benefits that are well below the maximum weekly benefit level which is allowed for totally disabling injuries today.

In the bill referred to your Committee, benefit adjustments are limited to those employees who were awarded compensation benefits before February 1, 1980 for permanent and total disability. Your Committee has amended the bill to provide benefit adjustments to those employees who are awarded compensation before July 1, 1980.

Your Committee has further amended the bill by readjusting the formulas for benefit adjustments to be paid from the special compensation fund to permanent and totally disabled employees who are receiving benefits less than the maximum weekly income benefit applicable at the time such award was made; The amended formula reads as follows:

"(T)he supplemental allowance shall be an amount equal to the maximum weekly income benefit as of the effective date of this Act multiplied by the ratio of that employee's current weekly income benefit to the maximum weekly income benefit applicable at the time such award was made, minus that employee's current weekly income benefit."

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 850, 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. 850, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Chong, Young and Yee.

SCRep. 956-80 (Majority) Ways and Means on H.B. No. 1853-80

The purpose of this bill is to provide that twenty per cent of all the annual amounts derived from the public land trust defined by Section 4, Article XII, of the State Constitution shall be transferred to the Office of Hawaiian Affairs quarterly and held and used as a public trust for the betterment of conditions for native Hawaiians.

Your Committee finds that section 5(f) of the Admission Act (Act of March 18, 1959, P.L. 86-3, 73 Stat. 4) imposes a trust upon lands which were then granted to the State of Hawaii and later conveyed to the State by the United States pursuant to provisions of the Admission Act. These lands include various lands to which title was held by the United States government as well as all lands defined as "available lands" by section 203 of the Hawaiian Homes Commission Act of 1920, as amended. The trust imposed by section 5(f) also is imposed on lands which are conveyed to the State by the United States when it is determined that such lands are no longer required by the United States government.

The lands granted to the State, together with the proceeds and income therefrom, are required by section 5(f) to be held by the State as trustee and required to be managed and disposed of for one or more of the following purposes:

1. The 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.

Much controversy has swirled around the interpretation of the requirements of the trust created by section 5(f) of the Admission Act, particularly with respect to the language stating that one purpose of the trust was to provide for the betterment of the

conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended.

Your Committee notes that there are at least two ways of interpreting this requirement of the section 5(f) trust. The first is that the public trust is fulfilled with respect to the betterment 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 required by the provisions of that Act. By such interpretation, all of the income from lands transferred to the State pursuant to the Admission Act other than "available lands" could be utilized without a portion thereof being used specifically for native Hawaiians. The second 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 income and benefit to be derived by native Hawaiians from the "available lands" under the Hawaiian Homes Commission Act, 1920, as amended.

Any questions as to which of the two interpretations of the provisions of section 5(f) regarding native Hawaiians was intended by Congress in enacting the Admission Act is now presumably rendered moot in light of the provisions of Section 4, Article XII, of the State Constitution, as amended by the 1978 Constitutional Convention. That section now provides 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."

Section 4, Article XII, of the State Constitution specifically excludes Hawaiian Homes Commission lands. The significance of this exclusion is that now there can be little question that funds over and above that derived from the "available lands" of the Hawaiian Homes Commission Act must be utilized for the benefit of native Hawaiians as a distinct group apart from the general public.

Section 5, Article XII, of the State Constitution establishes the Office of Hawaiian Affairs and provides for a board of trustees to govern that entity. Pursuant to this section of the Constitution, the 1979 Legislature enacted Act 196, SLH 1979, which statutorily established the Office of Hawaiian Affairs.

Section 6, Article XII, of the State Constitution outlines the powers of the board of trustees of the Office of Hawaiian Affairs. In relevant part, Section 6 provides that:

"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; ..."

Section 6 of Article XII of the Constitution thus deems that a "pro rata" share for native Hawaiians of that trust "created" by section 4 of Article XII is to be set aside and managed and administered by the board of trustees for the Office of Hawaiian Affairs.

Neither the Admission Act nor the State Constitution defines how the public trust income and proceeds of the section 5(f) trust or the public trust defined by Section 4, Article XII of the State Constitution is to be apportioned. It has been suggested that the twenty per cent figure used in this bill is appropriate since the "betterment of the conditions of native Hawaiians" is one of five trust purposes outlined in section 5(f) of the Admission Act. Your Committee notes, however, that the twenty per cent figure specified in this bill represents a percentage of the public trust as defined in Section 4 of Article XII of the State Constitution rather than all of the lands within the trust subject to section 5(f) of the Admission Act.

Your Committee expresses no opinion at this time as to what percentage, if any, constitutes an appropriate "pro rata" share. Nor does your Committee adhere to any particular formula for determination of such a "pro rata" amount. Rather, your Committee believes that a dollar amount assignment of proceeds from the public trust is more appropriate at this time in light of the yet unclear role and nature of activities of the Office of Hawaiian Affairs.

Your Committee has therefore amended this bill to provide for a \$1,000,000 annual appropriation from the proceeds of the public trust established by Section 4, Article

XII of the State Constitution. Your Committee believes that this amount will provide the Office of Hawaiian Affairs with sufficient funding to carry out its functions.

The bill has also been amended to provide that the effective date of this Act shall be on July 1, 1980.

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. 1853-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1853-80, S.D. 2.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 957-80 Ways and Means on H.B. No. 1772-80

The purpose of this bill is to provide funding to extend the State Program for the Unemployed, established by Act 151, 1975.

Your Committee is aware of the still relatively high unemployment rates in this State and of a need to continue programs such as SCET under Act 151, 1975. However, your Committee is concerned about the extended periods of time in which individuals remain employed under the SCET program, some since its inception. One of the purposes of the program is to train unemployed and underemployed persons for employment within the general job market. It is not the purpose of the program to provide semi-permanent employment for the entire duration of the program. Participants must be encouraged to assimilate into the mainstream of the job market after a reasonable length of training.

Your Committee believes that part of the problem of persons remaining employed for extended periods of time under the SCET program is the attractive salaries paid to them which are comparable to those paid to permanent regular employees performing similar tasks, unlike the Federal Comprehensive Employment and Training Act (CETA) which pays its participants at a lower rate. In order to alleviate this problem of extended participation which defeats the purpose of the SCET program, your Committee believes that limits on the length of participation in the program should be established. Your Committee believes that the department of labor and industrial relations, which administers the SCET program, should re-evaluate the program and its implementation in light of the overall goals of the program.

Your Committee has amended this bill by decreasing the appropriation for the fiscal year 1980-1981 from \$4,000,000 to \$2,000,000. Your Committee has also made technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1772-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1772-80, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Yim and Anderson.

SCRep. 958-80 Ways and Means on H.B. No. 1865-80

The purpose of this bill is to provide supplementary judiciary appropriations for the fiscal biennium beginning July 1, 1979, and ending June 30, 1981.

Upon your Committee's review of the proposed supplementary appropriations for judiciary operations, the following action has been taken on the items as indicated:

Judiciary Operations.

1. Circuit Court. (JUD 111)

Three supplemental positions initially requested by the Judiciary have been approved and associated supplemental request for funding has been reduced.

2. Family Courts. (JUD 112)

One supplemental position initially requested by the Judiciary has been approved and associated supplemental request for funding has been reduced.

3. District Courts. (JUD 121)

Fourteen supplemental positions initially requested by the Judiciary have been approved and associated supplemental request for funding has been reduced.

Support Services.

1. Administrative Director Services. (JUD 201)

A supplemental request for four volunteer coordinator positions along with associated funding originally requested by the Judiciary has been reduced.

2. Driver Education. (JUD 221)

A supplemental request for funding of one position has been reduced.

3. Criminal Justice Information System Data Center. (JUD 231)

A supplemental request for funds for rental of computer related equipment has been reduced due to procurement of federal funding.

In addition, your Committee has reviewed the proposed appropriation increases in the capital improvement projects originally stipulated in Section 11 of Act 208. These projects are organized under the title of Administrative Director Services (JUD 201) of the Judiciary. Changes to the capital improvement budget are listed below as follows:

Judiciary C.I.P.

1. State Judiciary Complex, Oahu.

An appropriation request for equipment has been deferred.

2. Remodeling and Upgrading Judiciary Buildings.

An appropriation request for miscellaneous projects has been deferred.

The cost of both the additional and new appropriations for capital improvement projects amount to the sum of \$35,474,000. This total replaces last year's CIP sum of \$5,339,000, as shown in Section 5 and Section 6 of this bill and will be funded by general obligation bonds.

Your Committee has also amended Section 6 of the bill by revising the general obligation bond authorization to reflect reductions in appropriations. Section 7 of the bill has also been amended to synchronize the lapsing date for appropriations made for capital projects in accordance with constitutional amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1865-80, 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. 1865-80, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Chong.

SCRep. 959-80 Ways and Means on H.B. No. 1912-80

The purpose of this bill is to provide supplemental appropriations for fiscal year 1980-81.

FINANCIAL AND BUDGETARY PERSPECTIVES

In his budget message to the Legislature, the Governor appropriately pointed out that "the recent amendments to the State Constitution reflect the changing attitude of the public against any unlimited growth of governmental expenditures." He stated that "a general fund expenditure ceiling has been mandated and will limit our capacity to fund new initiatives and to expand on-going programs," and that "the capital investment program has been affected by changing the debt limit for indebtedness from general obligation bonds." For these valid reasons, the Governor stated that he was limiting the state administration's supplemental budget requests to "unforeseen developments and inadvertent oversights which could cause extreme hardships upon the public without additional resources."

The approach of the Governor is one which the Legislature can confidently support. It is the same perspective which guided your Committee in its deliberations on the General

Appropriations Bill a year ago, and it continues to be the discipline under which financial and budgetary decisions will have to be made in this legislative session.

Indeed, conditions and events which have developed since the Governor submitted the supplemental budget on December 27, 1979 suggest that the Legislature would be well advised to develop and follow additional policies to minimize adverse effects on the State's financial condition and its financing capacity. Since the beginning of the year, national inflation has assumed rampant double-digit proportions and has shaken traditional financial markets. The usually stable municipal bond market, the source of long-term borrowings for state and local governments, is now in a state of great uncertainty with soaring interest rates threatening to preclude many jurisdictions from even entering the market. A bond market in disarray, even for a short term, is foreboding, and the State must exercise the greatest caution in developing its capital improvements program and making capital investment commitments with far-reaching financial consequences.

The ominous financial outlook requires a heavy dose of restraint in both cash spending and borrowing. Unfortunately, the tough fiscal approach required to weather a financially troublesome period has been clouded by the existence of a state surplus, reported to be \$67 million at the end of the last fiscal year and projected to increase further by the end of the current fiscal year. There have been pressures to cut deeply into the surplus, first, from the state administration with its proposal for a tax rebate, and second, from a variety of sources for increased spending levels to government programs and grants to private organizations.

While the constitutional principle that excess tax collections should be returned to the people is sound and one which the Legislature must observe at the required time, the administration's rebate proposal is simply premature. One of the constitutional safeguards concerning the return of tax collections is that the surplus must exceed the threshold of five percent of general fund revenues for two successive fiscal years before the Legislature is required to take action in the next regular session. The provision that a significant surplus must exist for two successive years before triggering tax rebates or tax credits was built into the Constitution for the purpose of ensuring that a persistent condition of surplus funds exists and for the purpose of forestalling hasty or ill-advised actions. While it is true that the Legislature is not precluded from providing for tax rebates or tax credits at any time, the prudent course would be to follow the constitutional guideline of determining whether a surplus exists for two straight years before implementing any kind of large-scale tax rebate or tax credit program. If on June 30, 1980, there exists a surplus which again exceeds the constitutional threshold, the proper time to take action, as specified by the Constitution, would be in the 1981 Regular Session.

The temptation to spend the surplus for a variety of government programs and grants to private organizations must also be tempered. The surplus has been fueled largely by inflation and is not the result of a robust economy capable of generating the basis for higher levels of services or spreading more of the public's largesse to private organizations, however meritorious might be their programs. Under conditions of uncertainty, increased state spending is justifiable only for one-time investments which will not have the immediate effect of lifting program expenditures to higher levels or for extraordinary expenditures to cope with urgent problems.

Together with the economic circumstances which must be considered, there are the continuing constitutional constraints which affect the capital improvements program and general fund expenditures.

Capital improvements. While the condition of the municipal bond market would be reason enough to follow a cautious approach in making additional capital investment commitments, the Legislature also needs to take into account the constitutional considerations that (1) the capacity of the State to finance capital improvements through the issuance of general obligation bonds is restricted by a limitation debt service, and (2) the Legislature after July 1, 1980 cannot authorize bonds which would cause the debt service limitation to be exceeded.

The uncertain effects of these two basic constitutional provisions on the ongoing capital improvements program and on future authorizations caused the 1979 Legislature to appropriate funds for capital improvements only for Fiscal Year 1979-80, deferring to the current session the appropriations which were requested for Fiscal Year 1980-81. With respect to executive budget supplemental requests, these have again been carefully reviewed from the standpoint of their worthiness and their timeliness. Your Committee finds that in spite of the new constitutional requirements designed to influence the development of a realistic capital improvements program, there still persists the phenomenon known

as "front loading," requesting appropriations even though all of the appropriations are not likely to be expended or encumbered within the specified period. Your Committee expects the Governor and the Director of Finance to exercise stringent controls to ensure that the various phases in developing capital improvement projects have been programmed realistically and are synchronized with future appropriation requests. With the constitutional limitation on legislative authorizations, the lack of controls or restraints in programming CIP appropriations can only have the effect of jeopardizing executive budget recommendations.

For its part, the Legislature must also adopt a new perspective. It must face the reality that the proverbial legislative "pork barrel" is a thing of the past, no longer tenable with the new constitutional requirements governing CIP authorizations or the expectations of a more enlightened citizenry. Of the hundreds of millions of dollars appropriated for "pork barrel" projects over the years, only a minuscule portion ever resulted in projects actually being developed. Rather than strengthening legislators in their home districts, the practice of making appropriations with little likelihood of implementation has eroded public confidence in the legislative process.

This does not mean that the Legislature should merely be a rubber stamp for executive recommendations on the capital improvements program. The Legislature will continue to retain its authority to fund legislatively initiated projects, but its policy should be that it will do so only where the need for such projects has been determined through a review process which ensures that such projects can be justified on behalf of the State and all of its people.

General fund expenditures. The 1978 Constitution requires the Legislature to establish a general fund expenditure ceiling which will limit the rate of growth of general fund appropriations to the estimated rate of growth of the State's economy. The constitutional general fund ceiling is also applicable to proposed general fund expenditures proposed by the Governor, including estimates of the aggregate expenditures of the judicial and legislative branches. Thus, the general fund limitation is to apply equally to the making of appropriations and the proposing of appropriations.

The Senate has passed and sent to the House of Representatives Senate Bill No. 2795-80, S.D. 1, to implement the constitutional requirement for a limitation on general fund expenditures. Its passage is urgently required to bring the supplementary budget and the next biennial budget cycle under the limitation controls intended by the Constitution. If the Legislature fails to take final action on the bill, still another budget session will have escaped the constitutional mandate for a limitation. This would make a mockery of the State Constitution. Moreover, it could be subject to legal challenge.

While urging that a formal limitation be enacted, your Committee has in the meanwhile proceeded along the lines followed in the 1979 session when a limitation was self-imposed. Under the self-imposed limitation, the general fund expenditure ceiling is limited to the average of the annual percentage change in total state personal income for the three preceding calendar years. Calculated for Fiscal Year 1980-81, the general fund expenditure ceiling is \$1,095.4 million, of which \$983.1 has already been appropriated in the General Appropriations Act of 1979. After appropriations to the Legislature and appropriations proposed for the Judiciary as well as other likely appropriations in the 1981 session are taken into account, the amount of \$23 million is determined to be available for appropriations in the Supplemental Appropriations Bill. Your Committee believes that this is the amount to which the Legislature should strive to hold supplemental general fund appropriations for ongoing programs, and if the limitation is exceeded, it should only be for one-time capital investments or extraordinary expenditures.

In reviewing supplemental requests for ongoing programs, your Committee has found numerous situations where increased spending levels are not necessary and where program objectives can be achieved under previously authorized levels. This is particularly true with respect to the programs of the Department of Social Services and Housing and the Department of Education. But where circumstances require appropriation levels to be adjusted, your Committee has made those adjustments with an emphasis on those government services which directly affect people.

In setting overall spending levels for the Supplemental Appropriations Bill, your Committee has taken into account developments in the U.S. Congress concerning revenue sharing and other actions which impact on state programs and finances. The bill has also been reviewed and considered in the context of the overall state financial plan, which needs to accommodate other bills requiring appropriations, such as bills for pensioners' bonuses, state employment programs, and the supplemental budget of the Judiciary.

Major fiscal policy decisions. From all of the foregoing, your Committee has arrived at the following major fiscal policy decisions which govern the framework for the Supplemental Appropriations Bill and for all other bills with a fiscal impact:

First, general obligation bond authorizations are to be conserved and held to lower levels. This is to be accomplished by reprogramming numerous executive budget requests, deferring to future time periods those phases of capital projects which are not likely to be expended or encumbered in the next fiscal year. In addition, a number of projects, including some for highways and small boat harbors, are to be financed by the respective special funds rather than by general obligation bonds. Finally, "pork barrel" projects are to be excluded.

Second, in order to further conserve general obligation bond authorizations, the acquisition of lands identified by the executive for purchase will be accomplished through the general fund. In addition, certain construction projects with short useful lives have been switched to more appropriate general funding.

Third, general fund cash in the amount of some \$14.7 million is to be used for a legislatively initiated program of land acquisition for parks and recreation, housing, and agriculture and for water development projects.

Fourth, some \$15 million in general fund cash is to be used for an accelerated and expanded repair and maintenance program for public facilities. While there are some who have advocated higher levels for needed repairs and maintenance, the clear understanding of your Committee is that the industry will not be able to handle much more than the level of appropriations included in this bill without inflating prices, to the detriment of both the private and public sector.

Fifth, \$5.4 million for the removal or encapsulation of asbestos in public facilities has been included.

Sixth, an appropriation of \$1.9 million, in the form of a lump sum at present, is to be included for grants to private organizations. Until grants, subsidies, and purchases of service are brought under a system of formal standards and controls, as required by the State Constitution and as proposed by Senate Bill No. 429, S.D. 2, which is now in the House of Representatives, it will be necessary to restrict the aggregate amount of transfers to private organizations. It will also be necessary to apply to transfers of public funds to private organizations at least the same level of review and scrutiny which is applied to government programs. There is no assurance at the present time that either the requests for funds or the expenditure of funds by private organizations have been adequately monitored by government agencies.

Guiding these policy decisions is your Committee's belief that general fund expenditures, including those in the Supplemental Appropriations Bill, are to be held to a general fund appropriations ceiling as if a constitutional ceiling were formally in effect. The only exceptions to the ceiling are the appropriations for land acquisition for parks and recreation, housing, and agriculture and for water development (\$14.7 million), the removal and encapsulation of asbestos in public buildings (\$5.4 million), the accelerated and expanded repair and maintenance program (\$15 million), the cash funding of short lived capital improvement projects and land acquisition projects identified in the Governor's request (\$9.4 million), the extraordinary expenditures required by higher electricity costs in public facilities (\$1.1 million) and concomitantly for an expanded program of alternate energy research and development (\$1.25 million).

BUDGET OVERVIEW

In accordance with the Senate's fiscal policies regarding the supplemental budget this bill provides for \$16.8 million in supplemental general funds for operating purposes. In addition, this bill provides \$284.3 million in supplemental capital improvement project authorizations, of which \$29.6 million is general funds, \$92.7 million in general obligation bond funds, \$39.4 million in reimbursable general obligation bond funds, \$18.2 million in special funds, \$46.1 million in revenue bond funds, and \$58.4 million in non-state funds.

PROGRAM DECISIONS AND ISSUES

Economic Development

Energy. Your Committee supports the Committee on Economic Development, Energy and Natural Resources in its continuing initiatives to move the State to achieve 100 percent electrical energy self-sufficiency as well as some degree of liquid fuel self-sufficiency by the year 1990. Your Committee also supports the more immediate emphasis

on encouraging commercialization of energy development as rapidly as possible. Therefore, appropriations in the amount of some \$3 million have been included to fund energy development programs.

World Trade Center. The appropriation proposed by the House of Representatives for the redevelopment of the Aloha Tower Plaza complex has been deleted on the grounds that no new information has been presented to the Legislature from that which was presented to the 1979 session. At that time, the Legislature expressed its reservation about the Administration's conceptual plan for a world trade center at the site of the Aloha Tower, and restricted design appropriations pending further legislative review and an evaluation by the Legislative Auditor. The evaluation report by the Auditor raised numerous questions which remain unanswered and basically sustained the prudent and cautious course taken by the Legislature.

Your Committee recognizes the value of the Aloha Tower site and its great potential for redevelopment. However, it will not support a proposal which calls for massive outlays of state funds through the issuance of general obligation bonds and which still results in a project which produces a negative cash flow. Your Committee is willing to review the project again, but only if the state administration is prepared to take a new or revised approach.

Such an approach should call for the preparation of redevelopment specifications to solicit proposals from the private sector. For the acreage which is set aside for commercial development, the plan should enable private developers to pay the State a fair market rental and enable the private developers to earn a fair return on their own invested capital. If and when the state administration adopts an approach that satisfies the foregoing basic economic criteria, it will likely find that: (1) multimillion-dollar subsidies for a public park and plaza will no longer be necessary, as private developers will negotiate such improvements as part of a total package; (2) the general fund will be enriched rather than depleted; (3) an independent authority to oversee development may not be necessary or desirable; (4) the State will not need to involve itself in the details of commercial development for which it has virtually no expertise; (5) it will not be necessary to rely on external fiscal benefits to justify the project; (6) the world trade center concept may continue as an integral--albeit very small--part of the total project but the concept will not have to justify or offset a negative cash flow.

A new or revised approach that achieves the economic criteria described above will greatly improve utilization of the strategic waterfront site and will serve the best interests of the people of Hawaii far better than what has been proposed to date.

Tourism. An additional \$300,000 has been appropriated to support the programs of the Hawaii Visitors Bureau (HVB). This appropriation is made on the condition that the State and HVB will enter into an agreement which will result in a 50-50 public-private parity in the funding of HVB by Fiscal Year 1984. It is the understanding of your Committee that some \$250,000 can be raised from the private sector to support the programs of HVB, and together with the \$300,000 appropriated, this should enable funding to be restored to previous levels. As a cautionary note, your Committee advises that, while HVB has a role to play in travel promotion, there is little correlation between tourism growth and the HVB budget. The current downturn in visitor travel to Hawaii is attributable to conditions--mainly inflation--beyond the control of the State. Moreover, the downturn is not entirely unexpected, and the State should not be panicked into the infusion of massive promotional dollars, the effects of which are likely to be minimal against large economic forces and events.

Support for new industry. Broadening of Hawaii's economic base is a priority issue. Therefore, your Committee has provided funding to stimulate new industries that have great economic potential. Support was provided for manganese nodule research and the electronics industry.

The recently developed Hawaii Fisheries Development Plan indicates considerable economic potential growth, provided certain constraints are removed. Appropriations were made for developing new and more profitable fishing grounds, and developing breeding technology to provide the necessary baitfish.

Transportation

General aviation. To reduce the present mix of commercial and general aviation aircraft at Honolulu International Airport, which creates a high potential for aircraft accidents in the air and on the ground, funds are included to establish Dillingham Airfield as the first satellite general aviation airport and for improvements to Honolulu International Airport. The advantage of Dillingham Airfield is that the State has a 25-year lease to

the property and it can be upgraded to a higher level and broader range of general aviation operations. Moreover, work can commence immediately.

In making the appropriations for Dillingham Airfield, funds to construct a general aviation airport at Poamoho as proposed by the state administration has been deleted. Not only would an airport at Poamoho remove large acreages of valuable agricultural land, it would very likely be a white elephant. Of 16 sites evaluated by the state administration's own consultants, Poamoho ranked 14th in its potential to bring relief to Honolulu International Airport and 14th again in its potential for site utilization. Upgrading Dillingham Airfield and doing whatever is necessary to further separate aircraft at Honolulu International have a greater potential of bringing about improved safety in aircraft operations.

Kalaniana'ole Highway. Your Committee has decided to defer funds requested by the state administration for the modification and widening of Kalaniana'ole Highway from Ainakoa to Lunalilo Home Road. Deferral is the prudent course pending (1) finalization of the design report by the Department of Transportation and approval of the report by the Federal Highway Administration; and (2) updating of the data on which the final environmental impact statement was based. Moreover, the improvements in the corridor were intended to be complementary to a Kahala Mall termination point for the proposed Honolulu Area Rapid Transit system (HART). However, the city's current plans are to reduce the length of the fixed guideway component of HART, ending it at the Manoa campus of the University of Hawaii rather than at Kahala Mall. The effect of this decision on the proposed Kalaniana'ole Highway project is unclear and, therefore, it would be premature to commit the State to the project at this time.

Lower Education

Funds for special needs. The appropriation of special needs funds to each school was instituted by the Legislature in 1977 to enable each school to meet some of its own needs which are not met by the funds which the Department of Education ordinarily provides. From all accounts, the program has been successful and widely accepted by the schools. The current formula for the allocation of special needs funds provides for \$2,000 to each school, regardless of size, plus \$3.50 per pupil. Your Committee has reviewed the formula and finds that it unduly favors smaller schools over larger ones such that students in some schools receive more than three times those in other schools. While recognizing that there are probably economies of scale in larger schools, your Committee proposes that the formula be made less inequitable.

Under the new formula proposed by your Committee, each school is to receive \$1,000 plus \$5.00 per pupil. This means, for example, that a large school such as Waianae Elementary with 1,169 students would receive \$6,845 (\$5.86 per student), whereas it would have received \$6,092 (\$5.21 per student) under the old formula. A small school such as Anuenue with 156 students would receive \$1,780 (\$11.41 per student) under the new formula instead of \$2,546 (\$16.32 per student) under the old formula. Smaller schools would still receive a disproportionately larger share when calculated on a per capita basis, but the inequity when compared with larger schools would not be as great under the new formula.

Textbooks and learning materials. Your Committee is concerned over reports of widespread shortages of textbooks and other needed learning materials in the schools. However, no new appropriations are required at this time, inasmuch as it is your Committee's understanding that funds are available from salary savings resulting from the United Public Workers' strike to enable the necessary purchases to be made. It is your Committee's expectation that the Department of Education will institute a system by which textbook and learning material needs can be identified in a timely manner, budgeted for properly, and accommodated through timely purchases and distribution; and by which emergency shortages can be filled with minimum disruption of classroom instruction. The Department of Education should not have to conduct a special survey to determine the extent of textbook shortages if it had in place such a system. Your Committee requests the department to submit a report to the 1981 legislative session detailing what changes have been made to (1) assure that all schools have adequate textbooks and learning materials; and (2) assure that there will be no recurrence of a condition of shortages.

Counselors. The need for Title I counselors in low income areas has been brought to the attention of your Committee and, therefore, funds have been authorized for counselors in 12 schools in such areas.

Athletic coaches. While the compensation to athletic coaches in schools should be further reviewed, your Committee has taken the immediate step of providing funds so that all coaches who are authorized for a particular school can be compensated through state funds.

Pohukaina School. Your Committee has deferred the \$3 million appropriation requested for the reconstruction of Pohukaina School. There are some special problems connected with the proposed project which make it unwise to make a funding commitment at this time. The school is located and would be reconstructed in the area currently under redevelopment planning by the Hawaii Community Development Authority (HCDA), and it is our understanding that the Department of Education has not been able to provide HCDA with the information necessary to assess environmental impact. Moreover, there is a question as to whether the department has considered an alternative to reconstruction. From Kaimuki to Kalihi there are over 100 empty classrooms (the equivalent of six elementary schools) at this time. For these and other reasons, the appropriate course is to defer action pending further assessment.

Hawaiian Culture and Language Program. The 1978 Constitutional Amendment (Article X, Section 4) requires the State to promote the study of Hawaiian culture, history, and language. Your Committee has provided funds to develop a plan to implement the intent of this amendment.

Marine Education. The State Master Plan for Marine and Aquatic Education points to the need of Hawaii's residents to know and appreciate the sea. To serve this end, a comprehensive and systematic educational approach is needed in grades K-12. Thus, support was provided to implement the educational plan in Hawaii's schools.

Higher Education

University of Hawaii Law School. Having reviewed and tested all reasonable alternatives, your Committee believes that the University of Hawaii should proceed to construct permanent facilities for the Law School. Therefore, it has provided for \$6,900,000 for such construction.

East Honolulu campus of Kapiolani Community College. On the other hand, your Committee does not believe that all considerations have been reviewed and analyzed with respect to the East Honolulu campus of Kapiolani Community College. The state administration has requested \$1,009,000 for design of the campus. Your Committee has reduced that amount to \$100,000 for development planning for both campuses and \$94,000 for site development plans at the East Honolulu campus. The reduction of design funds should not be construed to mean that the project has been abandoned. However, with the final environmental impact statement not expected until December 1980, funding for design of the total campus is premature.

Health and Social Services

Medicaid. Your Committee has provided for an appropriation of \$4 million so that payments to medical providers--doctors and dentists--can be made on a more equitable basis. The Medicaid profile had not been updated since 1975, but with the updating of the profile to 1979, this should substantially correct the inequities which have resulted. In the meanwhile, your Committee requests that the Department of Social Services and Housing explore and report to the 1981 session on ways to curb recipient abuse in the Medicaid program, including an analysis of a co-payment requirement for recipients. Your Committee also believes that the medical profession should come to grips with the problem of recipient abuse in Medicaid services. It therefore requests the Hawaii Medical Association to study and report on the controls which the medical community might exercise to assist in curbing recipient abuse.

Adult Day Activity for Developmentally Disabled. Your Committee believes there is a need for pre-vocational services for developmentally disabled adults. Currently there is no program for those over twenty years of age. Your Committee has therefore provided additional funds of \$232,500 to establish a program.

Adult Boarding and Care Homes. Your Committee has provided additional funds to increase payments to recipients of Supplemental Security Income residing in adult and boarding homes. Current payment levels are inadequate for the continued operation of these homes and without additional payments many of these homes may close. Considering the expensive alternative of institutional care, your Committee believes that provision of additional payments to continue the operation of these homes is a cost effective means of maintaining care for Hawaii's needy.

Welfare Administration. The State's welfare program has grown substantially in recent years. Several audits have pointed out deficiencies in the administration of the Medicaid Program and your Committee has provided resources to address these deficiencies. Your Committee has also provided additional positions to adequately staff the Income Maintenance Program and to strengthen the fraud investigation capabilities of the Department of Social Services and Housing.

Government-Wide Support

Crime Commission. The controversies which have been associated with some of the work and operations of the Crime Commission should not cloud the important mission which it is trying to discharge. Your Committee believes that with adequate funding, a clearer understanding of its mission, and support from the Legislature, the Crime Commission will be prepared to discharge its responsibilities in the investigation and research of crime. Therefore, your Committee has decided to support the Crime Commission and increase its funding.

Elections administration. Funds for elections administration had been deleted from the budget passed by the House of Representatives. Such an action is untenable. The Office of the Lieutenant Governor is faced with special problems in elections administration as a result of the constitutional requirements for the single party primary and confidentiality in party preferences. Funds have been restored so that the Lieutenant Governor's office can adequately discharge its election administration responsibilities.

Employees Retirement System. Your Committee believes that a thorough analysis needs to be made of the Employee Retirement System and has so provided. The workshop on the retirement system sponsored by the Legislature in January indicated that there are a great number of issues, both basic and technical, which need to be resolved. Moreover, such fundamental questions as the following need to be faced: whether the retirement system is designed to be a primary income maintenance program and, if so, what should be the proper level of income maintenance; whether the system should be viewed as a separate system or whether it should be assessed in the totality of the state system and the U.S. Social Security system; and whether there might be alternatives to either the state retirement system or Social Security which would better meet the goals and objectives of retirement benefits. These and other issues are expected to be thoroughly analyzed.

FAMIS. Your Committee has deferred additional funding for the development of the Financial Accounting and Management Information System (FAMIS) for the State of Hawaii. As noted last year, your Committee remains concerned that the inordinate investment which will be required for its development will not result in the anticipated levels of fruition. Having realized the far-reaching fiscal implications of such a system, your Committee had previously suggested that "extraordinary project policy direction be provided and project management controls be exercised" including a steering committee appointed by the Governor. However, no Executive direction in this matter has been manifested in terms of an executive budget request for the FAMIS project for fiscal year 1980-81. Therefore, without such a commitment regarding a system which would enhance the administration of executive agencies, your Committee is not disposed to provide additional funds.

RECOMMENDATION

Your Committee is in accord with the intent and purpose of H.B. No. 1912-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1912-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 960-80 Ways and Means on H.B. No. 2193-80

The purpose of the bill is to provide for the orderly transfer of these functions, powers, and duties, including the transfer of personnel, records, and equipment to the counties.

Your Committee has amended this bill to more closely conform it to the language in S.B. No. 2219-80 which is the companion to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2193-80, 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. 2193-80, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Abercrombie, Chong and Anderson.

SCRep. 961-80 (Majority) Ways and Means on H.B. No. 2344-80

The original purpose of this bill was to amend section 213 of the Hawaiian Homes Commission Act of 1920 by increasing the ceiling from \$5,000,000 to \$6,000,000 on aggregate

deposits into the Hawaiian Home Education Fund commencing after June 30, 1980 but before June 30, 1982.

Your Committee has made major amendments to this bill by deleting its provisions and substituting new language.

The Hawaiian Homes Commission Act, 1920, as amended, was amended further by the 1978 Constitutional Convention to create a Native Hawaiian Rehabilitation Fund. The language from the Act as amended regarding this fund reads as follows:

"Native Hawaiian rehabilitation fund. Pursuant to Article XII, Section 1, of the State Constitution, thirty percent of the state receipts, derived from lands previously cultivated as sugarcane lands under any other provision of law and from water licenses, shall be deposited into this fund. The department shall use this money solely for the rehabilitation of native Hawaiians which shall include but not be limited to the educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated." Section 213(8).

Your Committee believes that this fund is well suited to provide the necessary funding for programs previously funded from the soon to be depleted Hawaiian Home Education Fund. Accordingly, your Committee has amended this bill to allow the Department of Hawaiian Homes to provide funding for these programs from the Native Hawaiian Rehabilitation Fund.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2344-80, 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. 2344-80, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senators Chong and Anderson.
Senator Kawasaki did not concur.

SCRep. 962-80 Ways and Means on H.B. No. 2723-80

The purpose of this bill is to expand the housing loan program established under Act 50, Session Laws of Hawaii 1979, now part II, chapter 356, Hawaii Revised Statutes, to provide that authorized funds may be used to finance construction and permanent mortgages secured by rental housing projects, and to authorize the issuance of revenue bonds for that purpose.

Your Committee is concerned with the potential for a developer to remove a project from the rental housing market soon after its development. Your Committee has therefore amended the bill by adding a new provision requiring the Hawaii housing authority to adopt rules prohibiting the prepayment of the project loan for a period of twenty years thus preventing a mortgagor from removing the project from the rental market for that period.

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. 2723-80, 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. 2723-80, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senators Yim and Anderson.

SCRep. 963-80 Ways and Means on H.B. No. 2773-80

The purpose of this bill is to remove the eight percent interest rate ceiling on general obligation bonds issued by the State and counties.

Your Committee finds that recent economic conditions have resulted in alarming instability in the previously stable bond market. Interest rates on government bonds which were once relatively stable at six percent or less have in recent months soared in excess of eight or nine percent. Translated into dollars, each interest point increase on a long term multi-million dollar bond represents millions of dollars in extra interest expense which must be borne by government, and thereby the taxpayers, over periods ranging from twenty to thirty years.

Your Committee is informed that numerous major cities as well as states have recently postponed or cancelled planned bond issuance due to high interest rates

demand on government bonds.

Unlike many state and local governments, Hawaii is fortunate in that during this time of high interest costs, the State enjoys an ample surplus in its general fund. Your Committee finds that it is undesirable at this time to allow state bonds to issue at interest rates which are so costly. Rather it would be more responsible to turn to our large general fund surplus as a source of funding for necessary capital improvements until such time that bond rates have moderated and become more stable. Such an approach would be akin to "borrowing" from the general fund until bonds are issued. The general fund would then be reimbursed for amounts used to fund capital improvements. Your Committee has therefore amended this bill by deleting section 1 which would have removed the present eight percent limitation on State bonds.

Your Committee further finds, that unlike the State government, many of the counties are not in a position to resort to temporary cash financing for their capital improvement projects. Thus, these counties have no recourse but to seek to raise capital for such projects through the bond market. The bill has therefore been amended to allow county governments to issue bonds at rates which may be limited by ordinance adopted by their respective county governing body.

Your Committee has also amended this bill by amending section 47-7(a)(2), Hawaii Revised Statutes, to add language concerning the lapsing date of reimbursable general obligation bonds and bonds constituting instruments of indebtedness to conform this section with amendments to Article VII, section 13, of the constitution.

Finally, your Committee has amended this bill by deleting the printing directions to the revisor in section 3 and making a nonsubstantive grammatical change.

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

Signed by all members of the Committee except Senators Carpenter, Yim and Anderson.

SCRep. 964-80 Judiciary on H.B. No. 1915-80

The purpose of this bill, as amended by the House of Representatives, is to clarify the sentencing provisions of sections 134-8, -9, and -10.

Apparently there is some confusion regarding the presently existing mandatory minimum sentence contained in section 137-8, -9, and -10 and the indeterminate sentences mandated by sections 706-606 and -660 of the Penal Code. Testimony indicates that circuit judges have generally ruled that sections 706-606 and -660 control.

As originally drafted, this bill simply clarified that the mandatory minimums should control. The House amendment removes the mandatory minimums. Your Committee has generally agreed with the form of the House amendment, but mandatory minimums are mandated in a separate bill, H.B. No. 2929-80, H.D. 1, S.D. 1, which amends the Penal Code. Thus, although the form of this bill remains the same, your Committee is still in favor of retaining mandatory minimum sentences. These firearm related crimes are too serious to allow any lesser sentence.

Your Committee has amended the bill by deleting the House amendment to section 134-7 and the "without probation" requirement of section 134-8. Again, mandatory minimums are set forth in H.B. No. 2929-80, H.D. 1, S.D. 1.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1915-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1915-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Chong.

SCRep. 965-80 Judiciary on H.B. No. 1918-80

The purpose of this bill is to provide for an automatic sentence of imprisonment for any person convicted of a class A felony.

Present law provides for twenty years as a maximum sentence for class A felonies, but does not make imprisonment mandatory.

Your Committee feels that the seriousness of class A felonies which all involve violence, physical harm, or the threat thereof, merits mandatory imprisonment. This bill effects this purpose by denying suspension of sentence and probation as sentencing options in class A convictions, but retains, through indeterminate sentence, the option of parole by the parole authority in order that unusual extenuating circumstances can be given due consideration.

Your Committee has amended the bill for clarification and correction of minor errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1918-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1918-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong and Mizuguchi.

SCRep. 966-80 Judiciary on H.B. No. 1919-80

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

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

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

Since over one-fourth of the prison population falls within the age limits defining a "young adult defendant", and more than 80% of these have been found guilty of class A and B offenses, it was deemed wise to limit the extra consideration of the young adult defendant to those with the best chance of profiting by it. Your Committee, therefore, amended the bill so as to exclude multiple offenders from the special consideration provided by this bill.

Your Committee felt that program guidance to the department of social services and housing in connection with the rehabilitation programs that should be provided under subsection (3) was necessary, and this subsection was amended accordingly.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1919-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1919-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Chong.

SCRep. 967-80 Judiciary on H.B. No. 2063-80

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

The bill would amend section 560:3-1209, Hawaii Revised Statutes.

This is a housekeeping bill designed to conform section 560:3-1209 to the 1977 amendment to section 560:3-1206(b) which requires that small estates valued at over \$10,000 give the same notice that is required for informal probate proceedings; the 1977 amendment has the effect of requiring the clerk to wait for the running of the four-month claims-filing period after first publication. See section 560:3-801. Section 560:3-1209 presently requires the clerk to distribute the estate 60 days after first publication.

Your Committee has amended the bill to state specifically that the "prescribed period" after which the clerk may distribute money, etc., is four months in the case of estates valued in excess of \$10,000 and 60 days in the case of estates valued at \$10,000 or less.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2063-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2063-80, S.D. 2.

Signed by all members of the Committee except Senators Chong and Mizuguchi.

SCRep. 968-80 Judiciary on H.B. No. 2064-80

The purpose of this bill is to make fraudulent application to the medical assistance program (Medicaid) a class C felony.

The bill is aimed essentially at health care providers who make fraudulent medicaid applications for services or supplies furnished to recipients. The bill also includes others who knowingly participate in a fraudulent application.

Presently, such fraudulent applications must be charged under the Penal Code's theft provisions, and it is often difficult to cumulate a series of thefts to reach the \$200 minimum required for a felony violation. Your Committee feels that any violation by a professional, and those associated with him, is a serious matter warranting a felony violation. Not only should such professionals keep a higher standard, but the cumulative effect of their fraudulent claims on the Medicaid Program is significant.

It should be noted that fraudulent claims by recipients will still be charged under the Penal Code's theft provisions unless the recipient's actions are related to the providers, thus bringing him under the ambit of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2064-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong and Mizuguchi.

SCRep. 969-80 Judiciary on H.B. No. 2166-80

The purpose of this bill is to repeal chapter 610, Hawaii Revised Statutes.

Your Committee finds that section 5, article VI of the Hawaii Constitution, as amended, has rendered chapter 610, Hawaii Revised Statutes, obsolete. We further find that the Supreme Court has promulgated Supreme Court Rule 26, establishing the commission on judicial discipline and prescribing rules for its operation, pursuant to the above constitutional provision.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2166-80, H.D. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong and Mizuguchi.

SCRep. 970-80 Judiciary on H.B. No. 2590-80

The purpose of this bill is to clarify the required formats for the publication and filing of rules by all state agencies, and to provide for their storage in the lieutenant governor's office for purposes of public access. To this end, section 91-4.2, Hawaii Revised Statutes, is amended by this bill.

Under present law, there are three conceivable formats in which an agency promulgating rules and regulations must publish and file such rules and regulations: (1) in the uniform format required by the revisor of statutes; (2) in the Ramseyer format required for filing with the legislative auditor; and (3) in the format required for filing with the office of the lieutenant governor. This bill specifies that this third format for filing with the office of the lieutenant governor is superceded by the revisor's uniform format.

Your Committee finds that sections 91-4.1, 91-4.2, and 91-4.4, Hawaii Revised Statutes, require a state agency to publish rules in accordance with a format specified by the revisor of statutes and to file a copy of such rules drafted in the Ramseyer format with the legislative auditor. In addition, under the so-called "Rules on Rules" adopted by Governor Quinn in 1961, rules are required to be filed in the office of the lieutenant governor in a certain format, different from those of the revisor of statutes and the Ramseyer format.

Your Committee feels that such a situation results in confusion and needless work if any agency feels compelled to comply with all three required formats. As a result,

this bill revises section 91-4.2 such that a single format for the publication as well as the filing and indexing of state agency rules is to be specified by the office of the revisor of statutes.

Furthermore, the right of public access to these promulgated agency rules needs to be clearly enunciated in the statutes. Pursuant to this, language is added at the end of paragraph (1) of section 91-4.2 specifying the lieutenant governor's office as the storage site for these agency rules. Additionally, provision is therein made for a comprehensive index of rules to be made available for the public's use.

Your Committee altered the bill's proposed language change in paragraph (1) to better express its intent as well as to include the index requirement referred to above. Language was also added to the first line of paragraph (1) making the revisor's format a "single" one that serves to govern the "publication" of all state agency rules along with their "filing and indexing" as hereby provided by this Committee.

The bill's changes to the law and alterations made to it by your Committee was endorsed by the department of the attorney general through testimony presented on March 25, 1980.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2590-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2590-80, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Cobb and Chong.

SCRep. 971-80 Judiciary on H.B. No. 2668-80

The purpose of this bill is to amend chapter 480, Hawaii Revised Statutes, relating to the bringing of actions on behalf of indirect purchasers by the attorney general.

In 1968, the Supreme Court held in Hanover Shoe, Inc. v. United Shoe Machinery Corp., 392 U.S. 481 (1968), that a direct purchaser who paid an illegally high price for a product as a result of an antitrust violation could receive under section 4 of the Clayton Act, three times the full amount of the overcharge by way of "treble damages," notwithstanding the interjection by the defense of the argument that the direct purchaser had in fact passed on the overcharge to its customers.

In Illinois Brick Co. v. Illinois, 97 S.Ct. 2061 (1977), the case involved claims brought by indirect purchasers, and the Supreme Court confronted by the ruling in Hanover Shoe, supra, that the defense of "pass on" of the overcharge was not available in suits brought by direct purchasers, ruled that indirect purchasers are precluded from seeking to recover on the claim that such overcharge had been "passed on" to them by the direct purchaser to victimize them.

Illinois Brick has engendered criticism, commencing with the dissenting opinion of Justice Brennan joined by Justices Marshall and Blackmun. See more recent criticism in 91 Harvard Law Review 221 to 231 (1977).

Illinois Brick casts serious uncertainty on the jurisdictional aspects of antitrust litigation under chapter 480 and raises the necessity to further clarify what was originally intended by the enactment of chapter 480.

STANDING

Your Committee expresses its commitment to the basic concept of antitrust laws that they are designed to benefit consumers and others injured by antitrust violators. Such was and continues to be the intent of chapter 480. We think that the possible misconception that may be read into the implications of Illinois Brick ought to be dispelled and that such right of consumers should be clarified as existing under chapter 480 irrespective of archaic notions of privity between (1) defendant-manufacturers and others and (2) the indirect consumers.

As indicated in Hanover Shoe, the fact that anyone has "paid more than he should and his property has been illegally diminished" is, we think, sufficient basis for invoking the protection intended by our antitrust laws. See 392 U.S. at 409.

Accordingly, by our clarification of chapter 480, it should be clear that the indirect purchasers need simply to show in some fashion that by reason of antitrust violation their purchase prices were elevated by the consequent illegal overcharge. We will not try to prescribe comprehensive guidelines by which the indirect purchaser may

qualify for recovery. However, we adopt the discussion on the subject found in the Report of the Committee on the Judiciary, United States Senate on the Antitrust Enforcement Act of 1979 under the section heading, "Rules of Standing, Remoteness and Proximate Causation."

The concept included in H.B. No. 2668-80, H.D. 2 by what would have been the second full paragraph of section 480-14 by that version, is now contained in section 480-14(c) as amended in the version of S.D. 1.

PARENS PATRIAE

An essential aspect of H.B. No. 2668-80, H.D. 2 is the standing created in the attorney general exclusively to bring class action law suits and proceedings in behalf of indirect purchasers of this State. It is your Committee's view that intervention by the principal law office of the people of this State is the appropriate avenue by which redress of wholesale wrong perpetuated against Hawaii's consumers should be sought. We do not envision energetic initiation of consumer redress by individual private citizens considering the tremendous cost and effort required in antitrust suits. We do envision that, armed with H.B. No. 2668-80, energetic pursuit of consumer redress will be sought by the attorney general.

The concept previously contained in H.B. No. 2668-80, H.D. 2 by what would have been the third full paragraph of section 480-14 by that version, is now contained in the lead paragraph of section 480-14(d) as amended in the version of S.D. 1 with further clarifying language explicitly involving parens patriae.

DUPLICATION OF RECOVERY

Your Committee regarded with special care the possibility of unfairness against the erring defendant by way of duplication of recovery of damages. We are mindful that antitrust laws are only as good as there are persons who would invoke its protection. In this regard, the treble damages feature of antitrust laws has been the main deterrent to illegal activity.

We are mindful, however, that retaining the full impact of the Hanover Shoe ruling that direct purchasers may recover the full amount of the illegal overcharge despite their pass-on to ultimate consumers, would, if magnified by treble damages afforded both to direct and indirect purchasers, be punitive of the defendants beyond the scope of protective enforcement initially intended by enactment of the treble damages provision.

Accordingly, your Committee has amended H.B. No. 2668-80, H.D. 2 to allow the defendant a defense to the extent of compensatory damages that overcharges were passed on to others to avoid duplication of recovery. The amendment also allows apportionment of the punitive portion of the treble damages so as "to provide effective enforcement of this chapter and deterrence from violation of its provisions." It is our intent that the courts should give due consideration to the party who has taken the lead or has been most effective in pursuit of the interest of consumers in apportioning and allocating the punitive damages. In that regard, it is our intent that as between the claimants, one claimant may indeed realize more than three times compensatory damages and that others may realize nothing beyond compensatory damages.

It is also the intent of H.B. No. 2668-80, H.D. 2 that the total amount of damages be limited to threefold damages to the extent that the same may be accomplished without depriving a wronged party of his compensatory damages. However, we realize that in a suit in the federal court, direct purchasers may, in a given case, have been allowed the entire treble damages and that indirect purchasers limited by the Illinois Brick ruling may be entitled to no recovery in that court. Where, in such situation, the indirect purchaser should sue, either personally or by a class action brought by the attorney general, it is the intent that the indirect purchaser shall recover at least the full measure of compensatory damages. We fully realize that in such situation the defendant may ultimately be burdened with fourfold damages -- threefold awarded in the federal court and compensatory damages awarded in the state court.

Your Committee's effort to address the problem of duplication of damages as it pertains to interests pursued in the courts in Hawaii is reflected in what is section 480-13(c)(5) in S.D. 1 and as it pertains to causes of action being pursued both in the federal and state courts insofar as damages apportionment to be obtained in the state court is found in sections 480-13(c)(6) and 480-13(c)(7).

We have, moreover, amended H.B. No. 2668-80, H.D. 2 to affect changes to section 480-13 to (1) "avoid duplication of recovery of compensatory damages"; (2) provide for appro-

priate apportionment of the punitive portion of the damages "to promote effective enforcement"; and (3) ensure that "in no event shall a party be awarded less than the full measure of compensatory damages attributable to him".

In cases where actions are brought in courts other than courts of this State by direct purchasers, the State court is expected to deduct from the indirect purchaser's recovery that portion of the direct purchaser's recovery which is allocable to direct purchasers in Hawaii to avoid duplicate recovery. We are aware that it may be impossible for our State courts to consolidate all direct and indirect lawsuits based on the same antitrust violation. Such mitigation would take into account monies paid to direct purchasers in Hawaii and provide for the deduction of the proportional direct purchaser payment made by the defendants from the indirect purchaser's recovery. In such event, the full amount of the recovery by direct purchasers, whether by settlement or a trebled damage award, attributable to Hawaii direct purchasers, shall be deducted from the full amount of the recovery of Hawaii's indirect purchasers by defendants. Such would insure against duplicate recovery. We have, however, not incorporated such provision as part of the statutory language, mindful that the full complexity of antitrust litigation may require more flexibility to obtain substantial fairness. Should experience in antitrust cases indicate a mitigation formula that would obtain substantial fairness in all antitrust litigation of this kind, that will be proper subject matter for future litigation.

We have also included provisions, section 480-13(c)(7), whereby an attempt is made to resolve the situation where delay is required of the disbursement of damages pending final disposition of a portion of the claim arising out of the same or overlapping transaction or transactions in a court not of this State.

Finally, your Committee has attempted also to resolve the situation where damages obtained by the attorney general for indirect purchasers go unclaimed. This is done in section 480-13(c)(8).

COMPLEXITY OF ANTITRUST CASES

Your Committee is aware of the complexity of antitrust cases and is particularly mindful of Justice White's overriding concern with the complexity and time-consuming nature of judicial apportionment of damages in antitrust cases. We do not think, however, that fundamental fairness must be sacrificed for that reason. We have, accordingly, armed the court with broad discretion to conduct these cases "to avoid duplication of recovery of damages and multiplicity of suits, and in other respects to obtain substantial fairness." We have used the words "substantial fairness" deliberately to emphasize the trial court's discretion, mindful that the complexity of antitrust cases may not lend themselves to precise determinations of fairness. We are persuaded that when put to the test, Hawaii's judges will prove able to render "substantial fairness".

ATTORNEY FEES AND COSTS

Finally, your Committee has been made aware that our antitrust laws nowhere provide for recovery of attorney's fees and costs when the attorney general pursues judicial remedy in behalf of the State and its citizens. We have amended H.B. No. 2668-80, H.D. 2 to allow recovery of the probable expenses that will be incurred in the distribution of amounts awarded to indirect purchasers. The amendments pertaining to recovery of attorney's fees and expenses of distribution are both found in section 480-14(e) of S.D. 1.

Your Committee acknowledges the unselfish endeavors of attorney Bruce Bigelow and deputy attorneys general Mazie Hirono and Robert F. Miller. This is not to say that they are in total agreement with the provisions of this bill. Nonetheless, their input from opposing perspectives has been helpful.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2668-80, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2668-80, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Campbell.

SCRep. 972-80 Judiciary on H.B. No. 2826-80

The purpose of this bill is to clarify and amend the law relating to the liability of dog owners. The bill eliminates the "first bite" defense of dog owners and provides for court action relating to a dog who has had his "second bite."

Although your Committee is generally in accord with the purpose of this bill, your Committee feels a necessity to draft a more comprehensive animal owner liability bill. Thus, your Committee has extensively redrafted and expanded this bill by deleting the new sections presently in the bill and adding two new sections dealing with absolute liability and exemption from liability.

SECTION 1 of the bill, as amended by your Committee, sets out the conflicting issues involved in animal owner liability. On one hand, many innocent people suffer injury without compensation due to the so-called "first bite" rule as set out in Farrior v. Payton, 57 Haw. 620 (1977). Under this rule an animal owner is not liable for damage by his animal unless he knew or should have known of the animal's vicious propensity. Also, the law is not effective enough in dealing with the destruction of animals that have been involved in two or more unprovoked attacks.

On the other hand, the use of animals, particularly dogs, in protecting persons and property from the rising crime rate is significant in this State. These protective efforts are hampered by decisions such as Farrior which appear to protect trespassers as much as persons legally on property. This bill seeks to balance these conflicting yet valid positions.

SECTION 2 of your Committee's amended bill creates a new cause of action of "absolute liability of animal owners." Under this provision, a dog or other animal does not get a "first bite." The owner is strictly liable for damages done by his animal except where the animal was provoked, or where it was used to defend persons or property as set forth in section 703 of the Penal Code, or where adequate signs were posted, or where there is an exemption from civil liability as set out in SECTION 3 of the amended bill.

Regarding the posting exception, there is a requirement of "reasonableness." A sign may not be sufficient where it is reasonably foreseeable that a child might enter the property. A sign in English might not be sufficient, where it is reasonably foreseeable that a non-English speaking person might enter. A well-placed sign or signs probably will be adequate to warn public utility meter readers.

This section, creating a strict liability cause of action, does not overrule Payton which still controls in regular common law causes of action. Plaintiffs simply have another cause of action to allege along with the traditional common law cause of action. It may be possible to show negligence and not have strict liability, or vice versa.

Your Committee has adopted the strict liability cause of action because it feels that an animal owner should take full responsibility for his choice to own an animal.

SECTION 3 of your Committee's amended bill sets forth an exemption to all civil liability (common law or strict liability) for animal owners whose animal attacks a trespasser on their property. This section ties in closely to the Penal Code's definition of simple trespass. The exemption only applies where the injured party intended to trespass or knew he was trespassing. There would be no exemption in the case of a child who wandered onto a property without knowledge that he should not be there or in the case of an adult innocent trespasser.

SECTION 4 of your Committee's amended bill sets forth the procedure for handling dangerous animals which have caused compensable damage. After the "first bite" the animal must be confined or destroyed. The definition of "confined" is intentionally burdensome. After the "second bite," the injured party (or the Humane Society in the City and County of Honolulu -- the only county in which the Society has jurisdiction) may bring an action to have the animal destroyed. Since this is an equitable action, the court has the discretion to order destruction of the animal or not, based on the seriousness of the two "bites" and other appropriate considerations. Destruction is not mandatory.

Your Committee believes that this bill satisfies the polar views involved while leaving enough flexibility in all sections to avoid injustice.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2826-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2826-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong and Mizuguchi.

SCRep. 973-80 Judiciary on H.B. No. 2850-80

The purpose of this bill is to correct typographical errors in section 329-14(d), Hawaii Revised Statutes, which is part of Schedule I of the Uniform Controlled Substances Act, and adds one new hallucinogenic substance.

The added substance is "fenethylamine" about which your Committee received a great deal of testimony regarding its dangerousness and abuse.

"Dimethoxylamphetamine" is corrected to read "dimethoxyamphetamine." "Tiophene" is corrected to read "thiophene," and the abbreviation for thiophene is amended to read "TCP." "

Your Committee has amended the bill to add a spelling correction in Schedule IV. "Chlorazepate" is amended to read "Clorazepate."

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2850-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2850-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong and Mizuguchi.

SCRep. 974-80 Judiciary on H.B. No. 2929-80

The purpose of this bill is to establish mandatory minimum sentences for repeat offenders who commit certain class B and C felonies.

Under present law, a mandatory minimum sentence of imprisonment is imposed only when a person is convicted twice or more for murder, kidnapping, assault in the first degree, sodomy in the first degree, rape in the first degree, burglary in the first degree, robbery in the first degree, promoting a dangerous drug in the first and second degree, and promoting a harmful drug in the first degree. This bill would impose a minimum mandatory sentence of imprisonment in cases involving subsequent convictions for burglary in the second degree, theft in the first degree, firearm violations, and other class B and C felonies involving violence, force, or the threat thereof. This bill allows a court, upon written opinion, to set a lesser minimum if "strong mitigating circumstances warrant such action."

An anomaly of the bill as drafted is that a felon convicted of a prior crime enumerated in subsection (a) will not receive a mandatory minimum upon conviction of a crime enumerated in subsection (b) and vice versa. Your Committee has amended the bill to provide that any person convicted of one of the offenses in subsection (a) shall receive a mandatory minimum sentence of five years if that person has one prior conviction enumerated in either subsections (a) or (b), and ten years if the person has a total of more than one offense in these two subsections. Similarly, any person convicted of one of the crimes enumerated in subsection (b) shall receive a mandatory minimum sentence of three years for one prior conviction in either subsection (a) or (b), and five years for a total of more than one prior conviction in these subsections.

Note that the mandatory minimum is required only where the defendant's conviction occurs during the maximum sentence period for any prior conviction. For example, if the defendant is convicted of a crime enumerated in subsection (b) and he has one prior subsection (a) conviction which is a class A felony, and one prior subsection (b) conviction which is a class B felony, and his conviction occurs 15 years after the class A conviction and 12 years after the class B conviction, he will receive a five-year minimum. This result occurs because, although the most recent conviction occurs after the ten-year class B period, it is still within the class A 20-year period.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2929-80, H.D. 1, as amended herein, and recommends it pass Second Reading in the form attached hereto as H.B. No. 2929-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Chong.

SCRep. 975-80 (Joint) Health and Consumer Protection and Commerce on H.B. No. 1655

The purpose of this bill is to allow graduates of a foreign dental college to apply for and take the examination required for the license to practice dentistry and to amend the requirements for a temporary license to practice dentistry.

Under current law an applicant is required to be a United States citizen in order to obtain a license to practice dentistry. In 1974 the Office of the Attorney General ruled that the board of dental examiners could not require such citizenship as a prerequisite for licensure. In addition, the current law is unclear as to the qualification requirements for licensing of graduates of foreign dental colleges which are neither accredited nor approved nor recognized by the appropriate associations performing such accreditation and approval.

The bill is intended to eliminate the citizenship requirement and to allow for the examination for licensure of graduates of foreign dental colleges. The bill establishes a definite criteria for applicants who have graduated from a foreign dental college, and further requires certain credentials to be provided by such applicant to enable the board of dental examiners to properly assess the qualification of the applicant.

To further insure that the graduate of a foreign dental college possesses the knowledge, skills and competence equivalent to a graduate of a dental school approved by the board, the bill also establishes additional requirements for testing of such graduates.

Your Committees have amended the bill in the following manner:

- 1) S.D. 1 now requires a qualified foreign dental applicant, as specified in this bill, to take and pass a Restorative Technique Examination to be established and administered by the board, prior to taking the practical examination of the Hawaii State Dental Examination. This change also specifies the type of procedures to be included in the Restorative Technique Examination.
- 2) The provisions relating to temporary licenses have been deleted because of the testimony received from the Board of Dental Examiners, the Department of Health and the Hawaii Dental Association, stating that the present law is adequate.
- 3) Changes in language and format which have no substantive effect.

Your Committees on Health and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 1655, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1655, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 976-80 Health on H.B. No. 2286-80

The purpose of this bill is to provide for regulation of residences for persons with developmental disabilities. Under present law, the Department of Health is not required to regulate these residences.

The bill as received by your Committee amended paragraph (10) of Section 321-11, Hawaii Revised Statutes, to bring residences for persons with developmental disabilities built under federal funding under the jurisdiction of the Department of Health. Your Committee feels that the amendment should be placed in paragraph (11) of that section and has amended the bill accordingly. Further, the language was broadened to include all residences for persons with developmental disabilities and not only those built under federal funding.

Your Committee recognizes that deinstitutionalization of the developmentally disabled is a prime concern, and that a major factor in this process is the availability of suitable housing within the community. The Developmental Disabilities Council stated that this has proven to be a problem, partly because of restrictive covenants on deeds and zoning ordinances limiting the definition of single-family residences.

In order to meet the problem of zoning ordinances, your Committee has amended the bill to add a provision mandating the counties to adopt ordinances allowing up to eight unrelated persons with developmental disabilities and two unrelated supervisory staff persons to reside in structures built by private, non-profit organizations in residential areas.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2286-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2286-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 977-80 Health on H.B. No. 3048-80

The purpose of this bill is to bring the Hawaii State Health Planning Act, Chapter 323D, Hawaii Revised Statutes, into compliance with federal requirements for state planning as required by P.L. 96-97 adopted by Congress in October, 1979. The bill also makes certain legislative changes in the Certificate of Need Program which are based on established rules, regulations and procedures presently in operation.

Because the federal government under P.L. 93-641 provides the funding for state health planning efforts in Hawaii, and because amendments to this law embodied in P.L. 96-79 specify that state programs must be brought into compliance with federal law and regulation by January 16, 1981, this bill is considered an emergency measure by the administration.

A hearing was held by your Committee on March 5, 1980 on the companion Senate bill and testimony was received from the SHPDA administrator.

Your Committee has amended this bill by making certain technical changes to conform the language of this bill with the statutes.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 3048-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3048-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 978-80 Agriculture on H.B. No. 1975-80

The purpose of this bill is to amend Hawaii's Meat Inspection Act to comply with the 1978 amendments to the Federal Meat Inspection Law which require humane slaughter of livestock.

Your Committee received testimony from the Board of Agriculture which indicated that compliance with the Federal law is necessary to ensure continued receipt of Federal matching funds.

Your Committee has amended the bill for reasons of style and clarity without affecting the substantive intent.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1975-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1975-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 979-80 Agriculture on H.B. No. 2172-80

The purpose of this bill is to increase the penalty for the illegal importation and harboring of prohibited animals in Hawaii and to provide immunity from penalty for persons who voluntarily surrender such animals.

Your Committee finds that there has been a national trend to keep exotic animals such as snakes and lizards as pets and that this tendency has manifested itself in the increased incidences of snakes found in Hawaii. Your Committee finds that by increasing the penalty, the illegal entry of snakes and other prohibited animals would be minimized.

Your Committee has amended this bill to provide a harsher penalty for the importation of live snakes from a fine of not more than \$1,000, or imprisonment not to exceed one year, to a \$5,000 fine and a mandatory one-year prison term. The bill has also been amended to provide that the Department of Transportation shall distribute a copy of the list of prohibited plants and animals to each passenger on every aircraft and water vessel arriving in this State, and to inform each passenger of the penalty for importing prohibited plants or animals.

Your Committee also amended the bill by replacing the immunity provision with a provision suspending imposition of penalties for a period of ninety days after the effective date of the bill for persons delivering imported snakes to the Department of Transportation.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2172-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2172-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 980-80 Agriculture on H.B. No. 2745-80

The purpose of this bill is to amend Chapter 157, Hawaii Revised Statutes, to allow the Board of Agriculture, at its option, to adopt an alternate method of setting Class I milk prices.

Under the present system of pricing Class I milk, during the month of May, the milk farmers submit copies of their tax returns and financial statements to the College of Tropical Agriculture. The College analyzes these documents, and submits to the Board of Agriculture, a study on the preceding year's costs of production. The Board utilizes this study, and as required by Section 157-32, Hawaii Revised Statutes, takes into consideration various items based on the operations of a reasonably efficient producer and considers also the effects of these increases on the consumer, in its determination of prices of milk to be paid to producers. This determination is made through a public hearing in accordance with Chapter 91, Hawaii Revised Statutes, the Administrative Procedures Act, as required by Section 157-31, Hawaii Revised Statutes.

Inasmuch as this price is set only once annually, increases in production costs may seriously impair producers liquidity and profitability. During the early 1970's, production costs increased drastically, and the Board set milk prices by emergency rule. A legal challenge claiming this action illegal was upheld, and producers were required to sell milk at a price below costs of production.

The amendment proposed in this bill would allow the Board of Agriculture to establish changes in the milk prices at specified intervals; provided that the intervals not be less than every one hundred twenty days. If the Board decided to allow this supplemental method of pricing, it would be required to hold a public hearing, pursuant to Chapter 91, to specify the formula by which the changes would be determined at the specified intervals. If the Board adopted this formula for determining changes in milk prices, it would be required to determine, based on the parameters as specified in the formula, whether a change is justified. In its discretion, the Board may, at that time, increase, decrease, or maintain the price level of Class I milk.

Your Committee feels that this bill is desirable inasmuch as it will allow the Board to adjust prices at more frequent intervals during these times of inflation and production cost volatility.

As received by your Committee the bill requires the Board of Agriculture, if it elected to adopt an economic formula to determine the minimum price for Class I milk, to apply the formula at one hundred twenty day or four month intervals, to adjust the minimum price. Your Committee believes that the Board should have discretion in applying the formula and has amended the bill to leave application of the formula to the discretion of the Board with the proviso that the formula shall not be applied more often than once every one hundred twenty days. A requirement in the House draft that public notice be given of any price change has also been deleted as Chapter 92 requires public notice of any meeting at which the formula is applied and the price changed.

Your Committee has also made style and language changes which have no substantive effect.

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

Signed by all members of the Committee.

SCRep. 981-80 Ways and Means on H.B. No. 2035-80

The purpose of this bill is to provide an increase in the cost-of-living bonus to certain retirees of the Employees' Retirement System for the State of Hawaii in addition to the 2 1/2% annual increase in their post-retirement allowance.

Pensioners retiring prior to July 1, 1965 have received special cost-of-living bonus increases in the following manner:

- 1) On January 1, 1966 they received a 7 1/2% increase;
- 2) On July 1, 1969 an additional 10% increase;
- 3) On July 1, 1970 an additional 10% increase;
- 4) On July 1, 1973 an additional 5 1/2% increase;
- 5) On July 1, 1976 an additional 8% increase;

for a total increase of 41% since 1965.

Pensioners retiring between July 1, 1965 and July 1, 1970 have received special cost-of-living bonus increases in the following manner:

- 1) On July 1, 1974 they received a 5 1/2% increase;
- 2) On July 1, 1976 an additional 8% increase;

for a total increase of 13 1/2% increase since 1974.

Pensioners have also received the annual automatic post-retirement allowance increase of 1 1/2% per year from 1961 which was subsequently raised to 2 1/2% per year in 1970. Thus, from 1965 to the present, the total increase has been 31%.

For a person retiring prior to July 1, 1965, the total post-retirement benefit increase has been 72% since 1965, consisting of 41% for the special cost-of-living bonus increases and 31% for the annual post-retirement allowance increases.

This bill proposes a flat dollar amount increase per month per year of service for certain retirees. This deviation from the traditional percentage formula of providing for a cost-of-living bonus will provide a higher allowance to pensioners receiving lower benefits.

Your Committee feels that retirees retiring prior to July 1, 1970 are hardest hit with inflation as they retired at lower income levels. Furthermore, many individuals retiring in this period were not members of the Social Security System and do not receive social security benefits.

Your Committee notes that social security benefits have risen 97.7% since 1971, including a 13% increase to take effect on July 1, 1980. Most pensioners are in fact collecting social security benefits and your committee feels that pensioners who do not collect these benefits are in most need.

Your Committee also notes that retirees (and their beneficiaries upon the retiree's death) pursuant to Hawaii Revised Statutes Section 87-3 have their health benefit plan insurance premiums fully paid by the Public Employees Health Fund. Such costs have soared, and will increase 83.8% in one fiscal year for a single retiree on the Medicare Plan under coverage provided by the Hawaii Medical Services Association. The total dollar Health Fund appropriation for retirees alone will be \$2,158,000 for fiscal year 1980-81.

Your Committee also finds that the Employees' Retirement System for the State of Hawaii is in need of evaluation and that a commission has been proposed in Senate Bill No. 2537-80, S.D. 2 to study and recommend changes to the system. Even with no benefit change, the cost of existing benefits to the state taxpayer will escalate from \$72.7 million in 1979-80, to \$86.9 million in 1980-81, and to \$99.6 million in 1981-82.

Accordingly, your Committee has amended the bill by setting the bonus at \$3 per month for each year of the retirant's service, if the person retired prior to July 1, 1965, and at \$1.50 per month for each year of the retirant's service if the person retired after July 1, 1965 but before July 1, 1970. Your Committee has deleted any bonus for retirees retiring after July 1, 1970.

The average monthly increase for retirees who retired prior to July 1, 1965 would be \$66.60 or approximately 56% over current benefits and the increase would be \$39.80 or approximately 13% over current benefits for retirees who retired between July 1, 1965 and July 1, 1970. This bonus will be the largest special cost-of-living bonus in the history of the retirement system. The total cost of this measure is \$2,540,000, with the state's share approximately \$2,000,000.

Your Committee believes that until further study of the retirement system is undertaken and the full scope of retiree benefits (included, but not limited to Health Fund benefits, Social Security benefits, Medicaid benefits, and possible food stamp and welfare benefits) be examined, that the cost-of-living bonuses for employees retiring after July 1, 1970 be held in abeyance.

Your Committee on Ways and Means is in accord with the intent and purposes of H.B. No. 2035-80, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2035-80, H.D. 2, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Yim and Anderson.

SCRep. 982-80 Ways and Means on H.B. No. 1864-80

The purpose of this bill is to appropriate certain sum of money out of the general revenue of the State for the purpose of satisfying claims for refunds, reimbursements, and other payments.

These claims were filed with the state director of finance who transmitted all the claims with supporting data to the legislature.

Your Committee agrees that standards and guidelines need to be developed for the review process of these claims.

Your Committee has amended the bill by adding two tax refund claims and decreasing the dollar amount on a miscellaneous claim.

The bill as amended appropriates \$347,707.25 representing 36 claims under section 37-77 and chapter 662, Hawaii Revised Statutes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1864-80, 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. 1864-80, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 983-80 Consumer Protection and Commerce on H.B. No. 1986-80

The purpose of this bill is to effect a number of changes to the no-fault insurance law.

Section 294-2(10)(C)(iii) is deleted to clarify the original intent of the Legislature with regard to the amount of monthly earnings loss payments.

Presently, several insurance carriers have taken the position under this section that a claimant who suffers monthly earnings loss caused by a motor vehicle accident is not entitled to earnings loss benefits provided under a basic no-fault insurance policy coverage if the claimant earned an amount equal to or over \$800 a month. For example, if a claimant was earning \$1,600 per month but as a result of the accidental harm, his earnings were reduced to \$800 per month, the question is raised as to whether the claimant is entitled to receive \$800 to make up the loss in his monthly earnings.

Your Committee believes that the claimant under the above circumstances is in fact entitled to the \$800 per month earnings loss benefits, and to rule otherwise would be incongruous with the intent of the no-fault statute. If the amount, if any, the claimant actually lost during a monthly period is equal to or less than the amount of applicable coverage, it is our intent that the no-fault carrier is required to pay for such monthly earnings loss.

Section 294-10(b) and (c), is amended to clarify the methodology to be used by the commissioner in determining the annual medical-rehabilitative limit (tort threshold) to eliminate 90% of the medical-rehabilitative claims in the no-fault term year as the statute requires. The present statutory language is ambiguous and could cause the effectiveness of the variable threshold to be diminished. For example, since the statute makes reference to both claims "made" or "paid," and to benefits "paid" or claims "filed," it is possible to have the same claim included in different tabulations, once as filed and again as paid. The treatment of claims with periodic payments over more than one year is also ambiguous under this language, although the proper intent is to include the entire amount in one tabulation. This amendment removes the ambiguous terms and clarifies the law to clearly indicate that the commissioner must accumulate experience data on a yearly basis to determine the 90% tort threshold dollar figure as was intended under the Hawaii No-Fault Law.

With regard to the changes in Section 294-10(b), your Committee has amended the bill by deleting the words "those years" in line 12, page 4 and adding in place thereof the words "for the next no fault policy term year". The amendment conforms the sentence

with deletions made in the sentence and clarifies that the tort threshold figure arrived at is to be applied to the next policy term year.

Section 294-39, which provides penalties for the violation of the no-fault law, is amended to close a loophole provided under the present penal code to escape the minimum mandatory fine of \$100. Further, testimony presented by the No-fault Insurance Commissioner indicated that some of the District Court judges have raised a technical question relating to the penalty provisions under this section. The last sentence of subsection 294-37(a) can be interpreted to mean that the court has an option to impose a monetary fine, render a jail sentence, suspend the offender's motor vehicle operator's license, demand forfeiture of his motor vehicle certificate of registration, or any combination of such penalties. Inasmuch as the intent of the Legislature when it passed Act 91, SLH 1978, was to establish a mandatory fine of at least \$100, which cannot be suspended, to be imposed by the judge for any violation of the compulsory provisions of the no-fault law, subsection 294-39(a) has been amended accordingly.

Section 294-39(a) has been further amended to impose additional mandatory penalties for multiple offenders, although the Courts may use discretion in imposing additional penalties for first-time offenders.

Section 805-13, motor vehicle insurance violation, is amended in consonance with the amendment to subsection 294-39(a).

A new section to Chapter 294, is proposed to clearly indicate that the Commissioner is expressly authorized to conduct administrative hearings, in conformity with Chapter 91, to review the denial of any claim for no-fault or optional additional insurance benefits in which the disputed amount does not exceed \$5,000. Under present law, it is uncertain whether statutory authority exists to conduct administrative hearings relating to a denial of a no-fault claim by an insurer. Further, the commissioner's jurisdictional authority in this area has in the past been questioned by some members of the insurance industry as well as some attorneys representing the companies. This amendment clarifies the existing law and expressly authorizes the commissioner to conduct administrative hearings which are an integral part of the function of the commissioner in the discharge of his duties relating to disputed claims arising from motor vehicle accidents.

In addition to the amendment previously mentioned, your Committee has made further amendments to the bill for reasons of style and clarity, and to conform to the Ramseyer method of bill drafting. These amendments have no substantive effect on the measure.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1986-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1986-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, O'Connor, Yim and Yee.

SCRep. 984-80 Consumer Protection and Commerce on H.B. No. 2151-80

The purpose of this bill is to require that a surety bond be maintained by every contractor licensed under Chapter 444, Hawaii Revised Statutes, who enters into a contract for the purposes of constructing a roof covering where the contract states a guarantee for workmanship in excess of seven years.

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

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

Your Committee has amended the bill by replacing the word "within" with the words "not later than" in line 12, page 2 of the bill. The amendment clarifies that suits against

a bond may be brought "not later than" rather than "within" one year after the expiration of the guarantee period.

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

Signed by all members of the Committee except Senators Chong, Campbell, Ushijima and Yee.

SCRep. 985-80 Consumer Protection and Commerce on H.B. No. 2321-80

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes which requires every travel agency and sales representatives to post a bond in favor of the State. The bill further assigns to the Department of Regulatory Agencies the responsibility and authority to enforce the chapter.

The bill as received by your Committee is intended to create a chapter relating to travel agencies to replace the present laws regulating travel agencies contained in Chapter 468J, Hawaii Revised Statutes. Chapter 468J is scheduled to be repealed effective December 31, 1980, pursuant to Chapter 26H, Hawaii Revised Statutes.

Your Committee finds that the present laws regulating travel agencies should be retained and, therefore, has amended the bill to delay the repeal date of Chapter 468J to December 31, 1981. However, your Committee believes that Chapter 468J should be modified to afford greater protection to consumers and has made amendments to that Chapter which:

- (1) Makes officially appointed agencies of an air or ocean carrier subject to the provisions of the chapter.
- (2) Deletes the bonding requirement for travel agencies and sales representatives.
- (3) Creates a travel agency recovery fund to be funded by fees collected from travel agencies and sales representatives. A consumer who obtains a judgment against a travel agency or sales representative for an act in violation of the Chapter and is unable to collect the amount of the judgment may apply for payment from the recovery fund.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2321-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2321-80, 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, O'Connor, Yim and Yee.

SCRep. 986-80 Consumer Protection and Commerce on H.B. No. 2334-80

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

The bill authorizes the Director of Finance to issue temporary license plates for new vehicles to be attached to newly purchased motor vehicles. The purchaser is required to register the vehicle within twenty days of purchase and the Director of Finance would issue permanent license plates within thirty days of registration. The temporary plates would then be destroyed.

Your Committee has amended the bill for reasons of clarity and style without affecting the substantive intent.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2334-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2334-80, 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, O'Connor, Yim and Yee.

SCRep. 987-80 Consumer Protection and Commerce on H.B. No. 2589-80

The purpose of this bill is to amend Chapter 281, Hawaii Revised Statutes, to clarify the circumstances under which the various liquor commissions may create or increase liquor license fees, and to clarify the proper practice and procedure relating to the promulgation and implementation of liquor license fee assessments.

This bill provides the liquor commission with guidelines which would require the commission to justify any new liquor license fee or an increase in existing fees by a proportionate increase in costs and expenses directly related to operational and administrative costs incurred by the commission. The bill also specifies procedures for the making of changes in the liquor license fee structure, and requires notification of such changes to all licensees affected.

Your Committee received testimony indicating that the liquor fees in Hawaii are substantially higher than in other states, and that the fees collected are in one case twice as large as the commission's operating expenses. Your Committee agrees that the fees collected should be set relative to the costs of operation, and that the continuance of existing procedures is a de facto exercise of taxing power not authorized by the Legislature.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2589-80 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Campbell, O'Connor, Yim and Yee.

SCRep. 988-80 (Majority) Consumer Protection and Commerce on H.B. No. 2732-80

The purpose of this bill is to amend Chapter 290, Hawaii Revised Statutes, by adding a new section to require towing companies to notify the police immediately when an abandoned vehicle is towed, or when a trespassing vehicle is removed from private property without the owner's or driver's knowledge.

Your Committee finds that Section 290-41, Hawaii Revised Statutes, already states procedures requiring a towing company to notify the police department when a vehicle is towed. Although the bill requires the police to be notified immediately, and Section 290-41 requires the police to be notified within twenty-four hours, your Committee feels that this distinction is problematic, and not subject to enforcement. Thus, your Committee has deleted this material from the bill.

Your Committee received testimony from the Hawaii Bankers Association, the City and County of Honolulu Department of Finance, and the City and County of Honolulu Police Department citing references to S.B. No. 3106-80, S.D. 1, and your Committee has amended this House bill to include the language contained in S.B. No. 3106-80, S.D. 1. Additionally, the provisions of H.B. No. 1256, H.D. 1, have been included in this bill. Your Committee has made numerous style and technical changes to the bill.

The amended bill requires towing companies and motor vehicle repair companies to notify the legal and registered owners of vehicles towed of the whereabouts of their vehicles within fifteen days, in all cases involving unclaimed, abandoned, or unattended vehicles.

The amended bill also provides that the towing company or motor vehicle repair company may charge storage fees in an amount of \$3 per twenty-four hour period commencing on the day that the vehicle is put in storage, if the towing company or motor vehicle repair business notifies the owners within the fifteen day period, or if the registered or legal owner claims the vehicle during that period. If the notice is not mailed within the fifteen day period, the company may charge storage fees only from the date the notice is mailed, and not for the prior period.

The amended bill also requires the State Department of Transportation and the respective county Division of Motor Vehicle Licenses to provide the towing companies and the repair shops with the name and address of the registered and legal owner; the bill specifies that the disclosure of that information is not a violation of the State Privacy Act.

Inasmuch as present law is silent as to whether or not towing companies are permitted to sell towed and abandoned motor vehicles in order to offset their towing and storage fees, the amended bill would specifically authorize towing companies to sell vehicles which have been towed, after notice of the towing has been given to the registered and legal owners of the vehicle.

Your Committee finds that this amendment is necessary to eliminate uncertainties regarding notice requirements, obtaining the identity of a vehicle's owner, and transfer of title problems after sale. Your Committee further finds that this bill will provide relief for towing companies who are unable to dispose of towed vehicles after incurring costs and fees for towage and storage of a subsequently abandoned vehicle.

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

Signed by all members of the Committee except Senators Carpenter, O'Connor and Yee.

Senator Campbell did not concur.

SCRep. 989-80 Consumer Protection and Commerce on H.B. No. 2789-80

The purpose of this bill is to provide that the no-fault policy on a customer's insured vehicle shall be primary over the policy of a licensed auto repair business or auto dealer where a loaner vehicle is provided to the customer either at a fee, or at no cost.

Under present law, a customer's policy is primary only when a loaner vehicle is provided at no cost. This bill would require that a customer's policy would also be primary when a fee is charged for the loaner vehicle.

Your Committee finds from the testimony presented that businesses are unable to pass on the cost of maintaining and replacing loaner vehicles without incurring primary coverage under their no-fault policy, thus driving the cost of insurance upward. Your Committee feels that this bill will allow repair businesses and dealers to make the practice of loaning vehicles economical and will work to the convenience of consumers.

Your Committee has amended the bill to correct technical errors, and to clarify that the auto repair shop be registered with the motor vehicle repair industry board.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2789-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2789-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, O'Connor, Yim and Yee.

SCRep. 990-80 (Joint/Majority) Housing and Hawaiian Homes and Consumer Protection and Commerce on H.B. No. 1784-80

The purpose of this bill is to amend Chapter 514A, Hawaii Revised Statutes, to require, for a five year period, developers (excluding public housing agencies) of condominiums to offer for a thirty day period, at least one-half of the units in a condominium project to persons wishing to become owner-occupants.

The intent of the bill is to allow persons desiring to purchase condominium units as primary residences a reasonable opportunity to become purchasers before all units in a project are sold to investors or speculators. Although your Committees are in general agreement with that intent, your Committees are concerned that this bill would have a few unintended consequences.

It is your Committees' understanding that under present condominium development procedures, a developer is usually required to pre-sell eighty per cent of the units in the project before the financial institution will finance the project. The institutions have initiated this requirement to assure that their resources are allocated to a project which is marketable. Under the State Horizontal Property Regime Act, however, the developer is not allowed to sell, or to offer for sale, any units in the project unless he has notified the Real Estate Commission, and the Commission has issued a preliminary or final public report. This requirement, patterned after the Federal law which requires full and adequate disclosure of all material facts prior to the offering for sale of any security, was designed to protect purchasers. This bill would allow the developer to solicit purchasers without providing complete disclosure, and would provide the general public notice of the project well in advance of the date when the government entity would be officially notified of the project. Inasmuch as your Committees feel that the intent of the bill is to promote homeownership to those persons willing and able to purchase condominium units, your Committees, cognizant of the original intent

of the Horizontal Property Regime Act, have amended the bill accordingly.

Your Committees have amended the bill to delete Section 1, the Findings and Purpose section, of the bill. The section states that the "legislature believes that a major cause of the high cost of housing is the speculator who purchases a home and quickly resells for a profit." Notwithstanding that this "speculative" activity does occur, it has never conclusively been proved to be "a major cause" of our situation. Further, the State Housing Plan, which isolates factors influencing the cost of new housing, does not even mention "speculators" as a "major cause" of the cost of new housing. Your Committees believe that "speculators" are taking advantage of market forces which influence the cost of housing, and are not a "major cause," per se, of high housing costs.

Additionally, Section 1 of the bill states that the "legislation is directed towards condominiums inasmuch as they are priced lower than single-family dwellings and...are the only residences which many persons with low or moderate incomes are able to afford" and that "speculative purchasing of condominiums is generally more attractive than of single-family dwellings since purchasers of single-family dwellings lose leverage when their resources are tied up in land." These two statements are fraught with misconceptions. The bill as received by your Committees applies to all condominium projects, including resort condominiums built expressly for the wealthy part-time residents, and business condominiums built to provide ownership benefits to businesses as an alternate to leasing. These two types of condominium projects are neither less expensive than single family dwellings nor intended to be used as permanent resident single family residences. Notwithstanding that purchasing of condominiums may generally be more attractive than purchasing of single family dwellings, "leverage" is "lost" and "resources" are "tied up in land" only in regard to purchase of fee simple property, regardless of whether the property is a single family residence or a condominium.

Your Committees have amended the bill to be applicable only to condominium conversions. As stated above, business condominiums and resort condominiums should not be included in this Act. Additionally, your Committees were unable to make a determination of the method for discriminating between "affordable" residential condominiums and "luxury" residential condominiums on the basis of price, inasmuch as the price of condominiums are determined by a variety of factors, such as number of bedrooms. Your Committees considered various methods of exempting certain projects, such as one method which would exempt projects where the condominium units are sold for a price above the median price of condominium units. In the absence of definite criteria for establishing the discriminant value for exemption and applicability from these provisions, your Committees have amended the bill to be applicable only to condominium conversions inasmuch as those projects are usually sold at a price which is lower than that of newly constructed condominiums.

Your Committees have also amended the bill to require that the developer offer twenty-five per cent (rather than fifty per cent) of the units to owner-occupants. Additionally, the time period during which the developer is required to publish the "announcement" has been shortened to two weeks (rather than four weeks) to be initiated within five days after the notice of intent is filed with the Real Estate Commission.

The bill has also been amended to require that a copy of the announcement be filed with the Commission in such form as the Commission requires, which specifically states that a public report has not been issued for the project, and that the Commission has not had time to determine whether the developer has adequately disclosed all material facts as required by law. These amendments will provide flexibility, and allow the "announcement" to be published during the time in which the Commission makes its review, obviating delays, yet giving the potential purchaser notice that the project report has not been issued.

Inasmuch as the developer is required to use the services of a real estate broker for the sale of the condominium conversion project offered, the bill has been amended to require the developer to provide at least the name and address of the real estate broker from whom any interested person may receive a reservation form and further information on the condominium conversion project.

The time period during which the developer must make designated apartments available for sale to owner-occupants has been shortened to fifteen days (from thirty days).

The bill has been substantially amended to clarify intent and procedure, and to make technical changes.

Finally, your Committees would like to indicate that this bill only addresses condominium forms of ownership, and that other forms of ownership, such as single family residences,

planned unit developments, and cooperative housing corporations, are not included under the concept covered in this bill.

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

Signed by all members of the Committees except Senators Yim and Yee.
Senators Ushijima, Ajifu, Saiki and Soares did not concur.

SCRep. 991-80 Housing and Hawaiian Homes on H.B. No. 2537-80

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

The substantive changes made by the bill provide for posting an order of eviction or writ of possession when a tenant cannot be located. This provides needed agency effectiveness and efficiency without affecting nor diminishing the rights of the tenants. This bill also establishes procedures for review, by a Circuit Court, of any final order or decision of the Authority, and authorizes an appeal from a final order of the reviewing court to the Supreme Court.

This bill also clarifies and details the appeal procedures available to tenants aggrieved by the Hawaii Housing Authority. Your Committee has amended this bill to require that an appeal taken from the initial decision to the Authority shall be in writing and may include new facts and evidence pertinent to the case.

The bill has been amended to correct typographical errors and to clarify proposed statutory language.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2537-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2537-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 992-80 Housing and Hawaiian Homes on H.B. No. 2629-80

The purpose of this bill is to amend Section 46-15.1, Hawaii Revised Statutes, to expand county housing powers to provide moderate-income housing as well as low-income housing.

Act 179, Session Laws of Hawaii 1974, provided the various counties with the same housing powers as the Hawaii Housing Authority (HHA). However, the counties were given responsibility only for low-income housing, while the HHA is responsible for both low- and moderate-income housing. This measure would provide more flexibility for the counties to provide both low- and moderate-income housing in an effort to meet the needs of the "gap group". Moreover, there are certain federal grants and funding programs which are limited to counties. Your Committee believes that the counties should have every ability to qualify for these funds in attempting to help meet the housing needs of Hawaii's people.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2629-80, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 993-80 Housing and Hawaiian Homes on H.B. No. 2661-80

The purpose of this bill is to amend Section 359G-9.3, Hawaii Revised Statutes, to provide for the automatic extinguishment of the Hawaii Housing Authority's dwelling unit owner-occupancy requirement in the event of mortgage foreclosure, and to allow the owner-occupant requirement to be waived by the Authority if the dwelling unit is to be transferred through the laws of descent.

The Hawaii Housing Authority has stated that the amendment proposed in this bill to automatically extinguish the restriction would ensure the continued availability of

federal mortgage insurance and guarantee assistance. It is the federal government's general policy to insure or guarantee the mortgage of property which will be free and clear of liens and encumbrances should mortgage foreclosure proceedings be necessary. The restrictions on use under Section 359G-9.3 without the amendments proposed in this bill are viewed as contrary to the federal government's general policy and may preclude eligibility of Authority housing projects (for sale) from federal mortgage insurance and guarantee programs.

Your Committee has amended the bill to delete the provision which would allow the Authority to waive the restriction where the dwelling unit was transferred to a family member. Your Committee feels that government sponsored housing units constructed and sold under Act 105 should be owner-occupied, and that this waiver is in contrast with the intent of the Act.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2661-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2661-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 994-80 (Majority) Ecology, Environment and Recreation on H.B. No. 2842-80

The purpose of this bill is to transfer the advisory function of the Animal Species Advisory Commission from the Division of Fish and Game of the Department of Land and Natural Resources to the Board of Land and Natural Resources. This bill also deletes the mandatory requirement that the Division of Fish and Game shall consult with the Animal Species Advisory Commission on proposals for the deliberate introduction of animal species into the State.

Under present law, the Commission serves in an advisory capacity to the Division of Fish and Game on matters relating to fishing, hunting, conservation, and the deliberate introduction of any animal by the Division of Fish and Game into the State.

However, existing environmental laws, rules and regulations concerning the introduction of any animal into the State, or from one area to another area within the State, require at least an Environmental Assessment, the preparation and review of which involves consultation with knowledgeable scientists and coordination with various governmental and private agencies and individuals, including fishermen, hunters and conservationists. Further, the review processes instituted by governmental agencies in compliance with rules and regulations allow scrutinizing of proposals prior to decision-making. Thus, this bill will delete redundant consultative requirements.

Testimony from the Department of Land and Natural Resources recommended the inclusion of the Division of Forestry to the decision-making process of animal introduction in Section 187-1.2(a), (b), and (d) and the inclusion of the chiefs of the divisions of Forestry, and Conservation and Resources Enforcement to the Commission which will change the Commission's membership from eleven to thirteen in Section 187-1.1.

Your Committee has amended the bill to reflect the Department's recommendations.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 2842-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2842-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.
Senators Abercrombie and George did not concur.

SCRep. 995-80 Consumer Protection and Commerce on H.B. No. 452

The purpose of this bill is to regulate and monitor the installation and use of burglar and holdup alarm systems.

This bill establishes a procedure whereby any person engaged in business relating to the selling, leasing or maintaining of burglar alarms is required to obtain a permit from and present evidence of financial responsibility to the Chief of Police. Further, more than four false alarms originating from an alarm system will result in an assessment of \$200 for each subsequent false alarm to be levied against the person who sold, maintained, leased, repaired, or altered said system.

Your Committee has amended the bill to give the regulatory responsibility to the State rather than the counties. Within this framework, the Director of Regulatory Agencies is enjoined to:

- 1) Establish requirements, procedures, and fees for license issuance, renewal, revocation, and suspension;
- 2) Require a \$10,000 surety bond from each alarm business;
- 3) Require an automatic shut-off device for audible alarm systems;
- 4) Require alarm businesses to keep business records for at least two years; and
- 5) Establish penalties and provide restitution for violations of the provisions of the chapter.

Your Committee has also provided for the periodic review of alarm businesses under the "Sunset Law" by adding this regulated industry under Chapter 26H, the Hawaii Regulatory Licensing Reform Act, to be repealed effective December 31, 1985.

Your Committee has also given the owners of alarm businesses 120 days after approval of the Act to comply with this Act.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 452, H.D. 1, as amended herein, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as H.B. No. 452, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Campbell, O'Connor, Yim and Yee.

SCRep. 996-80 Judiciary on H.B. No. 1985-80

The purpose of this bill is to amend the corporation statutes to eliminate unnecessary regulation, duties, and paper work for both corporations and the department of regulatory agencies.

The following sections have been amended:

Sections 416-4, 416-11, 416-16, 416-17, 416-19, 416-78, 416-95, 416-96, 417-53, 418-5, 418-9, 418-11, 419-2, and 419-4.

Section 416-4. Presently, the law requires that cumulative voting be allowed for voting for the directors of non-profit corporations as well as profit corporations. The proposed amendment would conform the minimum number of directors a non-profit corporation may have to that required of a profit corporation in order to ensure that cumulative voting rights are not jeopardized.

Section 416-11. The amendment would require corporations filing original articles to include zip codes and also expedite service of process by having the initial officers and directors list their residence addresses.

Elimination of the officers' affidavit and supplemental affidavit in the case of incorporation. H.B. No. 1985-80, as originally drafted, completely eliminated the affidavit and supplemental affidavit filing requirements. The House Committee on Consumer Protection and Commerce reincluded the requirement as a certified statement, not an affidavit to retain disclosure of the names of initial stockholders and initial capitalization. Your Committee on Judiciary has amended this section to include new subsections 3 through 13 which expand upon the kind of information required by the articles of incorporation. These amendments are taken from the Model Business Corporation Act. The information in these sections are believed to be relevant and important facts about the corporation in order to protect the public and shareholder interests.

Section 416-16. Merely deletes the phrase "and the affidavit required to be filed concurrently therewith" to be consistent with the amendment of Section 416-15.

Section 416-17. This relates to the capital necessary to engage in business and liability of directors. The requirements of a subscription of three-fourths of the authorized capital stock and the requirement of the ten per cent pay in of cash or the acquisition of property equal to ten per cent of the authorized capital stock have been deleted. As amended this section states that no corporation shall engage in business until not

less than \$1,000 has been paid in by cash or by acquisition of property of a net value of not less than \$1,000. The liability of directors if there is a violation of this section which results in either bankruptcy or insolvency or for dissolution for any loss suffered by the corporation or its stockholders or creditors unless the incorporators and directors can establish that the loss did not occur by reason of the violation has been retained.

Section 416-19. This amendment eliminates a requirement of nonprofit corporations that has never been imposed on corporations for profit.

Section 416-78. Presently, it appears that only stockholders of a profit corporation can consent to corporate actions in lieu of an actual meeting. There exists no reason why non-profit corporations shouldn't also have this power.

Sections 416-95, 416-96, and 418-11. These sections have been amended to reflect that the Department no longer requires detailed financial information be included in annual corporation exhibits. This information is usually sought by collection and credit agencies and can be obtained by other methods. The relief to the department of regulatory agencies is great.

Sections 417-53, 419-2, and 419-4. These sections have been amended to delete reference to the governor's approval of corporation sole articles as such tasks are purely ministerial in nature. Furthermore, a corporation sole would no longer have to file its name change with the Bureau of Conveyances.

Section 418-5. Filing of a reduction in capital by a foreign corporation is not necessary in that the Department doesn't even have a record of the corporation's capitalization at the time of qualification.

Section 418-9. This section deletes the pro-rata fee schedule which will save the Department, and even foreign corporations who are resubmitting applications, time and expense in computing annual license fees.

Your Committee has further amended H.B. No. 1985-80, H.D. 1, to effect technical nonsubstantive changes and to clarify language.

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

Signed by all members of the Committee.

SCRep. 997-80 Judiciary on H.B. No. 2161-80

The purpose of this bill is to amend the election laws of the Hawaii Revised Statutes with respect to filling vacancies in political offices and candidacies. Amendments are necessitated to conform the procedures and deadlines for filling such vacancies with current election schedules and demands.

Major changes to the election laws affected by this bill are as follows:

(1) Section 11-118. Language is deleted that formerly addressed the situation where a substitute candidate's name is submitted after the deadline for such submission by his respective political party committee. Such language is rendered obsolete because of this and other related sections in the Hawaii Revised Statutes that are changed by this bill and now address such a delinquent contingency.

In addition, language is deleted establishing a thirty-day deadline prior to the general election and for the purpose of filling a vacancy by the election process which is similar to the thirty-day deadline respecting the primary election.

(2) Section 17-3. One change provides for the governor to appoint a nonpartisan in certain instances to fill a vacancy if the state senate seat to be filled was held by a nonpartisan.

A second major change delineates more precisely what procedures can be followed to fill a vacancy in a senate seat occurring at various times before the general election. The time periods are divided as follows:

(a) time previous to ten days before the close of filing for election nominations;

- (b) time between this ten-day mark and the thirtieth day prior to the primary;
- (c) time between the above-referenced thirty-day mark and the thirtieth day before the general election; and
- (d) the thirty-day time period between the above mark and the election itself.

The effect of this change is to extend the former ten-day period prior to the general election to thirty days when vacancies occurring will result in gubernatorial appointments rather than be resolved through the election process. Furthermore, the new forty-day period around the close of filing date (ten days before and thirty days after) allows for the extension of time for filing nomination papers in case of vacancies occurring within that period up to thirty days before the primary. Another key effect of these particular changes is that there is now provided sufficient time for ballots to be prepared that reflect the addition of candidates to fill the vacancy.

The three former divisions were less realistic and less flexible than these four more precise divisions.

Paragraphs (2), (3), and (4) of section 17-3 also add language whereby vacancies in the senate shall be filled in the general election in the event "there are no qualified party candidates or nonpartisan candidates in the primary."

(3) Section 17-6. Wherever "general election" appears in this section, it is preceded by the phrase "special election held in conjunction with the" general election. This distinction is necessary due to the board of education members being elected in a separate, special general election held without a primary election.

Similar to the senate vacancy situation, a vacancy occurring in the board's membership whose term does not expire until the second subsequent special election can be filled at the election if it occurs before thirty days prior to the special election. After this thirty-day benchmark, any vacancy is to be filled by appointment of the governor. This thirty-day gap period affords the election clerks sufficient time to prepare ballots with names of vacancy candidates.

In addition, subsection (c) of section 17-6 adds language that dictates a gubernatorial appointee must conform to any residency requirements specified in section 13-1 in order to be eligible for appointment.

(4) Section 17-7. Changes similar to those made to section 17-3 relating to board of education members are made here. These include the special election-general election distinction and the requirement of residency restrictions. The same thirty-day deadline prior to the special election before which time nominations can be filed to fill vacancies also applies to the office of Hawaiian affairs board membership as herein defined. This thirty-day cut-off period replaces the former ten-day cut-off which rendered ballot preparation with vacancy candidates' names included virtually impossible.

Favorable testimony to this bill was received by your Committee from both the lieutenant governor's office and the Association of Election Officers and County Clerks.

Minor language and structural alterations to this bill were necessitated to more closely conform it to its intent. In addition to these, changes in timing were made in both sections 17-6 and 17-7. The bill formerly called for a thirty-five-day cut-off date prior to a special election when vacancies that arose afterward were filled by appointment of the governor, while those before could still be filled by nominations filed for the ensuing special election. The nominees were given up to the thirtieth day prior to file their papers. It was decided that extending the period during which these vacancies could still be remedied by election rather than resorting to gubernatorial appointment, or from thirty-five days prior to election to thirty days, conformed more closely with the bill's intent.

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

Signed by all members of the Committee.

SCRep. 998-80 Judiciary on H.B. No. 2164-80

The purpose of this bill is to make it unlawful to tamper with a motor vehicle without the consent of the owner or person in charge while exempting police and other emergency

personnel in the performance of their official duties.

The present law does not encompass simple tampering of a vehicle.

Your Committee feels that passage of this bill would enable police to apprehend persons observed simply tampering with a vehicle without authorization. Therefore, your Committee recommends its adoption.

Your Committee feels that tow wagon operators should not be included among those excepted from this provision. Although tow operators do often tow vehicles at the direction of the police, blanket exemption of tow wagon operators could be heavily abused. We have, therefore, stricken tow wagon operators from the exemption, and made technical amendments to correct minor errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2164-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2164-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 999-80 (Majority) Judiciary on H.B. No. 2551-80

The purpose of this bill is to provide statutorily for the power and jurisdiction of the board of education as required by the recent amendment to article X, section 3 of the Constitution of the State of Hawaii.

Article X, section 3 states that the board of education "shall have power, in accordance with law" and "shall have jurisdiction . . . as provided by law" Clearly, whatever power or jurisdiction the board has is to be dictated by the legislature. Thus, the purpose clause as set out in the bill has been deleted by your Committee due to its misleading statement that this bill "implements" article X. This bill only sets out the broad outline of the board's power and jurisdiction so that it may function. A more detailed definition by the legislature of the board's power and jurisdiction as called for by the amendment to the Constitution (see Committee of the Whole Report No. 6, page 4) must await more thorough study.

The bill has also been amended to retain the superintendent as the secretary of the board. Your Committee feels that the superintendent should remain on the board and thereby close to its decisions and operations. Other officers of the board are to be elected after its organization and at such times as may be required.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2551-80, 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. 2551-80, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Kuroda.
Senator Campbell did not concur.

SCRep. 1000-80 Judiciary on H.B. No. 2669-80

The purpose of this bill is to provide statutory authority for subpoena power in hearings related to special education for handicapped children.

Your Committee has entirely rewritten the bill to clarify its intent and has moved the amendment from chapter 296 to chapter 301 which specifically relates to handicapped children.

The bill, as amended by your Committee, requires the department of education to adopt rules and regulations for an impartial hearing relating to handicapped children that are consistent with federal requirements. Several specific requirements of the rules and regulations are set out. Subpoenas are provided for and available to any party through the hearings officer. The subpoena may be enforced by court action and the court has inherent contempt power to enforce such action.

Judicial appeal is provided for as allowed by federal or state law.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2669-80, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2669-80, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 1001-80 Judiciary on H.B. No. 2674-80

The purpose of this bill is to include the surety of both a landowner and contractor as one of the parties with respect to which the statute of limitations set out in section 657-8, Hawaii Revised Statutes, applies.

Section 657-8 presently forecloses actions against owners, contractors, and others involved in the construction of an improvement for damage to person or property filed more than six years after the completion of the improvement. This bill closes a possible "back door" action against the surety of any such person.

By including sureties in this bill, your Committee does not intend that their liability be extended to personal or property damage if the surety's contract did not intend to cover such liabilities. For example, mechanics' and materialmen's payment bonds and construction completion bonds normally do not include personal and property damage liability. Also, this bill does not affect shorter limitation periods included in surety bonds. The shorter limitation period in the bond would control over the limits set out in the bill. Your Committee has amended the bill by including language to clarify these points and to effect nonsubstantive technical changes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2674-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2674-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1002-80 (Majority) Judiciary on H.B. No. 2680-80

The purpose of this bill is to amend section 286-172, Hawaii Revised Statutes, to permit reasonable access to motor vehicle registration records contained in the statewide traffic records system while maintaining safeguards to ensure that any information obtained will not be used to invade the privacy of individuals.

Currently, section 286-172, Hawaii Revised Statutes, allows access to the information contained in the statewide traffic records system under limited circumstances. This bill expands access to motor vehicle registration information to those persons who request such information, who meet certain enumerated conditions, and who will not use names and addresses of individuals for commercial solicitation.

Under the provisions of the bill, the Director of Transportation will release information in the statewide traffic records system to (1) any person, in response to a request from a state or federal governmental agency, and (2) to a person determined by the Director to have legitimate reasons to obtain the information for verification of vehicle ownership or for research or statistical purposes.

Any person in the second category must file an affidavit with the Director of Transportation stating the reasons for obtaining the information and assuring the Director that the information will only be used for the reason stated.

If a person who qualifies to receive information requests the entire file of the motor vehicle registration information contained in the statewide traffic records system, the Director will furnish the information only upon entering into an agreement to provide the information for a fee as set by the Director. In order to safeguard the privacy of individuals, it is mandatory that the person requesting the information agree to protect the individual identities contained in the information and not use the names for compiling a mailing list for commercial purposes. A surety bond in the amount of \$25,000 must be posted to assure compliance with the agreement.

Your Committee altered the bill by adding paragraph (3) to subsection (a). This addition makes it clear that any person required by law to give notice to an owner of a vehicle, as in the manner of sections 290-2 and 290-11, shall be deemed an appropriate person to whom disclosure should be made.

In addition, minor language and grammatical changes were made to more closely conform the bill with its intent.

Your Committee agrees that the provisions of this bill, as amended, allow reasonable access to information contained in the statewide traffic records system and simultaneously

protect the privacy rights of individuals whose names appear in the records.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2680-80, 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. 2680-80, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Chong and Mizuguchi.
Senator Campbell did not concur.

SCRep. 1003-80 Judiciary on H.B. No. 2816-80

The purpose of this bill is to clarify in the election laws that a person cannot be eligible to be a candidate for, or be appointed to, the board of trustees of the office of Hawaiian affairs or to the board of education if he or she is also a candidate for another public office. Concomitantly, any member of either board is likewise ineligible to either hold or be a candidate for any other public office, subject to the state constitutional limitations cited herein. To accomplish the above, sections 13D-2 and 13-2, Hawaii Revised Statutes, are amended by this bill.

Current statutes impose no such restrictions concerning these two specific boards, although chapter 12, Hawaii Revised Statutes, prohibits a person from filing nomination papers for more than one office during the primary elections.

Your Committee finds that because members of both the board of trustees of the office of Hawaiian affairs and the board of education are elected in a special election held in conjunction with the general election and without a primary election, it is not clear that the prohibitory provision of chapter 12 would apply to these offices. Accordingly, inasmuch as the legislature never intended for these offices to be exempt from the general prohibition of chapter 12, your Committee recommends adoption of this bill.

Testimony regarding this bill was presented to your Committee on March 21, 1980, by the lieutenant governor's office and the Association of Clerks and Election Officers of Hawaii. Both offices endorse the changes made to the election laws by this bill.

Your Committee has amended this bill to include among its prohibitions a member of the board running for public office at the same time and as qualified by the relevant citation in the state constitution.

Other minor language changes and grammatical corrections were made to the bill to further clarify its intent.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2816-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2816-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 1004-80 Judiciary on H.B. No. 2930-80

The purpose of this bill is to provide an automatic waiver of the jurisdiction of the family court in certain juvenile law violation cases.

Under the present law, the family court may waive jurisdiction to the circuit court in cases where a juvenile sixteen years of age or older is alleged to have committed an offense which would be a felony if the juvenile were an adult.

Since jurisdiction over juveniles of the family court terminates at age nineteen, the sentencing options of the family court are limited to a maximum of three years at age sixteen and to one year at age eighteen. In order to insure that these older juveniles are tried in a court which has adequate sanctions if the person is found guilty, your Committee supports the basic intent of this bill.

The waiver criteria established in the bill, however, have two basic flaws: first, the use of arrest as a waiver criterion is considered inappropriate, if not unconstitutional; and second, a review of the records of the waiver cases placed before the family court during two recent years indicates that the use of misdemeanors would probably cause an inordinate number of waivers and possibly unwarranted ones. Your Committee has, therefore, amended the bill to substitute the commission of a class A or B violent crime as the first criterion, and retained that criteria of the bill which relate to two prior felony adjudications within the last five years. Your Committee believes that

these criteria will result in those older juveniles guilty of the most heinous offenses, and those who are habitual offenders, being tried publicly in a court which has the option of adequate sanctions if the defendants are found guilty as charged.

Your Committee would like to point out that juveniles commit far more than their share of crimes in Hawaii, that a policy of lenient sanctions and emphasis on rehabilitation for over a decade has failed to show that it is effective in curbing juvenile crime, and that it is time to take a firmer hand with those older juveniles who commit and habitually indulge in serious crimes against the community with a view toward deterring the increasing crime rate with opprobrium and stronger sanctions.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2930-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2930-80, 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. 1005-80 Judiciary on H.B. No. 501

The purpose of this bill is to allow a person to gain access to personal records relating to him or her maintained by state and county agencies and to amend such records when they are not accurate, timely, or complete. To effectuate this purpose, the bill adds a new chapter to the Hawaii Revised Statutes.

Article I, Section 6 of the Constitution of the State of Hawaii reads as follows:

RIGHT OF PRIVACY

"Section 6. The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest. The legislature shall take affirmative steps to implement this right"

In a thesis submitted on May 5, 1978, by the then law student at the University of Hawaii Law School, Akira Hino, it is said:

"The right to privacy can be as broad as the right to liberty..."

The Legislative Reference Bureau in its "Constitutional Amendment Information Sheets" was led to comment on its initial analysis of Article I, Section 6:

"It is unclear what legislation will be necessary under this mandate since it is unclear what the right of privacy encompasses."

That is precisely why privacy will remain among the most difficult concepts to legislate or adjudicate. Nonetheless, the legislature is mandated to "take affirmative steps to implement this right," and in preservation of the fundamentals of constitutional democracy, it is not the legislature's right to comment upon the wisdom or folly of constitutional policy, but to effectuate it, within bounds of good reason and in good faith.

In November 1979, the Legislative Reference Bureau completed a study entitled "Hawaii's New Right to Privacy: Making Public the Con Con's Intentions." It summarized its conclusions that (1) the judiciary is identified as the branch of government with the primary responsibility for protecting the right to privacy; (2) the delegates to the constitutional convention were seeking to require by Article I, Section 6, to require legislative action to define the boundaries of that right in government - individual relationships; and (3) they were also seeking to require legislative action protect individuals against infringements of the right in private party relationships.

The bill, as received by your Committee in the form of H.D. 1, contained in its purpose clause, a paragraph indicating reference to Standing Committee Report No. 69 of the 1978 Hawaii Constitutional Convention. Although we have no objection to recognizing the source of the concepts which are being enacted into law, your Committee would caution against any indication that might suggest that any committee report of the Hawaii Constitutional Convention is in any way mandatory upon the legislature. We have stated our position previously that such committee reports differ from legislative committee reports in that the intent of the voters who ratified the constitutional amendment is not reflected there in the same way as the intent of the legislators empowered to enact legislation is imbedded in legislative committee reports.

Moreover, beginning on page 7 of said Standing Committee Report No. 69 of the constitutional convention, the Committee on Bill of Rights, Suffrage, and Elections, indicating awareness

"that the right of privacy has meaning varying in degree and nature," stated its wish "to explicitly state the intent of your Committee as to the scope and nature of the right." It then went on to fail miserably in its self-appointed task. Aside from the casual reference to "the right to inspect records to correct misinformation about himself," the page and a half that followed and was purportedly devoted to that task addressed it only in generalities and euphemisms. It discussed vague notions, such as, "the most important right of all, the right to be let alone," "the right to control certain highly personal and intimate affairs of his own life," "fundamental right of liberty to make a fool of himself as long as his act does not endanger others," etc., only to conclude that the right to personal autonomy "will remain a matter for the courts." To have described the scope and nature of the right to privacy in terms so nebulous that it must "remain a matter for the courts," is not to have provided sufficient description of the problem at all, and is a recognition of the real and improbable limits of the legislative task.

Your Committee is aware of the seriousness of the right to privacy, but we are equally aware of the responsibility to enact clearly defined and sensible laws, and also the responsibility of those who would require legislative action to provide rational parameters within which we are expected to exercise our legislative task.

As indicated in Standing Committee Report No. 614-80, H.B. No. 501, is in partial implementation of Article I, section 6. The bill, as received by your Committee in the form of H.D. 1, entitled the newly drafted chapter of the Hawaii Revised Statutes, "ACCESS AND CORRECTION OR AMENDMENT OF PERSONAL RECORDS." We changed such title to read "FAIR INFORMATION PRACTICE" (Confidentiality of Personal Record), "to better fit the function of the bill in terms of the legislative task anticipated over the next few years. More particularly, the National Conference of Commissioners on Uniform State Laws is scheduled to meet this coming summer to complete a Uniform Privacy Act consisting of two major parts: Part I on "freedom of information" or involving public access to public records, and Part 2 on "information practices," involving confidentiality of personal record. H.B. No. 501 is addressed only to the latter portion of this legislative task.

Your Committee amended H.B. No. 501, H.D. 1, extensively and in the following respects:

- (1) Title change as previously indicated.
- (2) Sec. -1. Definitions. Change was made to Sec. -1(3) "Personal record" by deleting redundant language.
- (3) Sec. -2. Individual's access to own personal record is a new section briefly defining that right.
- (4) Sec. -3. Exemptions and limitations on individual access is Sec. -4 of H.D. 1 with deletions of redundant language of changes in form.
- (5) Sec. -4. Limitation on public access to personal record is new and taken in essential part but in modified form from the discussion draft of the National Conference of Commissioners.
- (6) Sec. -5. Limitations on disclosure of personal record to other agencies is new and taken in modified form from the said discussion draft.
- (7) Sec. -6. Access to personal record is the first full paragraph of Sec. -2 of H.D. 1.
- (8) Sec. -7. Copies is the second full paragraph of Sec. -2 of H.D. 1.
- (9) Sec. -8. Right to correct personal record; initial procedure is, in part, similar to the first full paragraph of Sec. -2(b) of H.D. 1 except that it has been redrafted to express the right to correct personal record as an affirmative personal right.

Your Committee deleted the requirement for filing of an affidavit with supporting documentation in order to simplify the procedure. We believe that most corrections can be made by simple requests in writing. More complicated situations can be handled by stating the lack of supporting documentation as the cause for refusal.

- (10) Sec. -9. Access and correction; review procedure. This is similar to section -2(c) of H.D. 1 with the modification that the review procedure extends also to an agency's refusal of access which appears to have been missed in H.D. 1.

- (11) Sec. -10. Agency disclosure; information claimed incorrect is a new section which deals with the statement of disagreement in Sec. -9 requiring the agency to furnish such statement to whom the disputed information is disclosed.
- (12) Sec. -11. Corrected personal record is a new section describing the steps each agency must take to furnish an amendment or correction of a personal record to the sources and prior recipient of the information.
- (13) Sec. -12. Rules and regulations in Sec. -5 of H.D. 1 amended for greater flexibility.
- (14) Sec. -13. Civil actions and remedies is Sec. -3 of H.D. 1 which has been greatly modified to attain optimum brevity. It is your Committee's belief that unless required by extreme circumstances no single statutory section should cover six full pages. We found much of the language to be extremely repetitious. We also amended the bill to require exhaustion of administrative remedy.

Special attention is directed to Sec. -13(d) which is Sec. -3(d) of H.D. 1. We retained reasonable attorneys fees and cost against the agency, and amended the bill to include its recovery against the complainant in frivolous cases.

We also deleted two and a half pages of H.D. 1 devoted to defining the "date of the cause of action" in five different possible situations. We amended by defining the date of cause of action to be the date of the last communication to the agency requesting its compliance. We think that truth should not be precluded by the passage of time. The right to have one's personal record corrected to reflect the truth should be a right that one should be able to revive by simply renewing the request upon the appropriate agency. So far as one's right to recovery of damages is concerned, the trier of the fact, we think, will give due regard to the energy and promptness by which one has pursued his right.

- (15) Sec. -14. Violation; disciplinary action against employees is Sec. -6 of H.D. 1.
- (16) Sec. -15. Access to personal records by order in judicial or administrative proceedings; access as authorized or required by other law is Sec. -7 of H.D. 1.

Your Committee has undertaken this extensive modification of H.B. No. 501, H.D. 1, because it is evident that in order to fulfill the constitutional mandate of Article I, Section 6, the legislature must make genuine effort to enact a privacy law affecting government-individual relationships that will effectively coordinate (1) "freedom of information" pertaining to public access to public records and (2) "information practices" pertaining to confidentiality of personal record. We agree with the Prefatory Note on the present discussion draft of the National Conference of Commissioners on Uniform State Laws that although these two concepts are antithetical, legislation governing privacy in government - individual relationships will need to obtain their effective coordination. The modifications were made to coincide more appropriately with the concept of the discussion draft, mindful that the National Conference of Commissioners may or may not greatly alter the same at their conference this coming summer.

We note also that the National Conference of Commissioners has been working on right of privacy in stages. The Prefatory Note to the discussion draft notes that the information practices portion has been readied and "is a foundation for a Privacy Code for States," the freedom of information portion is "now in first-draft," and that other pending sections relate to matters such as "criminal justice, health and medical and insurance records."

It is your Committee's recommendation that legislation in the area of the right or privacy be accomplished with deliberate speed and synchronized with the accomplishments of the National Conference of Commissioners on Uniform State Laws. This is not to say that this legislature must adopt laws recommended by the Commissioners, but only that such recommendations be given respectful consideration similarly as we must with respect to the committee reports of the delegates to the constitutional convention.

Your Committee is in accord with the intent and purpose of H.B. 501, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 501, H.D. 1, S.D. 1, and recommends that it be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda, Ushijima and Saiki.

SCRep. 1006-80 Judiciary on H.B. No. 1873-80

The purpose of this bill is to clarify the appellate procedure relating to waiver decisions by the family court in criminal proceedings.

Presently, a waiver decision by family court is appealable immediately as a final order. This can and has resulted in extreme delays between charge and trial.

As drafted, this bill denies appeals of waiver hearings altogether. Due to the possible constitutional problems with such an extreme approach, your Committee has amended the bill to make a waiver decision appealable only after the trial on the charge against the person is waived. In other words, the waiver decision no longer has the status of a "final order" for appeal purposes. Your Committee's amendment solves the constitutional and delay problems involved.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1873-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1873-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda, Ushijima and Saiki.

SCRep. 1007-80 Judiciary on H.B. No. 2061-80

The purpose of this bill is to clearly authorize the courts to sentence persons convicted of violations to perform community service, by amending section 706-605, Hawaii Revised Statutes.

Present law provides only two sentencing alternatives for persons convicted of a violation: either a suspended sentence or a fine.

Your Committee finds that community service is a valid and valuable sentencing alternative in this situation.

Your Committee intends that persons sentenced to community service as a result of a violation not be deemed to be an employee for any purpose, including eligibility for workman's compensation or medical insurance coverage.

Your Committee has amended this bill by deleting gender-based words and substituting sex-neutral terms; and by making minor grammatical and stylistic changes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2061-80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2061-80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda, Ushijima and Saiki.

SCRep. 1008-80 Judiciary on H.B. No. 2359-80

The purpose of this bill is to eliminate unnecessary regulation and to streamline the administration of and compliance with the State's partnership law.

This is accomplished by making the following changes to present law:

First, section 425-8, Hawaii Revised Statutes, has been amended to eliminate the requirement that a statement be filed within thirty days after a partner is admitted, withdraws, or dies. This eliminates a burdensome requirement which benefits neither the partnership nor the department of regulatory agencies. An annual statement, however, will retain the listing of names of any partner admitted, withdrawn, or who has died during the year under section 425-1.

Secondly, all references to acknowledgments by notaries public have been deleted in order to streamline preparation and checking of documents. Henceforth, all documents need only be "certified" by appropriate persons.

Thirdly, it provides for the right to reserve a partnership name. Under present law, this cannot be done and sometimes forces applicants to refile their documents of partnership when it is found that their chosen name is unavailable.

Fourthly, several necessary clarifications are made to present partnership law. A distinction is made between a dissolution and a termination. Clarification is made as to who can be a partner. It also clarifies that the retirement, death, or insanity of the sole remaining general partner dissolves the partnership even though the other limited partners wish to continue the partnership. Other nonsubstantive changes have been made by the bill in keeping with the concept of clarifying existing law.

Your Committee has amended section 3 of the bill to state that the fee for reserving a name for a partnership shall be "equivalent to that paid by a corporation for the same purpose." Your Committee finds that it is the wish of all parties involved that the fee for reserving a name should be the same for a partnership as for a corporation, and finds that this is the most expedient way of accomplishing this end.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2359-80, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2359-80, S.D. 1.

Signed by all members of the Committee except Senators Kuroda, Ushijima and Saiki.

SCRep. 1009-80 Judiciary on H.B. No. 2175-80

The purpose of this bill is to conform Hawaii's name registration law to the mandate of Burch v. Jech, 466 F. Supp. 714 (1979).

In Burch, the court held that parents have constitutional rights to give their children any surname they choose. Present Hawaii law requires legitimate children to take their father's surname or a hyphenated combination of the father's and mother's names, and illegitimate children to take their mother's surnames.

Burch clearly states that the registrar of births can register a child's name in any way the registrar chooses. 466 F. Supp., at 720. Thus, your Committee has amended the bill to provide for registration under the father's surname for a legitimate child and the mother's surname for an illegitimate child. Any name conferred by the parent of a child different from the registered name shall also be recorded, but the child's name shall be indexed under its registered name.

Retaining registration under the parents' surnames avoids a nightmare of tracing names for probate and other purposes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2175-80, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2175-80, S.D. 2.

Signed by all members of the Committee except Senators Kuroda, Ushijima and Saiki.

SCRep. 1010-80 Consumer Protection and Commerce on H.B. No. 2443-80

The purpose of this bill is to raise the maximum interest rates a credit union can assess on its loans from one per cent per month to eighteen per cent a year.

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

Your Committee feels that credit unions provide a valuable service to their members and require the relief provided by this bill to continue to provide such service. While in agreement with the intent of the bill, your Committee has amended the bill to provide a grandfather clause to protect those loans in existence on the effective date of this bill.

Your Committee has further amended this bill to accommodate the fluctuating economy by providing the bank examiner with the authority for three years to increase the interest rates above the eighteen per cent rate if certain conditions occur.

Your Committee finds that this bill involves a complex area of our financial sector which will require more time to analyze than what was available to your Committee.

It is the intent of your Committee that this bill be discussed in greater detail and depth in a conference committee with the other legislative body.

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

SCRep. 1011-80 Consumer Protection and Commerce on H.B. No. 1782-80

The purpose of this bill is to exempt lenders from the State's usury law, Chapter 478, on loans pursuant to written contracts executed during the five year period beginning March 31, 1980. The loan must be secured by an interest in real property and made for the primary purpose of acquisition, construction, improvement, financing or refinancing of real property. Lenders exempted from the ceiling are only those licensed under State or Federal law, or those approval by the United States Department of Housing and Urban Development. These conditions were placed on this exemption because of the concern that unreasonably high interest rates may be charged by unlicensed and unregulated lenders. This exemption will expire at midnight on March 31, 1985. Section 478-8 also contains a new subsection which deals with a small class of loans secured by chattel mortgages on cattle and other livestock.

Your Committee had much discussion on this bill since some action is necessary to assist or at least avoid further detriment to all levels of the market and all consumers after the emergency legislation passed by Congress in December, 1979 which preempted until March 31, 1980, the usury ceiling in Hawaii. Many experts on mortgage law and all interested persons were consulted and asked for input on this very important bill.

At the time of the hearings, Congress passed the Depository Institutions Deregulation and Monetary Control Act of 1980 scheduled to become law April 1, 1980. The new law would preempt the State law unless the State explicitly rejected the federal law before April 1, 1983. Your Committee discussed adopting the federal law but agreed that due to the complexity of Hawaii's existing law and situation, adopting the provisions wholesale would not be desirable. To prevent federal law from forever controlling interest rate ceilings on certain loans, your Committee decided to reject the provisions of the federal law which could be and have to be explicitly rejected. Accordingly, your Committee has amended the bill by explicitly stating in Section 1 of the bill that Parts A(a)(1) and Part B of the new federal law have been overridden.

In Section 2 of the bill your Committee has added several new sections which are special exemptions to Chapter 478. The first exemption is first liens on residential real property. There will be no ceiling on interest rates for liens on residential real property loans, except for loans made prior to the suspension of the State's usury ceiling on December 28, 1979 because of federal action.

The second new section deals with certain contracts which may have been covered in Part B of the federal act but which must be considered because of the override provision of Section 1 of this bill. These contracts such as contracts for sale of raw land, commercial mortgages and mortgages other than first lien mortgages on residential property will have a ceiling of eighteen per cent.

The third new section exempts ERISA approved retirement plans.

The fourth new section repeals the above new provisions of Chapter 478 on March 30, 1983. However, the rejection of the applicable parts of the Depository Institutions Deregulation and Monetary Control Act of 1980 in Section 1 of this bill will not be repealed. At that time, the present Hawaii law will go back into effect. Any contracts, commitments or obligations entered into before the repeal of these new sections shall be governed by the provisions of the repealed sections.

Your Committee realizes the complexity of this bill and recognizes the differences of opinions of all the interests involved. Some of the problems and questions need to be more fully explored and some have not been dealt with in this bill. These problems and questions will be taken up in conference. One such question deals with all the contracts that were entered into before the federal law lifted the interest rate ceiling in December 1979. At that time, such contracts did not contemplate the new exemptions to the usury law but may have been written to take care of such a situation. Further, a definition of residential manufactured homes shall be provided at that time.

Your Committee would also like to note that it will conduct a review of this bill and its effect, it passed, in next year's session. Because of the newness of unlimited interest rates on certain contracts, your Committee would like to review the effects of this bill should the bill become law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1782-80, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1782-80, H.D. 2, S.D. 1.

Signed by all members of the Committee except Senators Campbell, Carpenter, Carroll and Yee.

SCRep. 1012-80 Consumer Protection and Commerce on H.B. No. 1925-80

The purpose of this bill is to amend Section 408-15(j), Hawaii Revised Statutes, to specify that industrial loan companies may collect simple interest at the rate of eighteen percent a year rather than one and one-half percent a year. The change proposed essentially allows the same interest rate expressed in a different manner and will clarify allowable per diem interest rates.

Your Committee received extensive testimony from various interested parties and on the basis of such testimony, concludes that present economic conditions justify an increase in the interest rates chargeable by industrial loan companies.

Therefore, your Committee has amended the bill to increase the interest rates as follows:

- (1) On loans where interest is deducted in advance for which the present annual interest rate is:

12%	increase to	14%
9%	increase to	10.5%
6%	increase to	7%
3%	increase to	4%

- (2) On simple interest loans from 18% per year to 24% per year.

Your Committee is aware that the economy is presently in a state of flux and that future developments may justify a decrease in the interest rates. For this reason the bill as amended contains a "drop dead" clause of July 1, 1983, when the allowable interest rates will revert back to the present rates.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1925-80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1925-80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Yim, Carroll and Yee.

SCRep. 1013-80 Legislative Management

Informing the Senate that S.C.R. No. 45, S.R. Nos. 226 and 227 and Stand. Com. Rep. Nos. 852-80 to 1012-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1014-80 Legislative Management

Informing the Senate that S.R. Nos. 228 to 230 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1015-80 (Majority) Intergovernmental Relations on S.C.R. No. 4

The purpose of this resolution is to ratify a proposed amendment to the Constitution of the United States to provide for representation of the Disstrict 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. 4 and recommends its adoption.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 1016-80 Legislative Management

Informing the Senate that S.C.R. Nos. 46 to 48, S.R. Nos. 231 to 234 and Stand. Com. Rep. No. 1015-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1017-80 Legislative Management

Informing the Senate that S.R. Nos. 235 to 240 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1018-80 Ways and Means on H.B. No. 2472-80

The purpose of this bill is to repeal the reporting requirement of section 37-71(c), Hawaii Revised Statutes, requiring a report on the amount and percentage changes in expenditures between the biennium in progress and the ensuing biennium for each program at the lowest level of the state program structure.

This would reduce the volume of the Executive Budget document by deleting report B1 consisting of 157 pages.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2472-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1019-80 Ways and Means on H.B. No. 2181-80

The purpose of this bill is to reduce the amount of unemployment compensation payable to an individual for any week beginning April 1, 1980 by the amount of pension or retirement benefit the individual is receiving from a government or private pension plan which is reasonably attributable to such week.

Your Committee feels that the enactment of this bill by April 1, 1980 is necessary to conform the Hawaii Employment Security Law to the pension reduction requirement in section 3304(a)(15) of the Federal Unemployment Tax Act (FUTA). Compliance with the federal statutes will ensure federal certification of Hawaii's employment security law for employer tax credit, and federal grant for administration of Hawaii's unemployment insurance program.

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

Signed by all members of the Committee.

SCRep. 1020-80 Education on S.R. No. 219

The purpose of this resolution is to have the Senate Education Committee convene a citizens' group of young people between the ages of 18-25 to improve the voting record of that age group.

Your Committee heard testimony in support of the Resolution from the Department of Education represented by Dr. Mitsugi Nakashima, Assistant Superintendent, Office of Instructional Services: "The Department recognizes the importance of exercising the citizens' responsibility to vote and supports the intent of this resolution to organize the 18-25 year old group for the purpose of improving the voting record of that age group. The Department will assist in whatever way possible in support of this project."

The Legislative Concerns Committee of the Hawaii Council of Churches testified in favor of the Resolution: "We heartily support S.R. 219 which addresses itself to young people. We note that since the voting age was dropped a few years ago that the response from this new and eligible group has been disappointing. We think that it is essential that more emphasis be placed before young people, their parents and their teachers that they, the young, are indeed leaders of tomorrow. We see utilizing youth service clubs as one means of making these points. In endorsing this proposal we hope that in view of this being an election year every endeavor will be made as soon as possible to implement the resolution."

The Lieutenant Governor's office submitted testimony in favor of this Resolution. The Lieutenant Governor is offering aid in the implementation of the Resolution.

Because testimony supported such a change, your Committee has amended the Resolution by adding to the phrase "composed of young people" which appears in the second whereas clause of the Resolution, the word "primarily." The purpose of the amendment is to provide an opportunity for such groups as the Lieutenant Governor's office and the Council of Churches to give meaningful support to this project.

Your Committee on Education concurs with the intent and purpose of S.R. No. 219, as amended herein, and recommends that S.R. No. 219, S.D. 1, be referred to the Committee on Legislative Management for further consideration.

Signed by all members of the Committee except Senator.

SCRep. 1021-80 Legislative Management

Informing the Senate that S.R. Nos. 241 to 257 and Stand. Com. Rep. Nos. 1018-80 to 1020-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1022-80 Consumer Protection and Commerce on S.C.R. No. 33 and S.R. No. 162

The purpose of this Concurrent Resolution and of this Resolution is to request that an Ad Hoc Committee be formed by the Department of Regulatory Agencies, comprised of members of the Department of Regulatory Agencies, the Hawaii State Bar Association, and interested members of the general public, to study the Model State Trademark Bill.

Your Committee received testimony in favor of the Resolution and the Concurrent Resolution from the Department of Regulatory Agencies.

Your Committee has amended the title and body of the Resolution and the Concurrent Resolution to include that the Ad Hoc Committee also study the existing law, Chapter 482, governing trademarks, prints, labels, and trade names.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 33 and of S.R. No. 162, as amended herein, and recommends their adoption in the form attached hereto as S.C.R. No. 33, S.D. 1, and S.R. No. 162, S.D. 1.

Signed by all members of the Committee except Senator Saiki.

SCRep. 1023-80 Education on Gov. Msg. Nos. 161, 162, 163 and 166

Recommending that the Senate advise and consent to the nominations of the following:

WILLIAM A. K. WATERS, to the Hawaii Educational Council, for term ending December 31, 1983;

ELIZABETH G. FLATEAU, to the King Kamehameha Celebration Commission, for term ending December 31, 1982;

GARD N. KEALOHA, to the King Kamehameha Celebration Commission, for term ending December 31, 1980; and

LEONARA VILLATORA, HILDA D. CANNON, and HELEN H. KANESHIRO, to the Library Advisory Commission, County of Kauai, for terms to expire December 31, 1983.

Signed by all members of the Committee except Senators Anderson and Saiki.

SCRep. 1024-80 Education on S.R. No. 29

The purpose of this resolution is to request Hawaii's Congressional delegation to seek additional federal funds for the development of educational programs for the handicapped.

Your Committee on Education received testimony from the Department of Education, in which the Department testified that it concurs with the intent of this resolution.

Your Committee has adopted the recommendation of the Department of Education and has amended this resolution by rewording it to request Hawaii's Congressional delegation to seek full and immediate federal funding at the level authorized by Public Law 94-142.

It would be very difficult for the State to fully implement the Education for All Handicapped Children Act Public Law 94-142, and stay within the time frames stipulated in the Act unless there is full and immediate federal funding. The purpose of the amendment is to ask the Hawaii Congressional Delegation to seek full federal funding for programs to help educationally handicapped children as provided for under Public Law 94-142, Education for All Handicapped Children.

Your Committee on Education concurs with the intent and purpose of S.R. No. 29, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 29, S.D. 1.

Signed by all members of the Committee except Senators Anderson and Saiki.

SCRep. 1025-80 Education on S.R. No. 164

The purpose of this resolution is to request the Department of Education to review its policy and regulations on reporting student progress.

Keeping parents and students apprised of academic performance is essential to academic development. Parents can and should play an integral role in their child's education and students should be given the opportunity to take the initiative for their own education.

Your Committee is concerned that there is no provision in the Department of Education policy and regulations which requires schools to inform the student, or the student's parents, of poor progress except at the end of the first semester and/or at the end of the year. Your Committee feels that the regularity and timeliness of progress reports are of great importance if constructive steps towards a student's academic development are to be taken.

Your Committee on Education concurs with the intent and purpose of S.R. No. 164 and recommends its adoption.

Signed by all members of the Committee except Senators Anderson and Saiki.

SCRep. 1026-80 Education on S.R. No. 170

The purpose of this resolution is to request the Department of Education to study the feasibility of implementing a high school legislative internship program.

Your Committee on Education feels that this program would benefit both the students and the legislators. The students would profit from an invaluable learning experience and would come to a better understanding of the governmental process. The jobs which these students could perform and the different perspectives they provide would be beneficial in helping the legislators to better understand the young people of our state.

Your Committee on Education concurs with the intent and purpose of S.R. No. 170 and recommends its adoption.

Signed by all members of the Committee except Senators Anderson and Saiki.

SCRep. 1027-80 Education on S.R. No. 172

The purpose of this resolution is to request the Department of Education to re-evaluate its presentation of standardized test scores to parents.

Standardized tests play an important role in ascertaining the level of progress of a student. The scores of these tests, when quickly and correctly interpreted, can serve as important guides to the means of improving a child's subsequent performance in school. By presenting these scores to parents in a clear and simple manner, parents will be able to effectively help their child.

The Department of Education testified that they are constantly striving to provide parents with test scores and their interpretation. Therefore, your Committee feels that it will be of benefit to everyone involved if the department reports to the Legislature on its presentation of standardized test scores to parents and any steps taken to improve such presentation.

Your Committee on Education concurs with the intent and purpose of S.R. No. 172 and recommends its adoption.

Signed by all members of the Committee except Senators Kuroda, Anderson and Saiki.

SCRep. 1028-80 Education on S.R. No. 218

The purpose of this resolution is to request the Department of Education to report on its policies and procedures on consolidating schools with declining enrollments. Such a report shall also include the effect that such consolidations would have with regards to the students, parents, teachers, staff, and community.

At a time when the citizenry is demanding fiscal responsibility and frugality of their legislators, it is especially necessary that every resource and facility of the State be utilized to their full capacity. Consolidation of our public schools must be made a serious consideration in order that alternative uses for our half-filled classrooms may be sought. Millions of dollars could be saved with such a consolidation policy which might make the construction of new facilities unnecessary.

Your Committee on Education concurs with the intent and purpose of S.R. No. 218 and recommends its adoption.

Signed by all members of the Committee except Senators Kuroda, Anderson and Saiki.

SCRep. 1029-80 Education on S.R. No. 173 and S.C.R. No. 37

The purpose of these measures is to request the Department of Education to conduct a study on the feasibility of implementing a Computer Base Education and Computer Assisted Instruction services in the elementary and secondary schools.

Your Committee finds the computer to be an integral part of society and as such, the teaching of computer-oriented courses not only relevant, but also essential to the education of our youth.

The Department of Education testified in favor of these measures and plans to conduct a feasibility study on the use of the computer in instruction in our schools. The Department is hereunder requested to submit to the Legislature a report on this study no later than 20 days prior to the convening of the 1981 Legislative session.

Your Committee on Education is in accord with the intent and purpose of S.R. No. 173 and S.C.R. No. 37 and recommends its adoption.

Signed by all members of the Committee except Senators Kuroda, Anderson and Saiki.

SCRep. 1030-80 Legislative Management

Informing the Senate that S.C.R. nos. 49 to 52, S.R. Nos. 258 to 266, Conf. Com. Rep. No. 3-80 and Stand. Com. Rep. Nos. 1022-80 to 1029-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1031-80 Public Utilities on H.B. No. 2066-80

The purpose of this bill is to add a new section to Chapter 271G, Hawaii Revised Statutes, requiring a water carrier to obtain approval of the Public Utilities Commission prior

to issuing stocks, bonds or other indebtedness, and prior to entering into long-term or leverage leases.

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

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

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

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

Signed by all members of the Committee except Senators Anderson and Soares.

SCRep. 1032-80 Economic Development on H.C.R. No. 42

The purpose of this concurrent resolution is to respectfully urge the Secretary of Energy and Hawaii's Congressional delegation to give favorable consideration to Molokai and its application for the Small Community Solar Thermal Power Experiment: Site Participation, PRDA DE-RA04-80ET21063.

The construction of the Small Community Solar Thermal Power Experiment has received favorable response and support from the general public on Molokai, the HNEI, the Governor of the State of Hawaii, the mayor of the County of Maui, DPED, the Molokai Chamber of Commerce, and the Molokai Taxpayers Association, Inc.

Your Committee on Economic Development concurs with the intent and purpose of H.C.R. No. 42, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1033-80 Economic Development on S.C.R. No. 38

The purpose of this resolution is to request Hawaii's congressional delegation to study the impact and problems created by high interest rates on the national and local economy, and to introduce corrective legislation in their respective houses of the United States Congress to lower interest rates.

Your Committee finds this high interest rate policy has and will continue to disproportionately burden our low and moderate income population, and that the decline in our local construction and housing industries has raised serious concern about the possible loss of jobs in these and other local industries.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 38 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1034-80 Economic Development on S.R. No. 174

The purpose of this resolution is to request Hawaii's congressional delegation to study the impact and problems created by high interest rates on the national and local economy, and to introduce corrective legislation in their respective houses of the United States Congress to lower interest rates.

Your Committee finds this high interest rate policy has and will continue to disproportionately burden our low and moderate income population, and that the decline in our local construction and housing industries has raised serious concern about the possible loss of jobs in these and other local industries.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 174 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1035-80 Transportation on S.R. No. 14

The purpose of this resolution is to promote and support the acquisition and use of electric vehicles in the State of Hawaii, and to urge all state and county agencies to acquire and utilize such vehicles in their operation, whenever feasible.

Your Committee heard testimony from the department of accounting and general services which stated that current energy conservation activities relating to transportation includes the policy to purchase vehicles with smaller engines and the maintenance of all vehicles in the most energy efficient condition; and therefore is in favor of this resolution.

Your Committee finds that a key conservation advantage of the use of electric vehicles is the fact that it can reduce the State's reliance on scarce petroleum-based fuels, by shifting the burden for the production of electricity for such vehicles to Hawaii's abundant renewable energy resources such as geothermal, solar, wind, biomass, and others.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 14 and recommends that it be referred to the Committee on Economic Development.

Signed by all members of the Committee except Senators Cobb and Ushijima.

SCRep. 1036-80 Consumer Protection and Commerce on S.C.R. No. 2

The purpose of this Concurrent Resolution is to request the State Insurance Commissioner to conduct a study and analysis of product liability insurance premiums and coverage in Hawaii, the claims analysis under which the rates are established, and the type of businesses which are most vulnerable to high product liability premiums or insufficient coverage. The Concurrent Resolution further requests the Insurance Commissioner to include in the study, recommendations to reduce excessive premium costs and any inter-industry inequities which may be identified as disincentives for the development and commercial distribution of new products both within Hawaii and for import or export by Hawaii businesses.

Your Committee has amended the Concurrent Resolution to clarify that the scope of the Concurrent Resolution also includes a study of legal aspects of this type of insurance.

Your Committee on Consumer Protection and Commerce concurs 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 Committee except Senator Yee.

SCRep. 1037-80 Legislative Management

Informing the Senate that S.C.R. Nos. 53 to 59, S.R. Nos. 267 to 316 and Stand. Com. Rep. Nos. 1031-80 to 1036-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1038-80 Consumer Protection and Commerce on Gov. Msg. Nos. 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, and 145

Recommending that the Senate advise and consent to the nominations of the following:

CLAYTON TSUCHIYAMA, to the Board of Public Accountancy, for term to expire December 31, 1983;

BARBARA M. YAMADA AND GARY T. TAOGOSHI, to the Board of Barbers, for terms to expire December 31, 1983;

LOUIS B. OCLARAY, to the Boxing Commission, for term to expire December 31, 1983;

MILTON K. HIRONAKA and ROBERT M. IMOSE, to the CATV Advisory Committee, for terms to expire, respectively, December 31, 1981 and December 31, 1983;

ROSE T. OHASHI, THEODORE PALISBO, and ROBERT M. ABE, to the Collection Agency Board, for terms to expire December 31, 1983;

RALPH S. INOUE, DEEN I. MORITA, and NORMAN JANICKI, to the Contractors License Board, for terms to expire December 31, 1983;

EUDORA AKANA LEE, to the Board of Cosmetology, for term to expire December 31, 1983;

ROBERT K. MAEDA, to the Credit Union Review Board, for term to expire December 31, 1982;

EDWIN N. FUJIMOTO, D.D.S., to the Board of Dental Examiners, for term to expire December 31, 1983;

TERUO HASEGAWA and JUNE UEHARA-ISONO, to the Board of Hearing Aid Dealers and Fitters, for terms to expire December 31, 1983;

BILL NISHITA, to the Board of Massage, for term to expire December 31, 1983;

ALBERT C.K. CHUN-HOON, M.D., to the Board of Medical Examiners, for term to expire December 31, 1982;

SAMUEL M. HARAGUCHI, M.D., to the Board of Medical Examiners, for term to expire December 31, 1982;

RUBEN P. MALLARI, M.D., to the Board of Medical Examiners, for term to expire December 31, 1983;

NELSON N. NISHIDA, to the Motor Vehicle Repair Industry Board, for term to expire December 31, 1983;

AKIRA SATO, to the Motor Vehicle Repair Industry Board, for term to expire December 31, 1983;

RICHARD ROVIN, N.D., to the Board of Examiners in Naturopathy, for term to expire December 31, 1983;

YOSHIKO SHIMAMOTO, DOROTHY K. ONO, ELIZABETH J. WAITE, CLAIRE R. ALFILER, and HILARIO RAMISCAL, to the State Board of Nursing, for terms to expire, respectively, December 31, 1982, December 31, 1982, December 31, 1980, December 31, 1982, and December 31, 1982;

VERNON S. PAGE, ANNE T. YAMADA, and HATSUNE SEKIMURA, to the Board of Examiners of Nursing Home Administrators, for terms to expire, respectively, December 31, 1983, December 31, 1983, and December 31, 1981;

GLORIA M. MAYER, to the Board of Dispensing Opticians, for term to expire December 31, 1983;

BERYL B. CHUN, O.D., and CAROLEE STAMPER, to the Board of Examiners in Optometry, for terms to expire, respectively, December 31, 1983, and December 31, 1981;

DOUGLAS P. HAGEN, D.O., to the Board of Osteopathic Examiners, for term to expire December 31, 1983;

ROY M. SHIMOTSUKASA and PAUL ROMIAS, to the Pest Control Board, for terms to expire December 31, 1983;

PAUL T. SAKIMOTO, to the Board of Pharmacy, for term to expire December 31, 1983;

KENT H. BOWMAN, STEVEN LOUI, and JED J. INOUE, to the Board of Pilot Commissioners, for terms to expire, respectively, December 31, 1981, December 31, 1980, and December 31, 1982;

JEANNE W. WOOLF, PH.D., ABPP, to the Board of Certification for Practicing Psychologists, for term to expire December 31, 1983;

E.A. BERLIN, to the Board of Private Detectives and Guards, for term to expire December 31, 1983;

JOAN E. McGARRY-NAKAYAMA, to the Board of Radiologic Technologists, for term to expire December 31, 1983;

JOSEPH F. BLANCO, EDWIN H. SHIROMA, and RALPH S. YAGI, to the Real Estate Commission, for terms to expire December 31, 1983;

DENNIS T. SEKINE, SUSUMU AWAYA, and VICKIE M.I. PEILER, to the Board of Speech Pathology and Audiology, for terms to expire, respectively, December 31, 1982, December 31, 1982, and December 31, 1980; and

CALVIN W.S. LUM, D.V.M., to the Board of Veterinary Examiners, for term to expire December 31, 1983.

Signed by all members of the Committee except Senators Campbell and Yee.

SCRep. 1039-80 Consumer Protection and Commerce on S.C.R. No. 34 and S.R. No. 166

The purpose of the concurrent resolution and of the resolution is to request that the Department of Regulatory Agencies conduct a study to determine whether the current State monitoring of condominiums is adequate, and if found to be inadequate, how to correct such deficiencies, and whether a condominium commission is necessary.

Your Committee received testimony from the Real Estate Commission in favor of both resolutions which requested that the scope of the study be broadened to encompass a possible restructuring of the Department of Regulatory Agencies to allow the regulation of real estate to be handled by one commission or one division.

Your Committee concurs with the recommendation to broaden the scope of the study, and has made amendments to the resolutions to reflect those recommendations.

Your Committee on Consumer Protection and Commerce concurs with the intent and purposes of S.C.R. No. 34 and S.R. No. 166, as amended herein, and recommends their adoption in the form attached hereto as S.C.R. No. 34, S.D. 1, and S.R. No. 166, S.D. 1.

Signed by all members of the Committee except Senator Yee.

SCRep. 1040-80 (Joint) Government Operations and Efficiency and Health on S.R. No. 16

The purpose of this resolution as received is to request the Senate Committees on Government Operations and Efficiency and on Health to jointly monitor Habilitat's Operations and the department of social services and housing and the department of health as it relates to their responsibility over Habilitat.

Your Committees find that the legislative auditor's report charges that the departments of health and of social services and housing were not exercising their authority and knowledge over the operations of Habilitat. Testimony from the two departments concurred that they were not familiar with all aspects of Habilitat's functions, and that the two departments were joining resources to correct this problem with the result being a tighter monitoring system.

Your Committees have amended this resolution to request the department of health and the department of social services and housing to submit a report on their responses and actions taken or to be taken on the findings and recommendations of the legislative auditor's report, due at least twenty days prior to the convening of the 1981 regular session and by deleting the monitoring by the committees.

Your Committees on Government Operations and Efficiency and Health concur with the intent and purpose of S.R. No. 16, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 16, S.D. 1.

Signed by all members of the Committees except Senator Yee.

SCRep. 1041-80 Human Resources on H.B. No. 1964-80

The purpose of this bill is to make permissive rather than mandatory the conducting and reporting of studies relating to the purposes and policies applicable to public employee compensation.

Under present statute, each director of personnel services is mandated to conduct the necessary and appropriate annual compensation studies, taking into consideration factors such as the general economic condition, cost of living, minimum standard of living, and comparable monetary and nonmonetary compensation offered by the private sector.

With the advent of collective bargaining, however, there is no longer the need for an annual compensation study. This bill allows each personnel director to determine when a compensation study is necessary and to also determine which classes of work will be reviewed.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1964-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1042-80 Economic Development on S.R. No. 156

The purpose of this resolution is to declare the intent of this State to compete for and share the cost with the federal government for the construction and operation of the ocean thermal energy conversion plant.

The construction and operation of an OTEC pilot plant in Hawaii would have significant positive impact on Hawaii including, but not limited to, the furtherance of the State's reputation as a major research center and expertise base for OTEC and marine resources; reduction in the dependency on imported fossil fuel; additional jobs; and, expansion of our economic base.

Your Committee recognizes that while Hawaii has continually demonstrated its technical capability to perform and support major OTEC research, that the OTEC pilot plant proposed by the Department of Energy is being actively sought by other principalities such as Puerto Rico, and for other purposes such as an ammonia-producing plant. Therefore, this resolution seeks to bring to the attention of the decision-makers the favorable political climate in choosing Hawaii as a site, as well as the technological, environmental and economic benefits.

Your Committee on Economic Development is in accord with the intent and purpose of S.R. No. 156 and recommends its adoption.

Signed by all members of the Committee except Senator Saiki.

SCRep. 1043-80 Legislative Management

Informing the Senate that S.C.R. No. 60, S.R. Nos. 317 to 325 and Stand. Com. Rep. Nos. 1038-80 to 1042-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1044-80 Judiciary on Gov. Msg. No. 222

Recommending that the Senate advise and consent to the nomination of R.O. DAN SCHOENBACHER, to the Intake Service Center Advisory Board, for term ending December 6, 1982.

Signed by all members of the Committee.

SCRep. 1045-80 Judiciary on Gov. Msg. No. 223

Recommending that the Senate advise and consent to the nomination of SUSAN MARIE COY, to the Hawaii Paroling Authority, for term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1046-80 Judiciary on Gov. Msg. No. 224

Recommending that the Senate advise and consent to the nomination of HARRY H. HASEGAWA, to the Board of Registration, Island of Hawaii, for term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1047-80 Judiciary on Gov. Msg. No. 225

Recommending that the Senate advise and consent to the nomination of EVELYN T. BRAND, to the Board of Registration, Kauai and Niihau, for term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1048-80 Judiciary on Gov. Msg. No. 226

Recommending that the Senate advise and consent to the nomination of LEONILDA T. CAIRES to the Board of Registration, Maui, Molokai, Lanai, and Kahoolawe, for term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1049-80 Judiciary on Gov. Msg. No. 227

Recommending that the Senate advise and consent to the nomination of MICHAEL M.C. YEE, to the Board of Registration, Island Of Oahu, for term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1050-80 Judiciary on Gov. Msg. No. 228

Recommending that the Senate advise and consent to the nomination of HIROSHI SAKAI, to the Commission to Promote Uniform Legislation, for term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1051-80 Judiciary on Gov. Msg. No. 229

Recommending that the Senate advise and consent to the nomination of ROBERT S. TOYOFUKU, to the Commission to Promote Uniform Legislation, for term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1052-80 Education on S.R. No. 220

The purpose of this resolution is to request the Legislative Reference Bureau to study the practicality of present noise level limits as they apply to schools, the costs of redesigning classrooms to insulate the noise, and alternative ways of solving the school noise problem. Such a study shall also include the implications of adjusting the noise limits to higher levels during school hours, and the feasibility of scheduling these noise-producing courses at a more appropriate time for the community as a whole.

Schools, with the wide variety of courses they offer, are breeding grounds for noise. Yet these courses, such as bands, physical education, and wood metal shops, are essential to a well-rounded educational curriculum. It would be a serious concern to your Committee if certain courses had to be curtailed because of the noise factor. It is with such a concern in mind, that your Committee requests a study of the noise problem in and around schools. It is hoped that such a study will point the way to a solution which will be satisfactory to all involved; students, teachers, and community.

Your Committee corrected a technical shortcoming in the original resolution by amending it to read,

"that certified copies of this resolution be transmitted to the Chairman of the Board of Education, the Superintendent of the Department of Education, the Director of the Department of Health, the Environmental Quality Commission, Citizens Against Noise, and the Legislative Reference Bureau."

Your Committee on Education is in accord with the intent and purpose of S.R. No. 220, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 220, S.D. 1.

Signed by all members of the Committee except Senators Ushijima and Anderson.

SCRep. 1053-80 Transportation on S.R. No. 7

The purpose of this Resolution is to request the Department of Transportation to make a systematic determination of future maritime needs and future use of the facilities of Kewalo Basin and Honolulu Harbor.

Your Committee finds that Kewalo Basin is overcrowded, particularly with respect to boats engaged in commercial fishing versus boats engaged in excursion cruises, while on the other hand some piers at Honolulu Harbor are underutilized. This situation of declining maritime use at Honolulu Harbor may change with the resumption of cruise

ships and interisland hydrofoil operations.

Your Committee further finds that a systematic study is necessary to determine what solutions can be found to alleviate the present conditions at Kewalo Basin and whether usage of the underused piers at Honolulu harbor might provide such solution. In addition, this study should determine the future anticipated level of maritime activities at Honolulu Harbor and whether any of the existing facilities can be made available for alternative use.

Your Committee has amended the first "BE IT RESOLVED" clause to read as follows:

"BE IT RESOLVED by the Senate of the Tenth Legislature of the State of Hawaii, Regular Session of 1980, that the Senate Committee on Transportation is authorized to convene in the interim and consult with the Department of Transportation (DOT), Hawaiian Fishing Council Ad Hoc Committee, Hawaiian Cruise Boat Owners' Association, Propeller Club of the United States - Port of Honolulu, and other interested organizations, to make a systematic determination of future maritime needs and future use of the facilities of Kewalo Basin and Honolulu Harbor, and to report on its findings at least twenty days prior to the convening of the 1981 Regular Session; and..."

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 7, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 7, S.D. 1.

Signed by all members of the Committee.

SCRep. 1054-80 Legislative Management

Informing the Senate that S.R. No. 326 and Stand. Com. Rep. Nos. 1044-80 to 1053-80 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 1055-80 Judiciary on S.C.R. No. 20

The purpose of this concurrent resolution is to congratulate the Makiki Neighborhood Justice Center for successfully implementing a neighborhood-based dispute-resolution program in Honolulu which provides a model for future neighborhood justice programs. Your Committee finds that neighborhood justice centers which utilize neighborhood residents as mediators offer an effective alternative to Hawaii's overburdened courts for resolving many common civil disputes.

The Governor of the State of Hawaii, the Mayors of the Counties of Honolulu, Hawaii, Maui, and Kauai, the Hawaii State Judiciary, the County Police Departments, and other criminal justice agencies are encouraged to recognize neighborhood justice centers throughout communities in the State.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 20 and recommends its adoption.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 1056-80 (Majority) Education on S.R. No. 163

The purpose of this resolution is to request the Board of Education to make the Moanalua-Salt Lake Area Public Library first priority on its library construction list.

Your Committee learned, through testimony presented by the Board of Education, that "The DOE matrix for priority D1 is: new public library - no permanent library within two-mile radius and population of 25,000." The nearest public libraries to the Moanalua-Salt Lake area are the Kalihi-Palama Library and the Aiea Library; both approximately 4 miles away. The Moanalua Gardens, Salt Lake, Aliamanu and Foster Village areas, which comprise the Moanalua-Salt Lake area, have over 35,000 residents. Thus, the Moanalua-Salt Lake area more than meets the criteria set by the DOE.

Your Committee was very impressed by the concern shown by members of the community. Peter Lee, a 6th grade student at Moanalua Elementary, presented information from a survey taken at his school: "... 95% of the students are in favor of this proposal ... Research is a definite concern for the 5th and 6th graders because they are given many research assignments to do ... about current topics which require using magazines and news clippings. The school library doesn't have the Readers Guide to Periodical Literature

and periodicals and news clippings on file. This is why a Public Library is very essential in doing research work." As the nearest public library is 4 miles away, not within walking or biking distance, the students must wait until their parents are able to drive them to the library. This cuts down on the number of visits a student might otherwise make.

Your Committee on Education concurs with the intent and purpose of S.R. No. 163 and recommends its adoption.

Signed by all members of the Committee except Senators Kawasaki and Kuroda. Senators Anderson and Saiki did not concur.

SCRep. 1057-80 Legislative Management

Informing the Senate that S.R. Nos. 327 to 332 and Stand. Com. Rep. Nos. 1055-80 and 1056-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1058-80 Ecology, Environment and Recreation on Gov. Msg. Nos. 147, 148, 149, 150, 151, 152, 153, 154, and 155

Recommending that the Senate advise and consent to the nominations of the following:

MICHAEL J. CHUN, Ph.D., and RICHARD S.C. MAU, to the Environmental Quality Commission, for terms ending December 31, 1983;

HERBERT BOB STELLMACHER, to the Environmental Quality Commission, for term ending December 31, 1981;

IVAN H. MORITA and DONALD K. ANDREWS, to the Fish and Wildlife Advisory Committee, City and County of Honolulu, for terms ending December 31, 1981;

JOHN DUARTE, to the Fish and Wildlife Advisory Committee, County of Kauai, for term ending December 31, 1981;

PHILIP M. YAMAGATA, to the Fish and Wildlife Advisory Committee, County of Kauai, for term ending December 31, 1981;

ADOLPH H. DESHA, EDWARD H. TAMURA, and WALLACE H. FUJII, to the Fish and Wildlife Advisory Committee, County of Maui, for terms ending December 31, 1981;

DR. D. MUELLER-DOMBOIS, to the Natural Area Reserves System Commission, for term ending December 31, 1983;

P. QUENTIN TOMICH, Ph.D., to the Natural Area Reserves System Commission, for term ending December 31, 1983;

RICHARD K.T. AU and TOMMY KAKESAKO, to the Pacific War Memorial Commission, for term ending December 31, 1983; and

CURT T. TAGAWA and SAMUEL J. WEIMER, to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, for terms ending December 31, 1983 and December 31, 1980, respectively.

Signed by all members of the Committee.

SCRep. 1059-80 Ecology, Environment and Recreation on S.R. No. 179

The purpose of this Resolution is to request the Corps of Engineers to study the feasibility of establishing a small boat refuge harbor near Laupahoehoe Point.

Testimony was received from the Department of Transportation in support of this Resolution. They stated the need for a small boat refuge harbor along the Hamakua coastline of the Big Island that would benefit distressed mariners during inclement weather or emergency conditions. Additionally, Laupahoehoe Point is one of many areas throughout the State where a small boat refuge harbor would be welcomed by all boaters.

Your Committee on Ecology, Environment and Recreation recognizes the need for a small boat refuge harbor along the Hamakua coastline of the Big Island and agrees that Laupahoehoe Point may be an appropriate site.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 179 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1060-80 (Majority) Ecology, Environment and Recreation on H.B. No. 2815-80

The purpose of this bill is to allow the Director of Health to appoint hearings officers to conduct public hearings concerning matters relating to environmental quality in Hawaii. These officers may be appointed without regard to Chapters 76 and 77 of the Hawaii Revised Statutes. The bill also deletes the requirement of implementation and notice for rules, regulations, or amendments established by the Director of Health. These requirements are provided for by Chapter 91 of the Hawaii Revised Statutes.

Your Committee heard testimony from the Department of Health citing problems in filling the hearings officers' positions in a timely manner. These problems have resulted in delays for implementing required rules affecting programs and proposals for the State's control of the environmental quality.

Your Committee finds that enabling the Department of Health to appoint such persons in a timely manner will ensure the protection of the State's environment.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 2815-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 1061-80 Transportation on Gov. Msg. No. 230

Recommending that the Senate advise and consent to the nominations of the following:

WILLIAM KENNISON, to the Commission on Transportation of the State of Hawaii, for term ending December 31, 1983;

KEITH I. ODA, to the Commission on Transportation of the State of Hawaii, for term ending December 31, 1983;

WILLIAM Y. NAKAMATSU, to the Commission on Transportation of the State of Hawaii, for term ending December 31, 1983; and

KENNETH I. CRAW, to the Commission on Transportation of the State of Hawaii, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1062-80 Transportation on Gov. Msg. No. 231

Recommending that the Senate advise and consent to the nomination of RICK EVELETH, to the State Highway Safety Council, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1063-80 Transportation on Gov. Msg. No. 232

Recommending that the Senate advise and consent to the nomination of ROBERT LEE, JR., M.D., to the Medical Advisory Board, for term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1064-80 Transportation on Gov. Msg. No. 233

Recommending that the Senate advise and consent to the nomination of B.E. REALICA, M.D., to the Medical Advisory Board, for term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1065-80 Ways and Means on H.B. No. 2185-80

The purpose of this bill is to amend the schedule of fees which must be paid for official actions of the assistant registrar of the land court to:

(1) Provide that every application filed pursuant to, instead of every application to bring land under, chapter 501, Hawaii Revised Statutes, shall be \$3; and

(2) Increase the amounts of the fees for certain official actions.

The department of land and natural resources has stated that the schedule of fees has remained constant since 1957, but that the cost of supplies and storage equipment for recording documents have increased. Thus, revenues no longer reflect the true cost of operations. As evidence, the department reports that in fiscal year 1978-1979 revenues from the schedule of fees amounted to \$284,339 while the operating cost for the official actions for which the fees were collected amounted to \$608,766. Your Committee feels that the schedule of fees should be updated as proposed by this bill.

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

Signed by all members of the Committee.

SCRep. 1066-80 Ways and Means on H.B. No. 2540-80

The purpose of this bill is to conform Hawaii income tax law to the Internal Revenue Code relating to the basis of inherited property.

Prior to 1977, persons inheriting property received a "stepped-up" basis on the property, which is the value of the property on the date of the decedent's death. Congress passed Public Law 94-455, section 2005(a), effective January 1, 1977, changing the basis of inherited property to the basis of the decedent--a "carryover" basis. Congress suspended this law in Public Law 95-600 until December 31, 1979, in order to give itself time to reconsider the impact of the change. Congress is considering the matter in its current session.

This bill uses language recommending amendments to Hawaii law conditional upon the repeal by Congress.

Your Committee has already heard S.B. No. 2592-80 which is the companion bill to H.B. No. 2540-80 and agrees that it is necessary that Hawaii law conform to the federal provisions.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2540-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1067-80 Ways and Means on H.B. No. 2752-80

The purpose of this bill is to permit the director of civil service for the city and county of Honolulu, the director of personnel services of the State, or the respective personnel directors of the counties of Hawaii, Maui, or Kauai, to designate a group of positions in a class, not only an entire class of positions, in which a shortage occurs for the purpose of adjusting the entry level salary range to attract applicants to fill such positions.

Section 77-9, Hawaii Revised Statutes, currently provides for a designation of an entire class of employees as a shortage category. Since adjustments in entry level salaries must be granted to incumbent employees, substantial increases for an entire class of employees could be costly to the State. The ability to designate only a group of positions in a class is a more economic approach to solving the problem.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2752-80, 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 except Senator Kawasaki.

SCRep. 1068-80 Ways and Means on H.B. No. 2137-80

The purpose of this bill is to permit parents or guardians of minor children who are receiving social security survivor's benefits, support from the department of social services and housing, and the like to claim the excise tax credit for such children.

This bill amends section 235-55.5, Hawaii Revised Statutes, by clarifying the term "qualified exemption" to include for the purposes of claiming the excise tax credit a

minor child receiving support from the department of social services and housing, social security survivor's benefits, and the like, since such a child may otherwise not be a dependent of the parent or guardian for tax purposes.

In practice, this bill will reduce the number of returns processed by the department of taxation for excise tax credits since a child affected will no longer need to file a separate return for the excise tax credit but will be included in a return by the parent or guardian.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2137-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1069-80 Economic Development on Gov. Msg. No. 156

Recommending that the Senate advise and consent to the nomination of TAKEO YAMAMOTO, reappointment to the Board of Land and Natural Resources, for term ending December 31, 1981.

Signed by all members of the Committee except Senator Cobb.

SCRep. 1070-80 Economic Development on Gov. Msg. No. 157

Recommending that the Senate advise and consent to the nominations of the following:

EDWIN Y. OTSUJI and RANDOLPH G. MOORE, to the Board of Planning and Economic Development, for terms ending December 31, 1983;

RAYMOND T. SASAKI, JR., to the Board of Planning and Economic Development, for term ending December 31, 1981; and

WILLIAM L. PALAKIKO and MANUEL MONIZ, JR., to the Board of Planning and Economic Development, for terms ending December 31, 1983.

Signed by all members of the Committee except Senator Cobb.

SCRep. 1071-80 Economic Development on Gov. Msg. No. 158

Recommending that the Senate advise and consent to the nominations of the following:

A. EDWARD KATO and PAM H. KEKUMANO, reappointment to the Commission on Population and the Hawaiian Future, for terms ending December 31, 1983; and

THOMAS M.W. LEE, to the Commission on Population and the Hawaiian Future, for term ending December 31, 1983.

Signed by all members of the Committee except Senator Cobb.

SCRep. 1072-80 Economic Development on Gov. Msg. No. 159

Recommending that the Senate advise and consent to the nomination of VIRGINIA DEE COSTELLO, to the Commission on the Year 2000, for term ending December 31, 1980.

Signed by all members of the Committee except Senator Cobb.

SCRep. 1073-80 Economic Development on Gov. Msg. No. 250

Recommending that the Senate advise and consent to the nominations of the following:

SHINSEI MIYASATO, reappointment of the Land Use Commission, for term ending December 31, 1983; and

RICHARD B.F. CHOY, to the Land Use Commission, for term ending December 31, 1983.

Signed by all members of the Committee except Senator Cobb.

SCRep. 1074-80 Legislative Management

Informing the Senate that S.C.R. No. 61, S.R. Nos. 333 to 335, Conf. Com. Rep. Nos. 4-80 to 14-80 and Stand. Com. Rep. Nos. 1058-80 to 1073-80 have been printed and are

ready for distribution.

Signed by all members of the Committee.

SCRep. 1075-80 (Majority) Ways and Means on Gov. Msg. Nos. 235, 236, 237, and 238

Recommending that the Senate advise and consent to the nominations of the following:

CALVIN J.H. CHUN, to the Board of Taxation Review, First Taxation District - Oahu, for term ending December 31, 1982;

CEDRIC YAMAMOTO, to the Board of Taxation Review, First Taxation District - Oahu, for term ending December 31, 1983;

EARL L. HELM and KANJI WAKAMATSU, to the Board of Taxation Review, Second Taxation District - Maui, for terms ending December 31, 1983; and

JOSEPH A. TOKITA and ROGELIO A. SARAOS, to the Board of Taxation Review, Fourth Taxation District - Kauai, for terms ending December 31, 1983 and December 31, 1980, respectively.

Signed by all members of the Committee except Senator Kawasaki.
Senator Abercrombie did not concur.

SCRep. 1076-80 Transportation on H.B. No. 2853-80

The purpose of this bill is to amend Section 266-2, Hawaii Revised Statutes, to clarify the law relating to the authority of the State to plan, construct, operate, and maintain harbors throughout the State.

Specifically, the bill amends Section 266-2 to provide that: "Notwithstanding any law or provision to the contrary, the department of transportation is authorized to plan, construct, operate and maintain any harbor facility in the State, including the acquisition and use of lands necessary to stockpile dredged spoils, without the approval of county agencies." [Emphasis added.]

The necessity for this bill, as reported to your Committee by the department of transportation, is that the legislative policy which clearly assigns to the department the responsibility for a statewide harbors system may be thwarted by the counties' denial of requests to zone, subdivide or grant permits regarding the land necessary for the planning, construction, and operation of harbors.

On the other hand, as argued by administration officials of the City and County of Honolulu who testified against this bill, "The issue . . . that is of fundamental importance is the erosion of the County's authority in land use planning and regulation."

The paramount issue considered by your Committee then is this: whether the authority of county governments over zoning in the respective counties, conferred to them by the Legislature, should in turn be used to thwart, frustrate or negate legislative policy on matters of statewide concern.

Your Committee concludes that it should not. These are the principal constitutional considerations which led to your Committee's conclusion:

(1) Article VIII, Section 1 of the State Constitution provides that counties are creatures of the Legislature and shall have and exercise such powers as shall be conferred under general laws.

(2) Article VIII, Section 6 of the State Constitution also states, "This article [on local government] shall not limit the power of the legislature to enact laws of statewide concern."

Your Committee finds that the development and operation of a statewide harbors system is a matter of statewide concern, and that the assignment of responsibility to the department of transportation for the development and operation of harbors has been duly and properly conferred and should not be subject to any other authority except that of the Legislature.

Matters related to the State's plan to construct a deep draft harbor at Barbers Point illustrate why the foregoing policy needs to be explicitly enunciated:

(1) The Legislature, through appropriations it has made, has clearly indicated that it is legislative policy that a harbor be developed at Barbers Point.

- (2) The State Land Use Commission has changed the designation of the harbor site from agriculture to urban.
- (3) A Shoreline Management Area Permit for the harbor has been approved by the Honolulu City Council.
- (4) Notwithstanding the foregoing, the Department of Land Utilization of the City and County of Honolulu has refused to initiate a change in zoning of the harbor site to 1.3 Waterfront Industrial, an action requested by the State on September 26, 1978.

A deep draft harbor at Barbers Point has statewide economic implications and impact, and its development is one of state concern, subject to legislative policy but not subject to the actions of an administrative department of a subordinate level of government.

Therefore, this bill makes the foregoing policy clear with respect to the deep draft harbor at Barbers Point and any other developments which may emerge in the future with respect to the state harbors system.

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

Signed by all members of the Committee.

SCRep. 1077-80 Transportation on S.R. No. 259

The purpose of this Resolution is to request that State agencies develop and institute a program to give operators of motor vehicles used for ridesharing priority when allocating parking stalls.

The Department of Accounting and General Services (DAGS) testified that the Parking Control Program, which is under their jurisdiction, promotes ridesharing within the limitations specified by statutes and other legal requirements that govern the program. The program encourages ridesharing by giving preference to employees who can form carpools whenever there are vacancies within their facilities via established procedures.

Their past experiences and observations of carpools indicate that preferential space assignments and free parking promotions do not motivate large numbers of employees to sacrifice the flexibility and convenience of driving their own vehicles. It is believed that when the Parking Control Program increases the parking fees, this will motivate more employees to consider ridesharing.

The Department of Transportation testified that presently they do encourage their employees to carpool. In the past, these efforts met with limited success due to the low State parking fees. The recent parking fee increases should provide a greater incentive for State employees to carpool.

Your Committee amended the Resolution by deleting the "at least ten per cent" allocation and reservation of parking stalls in each parking lot to motor vehicles used for ride-sharing.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 259, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 259, S.D. 1.

Signed by all members of the Committee except Senators Ushijima and Soares.

SCRep. 1078-80 Health on S.R. No. 83

The purpose of this resolution is to request the Department of Health to convene a panel of experts to review and determine the suitability of adopting suggested state regulations for the control of radiation, prepared by various federal agencies.

Chapter 33 of the Hawaii Revised Statutes which regulates the area of radiation was enacted in 1960 and exists today without revision. The Radiation Advisory Committee provided for by Chapter 33 had its last meeting in 1964.

Within the past 20 years, tremendous advances and changes in the use of radiation and radioactive materials for medical and industrial purposes have occurred. Yet, procedures for accelerator-produced radiopharmaceuticals, image-intensified fluoroscopy x-ray units and defensive medicine are not specifically addressed in Chapter 33, but

are accepted routine practices.

Government studies have shown that 90% of the total manmade radiation dose, or 35% of the dose from all sources comes from the medical use of diagnostic x-ray machines. Your Committee finds that while patients receive a definite medical benefit through increased diagnostic capabilities, State regulations should reflect the findings of increasing evidence of the undesirable effects of inappropriate and excessive exposure of individuals to x-rays, but insofar as practicable, should be revised as to not unduly restrict the practice of medicine.

The United States Department of Health, Education, and Welfare's Bureau of Radiological Health provides some regulation on the manufacturing of diagnostic x-ray equipment, but individual states are left the task of regulating its use. The Joint Commission on Accreditation of Hospitals monitors quality control programs in hospitals, but are silent on programs for the private practitioner. Further, regulations for the safe handling of radium or accelerator-produced radioisotopes are not covered by federal regulations and is left up to the discretion of the individual users.

The suggested state regulations are a comprehensive set of regulations designed to fill the gaps in the federal regulatory framework. The regulations were jointly prepared by the Conference on Radiation Control Directors, the United States Nuclear Regulator Commission, the United States Environmental Protection Agency, and the United States Department of Health, Education and Welfare. It is the intent of your Committee to update Hawaii's regulations on radiation protection to provide appropriate, up-to-date guidance to private medical practitioners, and to establish more specific guidelines over the safe and proper handling of radioactive materials, and radiation-producing devices.

Department of Health testimony stated that in 1975, the Department requested the assistance of various federal agencies to audit the Department's radiological health program, including a review of the regulations. An attempt was made to revise the regulations, although changes in program administration delayed its completion. The Department further stated that they are planning to re-establish the Radiological Health Advisory Committee to review and amend Chapter 33. Your Committee feels that this resolution would complement the Department's efforts.

The resolution has been amended to request a progress report on the subject of this resolution by January 1, 1981.

Your Committee on Health concurs with the intent and purpose of S.R. No. 83, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 83, S.D. 1.

Signed by all members of the Committee.

SCRep. 1079-80 Health on S.R. No. 107

The purpose of this resolution is to request an analysis of all existing State and county health care facilities to determine their occupancy rates and whether any underutilized facilities may be converted to satisfy other health care demands.

Your Committee recognizes that throughout the United States, many urban, rural, and metropolitan communities show evidence of underutilized health care facilities, especially among smaller, secondary, acute care, short-stay, community, public and non-public hospitals. Oftentimes, it is sensible to retain these facilities to achieve accessibility or to retain in-patient treatment capability in meeting future demands. However, there exists increasing pressure from the federal level for state planning agencies to identify such "excess capacity" for possible closure or conversion to other health care uses in order to address cost-containment strategies and approaches.

While many planning agencies to date have focused on reduction of excess capacity through elimination of surplus beds, there is little evidence of success or effective implementing processes for successful closure. Problems with closure include: (a) the need for identifying specific surplus beds in specific institutions; (b) legal empowerment of delicensure; (c) identification of noncompliance with life-safety codes; and (d) availability of legal authority and/or appropriation necessary to buy out or otherwise remove the excess capacity.

Your Committee is cognizant that conversion analysis can be an innovative way to explore new and better ways to meet a population's health service needs instead of simply closing existing "surplus" hospital beds, constructing new facilities, or expanding existing physical plants in order to meet newly developing demand. Further, conversion

places emphasis on existing capabilities, while fostering more effective linkage and communication between providers and community interests.

It is the intent of your Committee to promote strategy which strengthens the best parts of the health care delivery system, while shifting resources away from the least cost-effective elements of the system. Your Committee feels that facility conversion is an appropriate analysis to undertake within the framework of our cost-containment philosophy, and the State's responsibility to health facilities' appropriateness review.

Your Committee has amended the resolution by changing the responsibility for the report from the administrator of the State Health Planning and Development Agency to the Director of Health.

Your Committee on Health concurs with the intent and purpose of S.R. No. 107, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 107, S.D. 1.

Signed by all members of the Committee.

SCRep. 1080-80 Health on S.R. No. 121

The purpose of this resolution is to request the Departments of Health and Social Services and Housing to provide support and services in the form of appropriate day programs to developmentally disabled adults over the age of 20 years.

Testimony from the Department of Health, State Planning Council on Developmental Disabilities, and the Commission on the Handicapped favored this measure which focuses on the needs of developmentally disabled adults over age 20 who do not qualify for vocational rehabilitation. The Council on Developmental Disabilities cited that while there are approximately 2,000 developmentally disabled adults in the State presently being served, there are still an additional 213 needy clients on wait lists for adult services.

Your Committee recognizes that existing programs for the developmentally disabled adult, in the various facilities throughout the State, have reached their operational capacity, and cannot accommodate all of the developmentally disabled population. Your Committee further realizes that the lack of services for this group can precipitate a deterioration in skill/work levels, and that this regression is counter-productive to the previous training and education received by such persons.

It is the intent of your Committee to encourage the continuation of services to this disadvantaged adult population as effectively as possible within the existing resources.

Your Committee has amended the resolution by changing the language within the title and resolution to include those adults "20 and over" rather than "over 20" to assure that the needs of 20-year-old adults are addressed. Currently, statutory obligations of the State to provide services to developmentally disabled individuals stops at age 20.

Your Committee has further amended the resolution to request that the Council on Developmental Disabilities work in an advisory capacity with the Departments of Health and Social Services and Housing.

Your Committee on Health concurs with the intent and purpose of S.R. No. 121, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 121, S.D. 1.

Signed by all members of the Committee.

SCRep. 1081-80 (Joint) Health and Transportation on S.R. No. 270

The purpose of this resolution is to request a study to determine the present need and current transportation services offered to the handicapped in the State, the extent to which this need is currently being fulfilled, the appropriate level of government primarily responsible for these services, and the estimated costs involved.

Testimony offered by the Departments of Health and Transportation, Developmental Disabilities Council, Easter Seal Society, City and County of Honolulu, and other interested individuals cited a fragmentation and scarcity of services presently available to the handicapped. While the State and county governments, and private, non-profit agencies all provide programs to benefit the handicapped, these programs can only provide

the desired assistance if transportation services are available to help the individuals reach the programs.

Handi-Van, through a contract with the City and County of Honolulu, currently services the needs of the handicapped community on Oahu. While your Committee fully recognizes that Handi-Van has been instrumental in increasing the mobility of the disabled population, testimony indicated that services are severely diminished on rural Oahu, the neighbor islands, and on nights and weekends.

Your Committees recognize that the transportation needs of the handicapped vary due to the type, level and location of the handicapped person. Consequently, the disabled population requires specialized transportation services, including specially equipped vehicles, or the presence of an aide to assist the individual in transit.

It is the intent of your Committees to foster both a greater sense of independence and an increased commitment to mainstreaming our handicapped population into a fully productive and mobile lifestyle by increasing the accessibility and availability of appropriate transportation services.

Since there is no agency comprehensively addressing the statewide transportation needs of the handicapped, and because of certain funding requirements specifying a particular governmental agency for the distribution of the funds to other public and private organizations, your Committees have amended this resolution to involve both State and county governments, as well as private agencies, in the study.

Your Committees on Health and Transportation concur with the intent and purpose of S.R. 270, as amended herein, and recommend that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. 270, S.D. 1.

Signed by all members of the Committees.

SCRep. 1082-80 Health on S.R. No. 274

The purpose of this resolution is to request the Department of Health to provide appropriate public education to the people of this State on measures to be taken during periods of emergencies.

Your Committee received testimony from the Department of Health concurring with the intent and purpose of the resolution. The Department reported that some information for the public already exists from other agencies such as the Department of Civil Defense. However, they went on to say that development of other types of information such as longevity of fresh and frozen products without proper refrigeration would be appropriate.

Your Committee finds that although some types of information exist, it would be appropriate if one single department provided a complete packet of all information on measures to be taken during emergencies. This would enable a citizen to obtain all available information at a centralized location. Therefore, the resolution has not been changed and your Committee finds that the Department of Health would be the appropriate agency to coordinate and compile new and existing information for public use.

Your Committee on Health concurs with the intent and purpose of S.R. No. 274 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1083-80 Health on S.R. No. 276

The purpose of this resolution is to request the Congressional Delegation to request the Food and Drug Administration to conduct a study of the effects of monosodium glutamate.

Your Committee recognizes that in recent years, the promotion, sales, purchases and usage of monosodium glutamate (MSG), has increased significantly. While MSG is commonly used as a food seasoning, many food products sold in markets and restaurants do not disclose that MSG is contained with the product.

Your Committee learned that many persons are affected by an excessive MSG content in the foods they consume, and that these individuals experience such symptoms as headache, dizziness, swelling, and excessive thirst.

Recent medical literature has stated that the typical American diet is overly laden with salt which has been linked to high blood pressure and other disorders. Since

an excessive amount of sodium is undesirable to most individuals (MSG contributes a high dose of sodium when consumed), and since the cultural foods in Hawaii oftentimes contain large amounts of MSG, your Committee feels that a study on this substance is in the best interest of the health and well-being of the citizens of this State.

Your Committee on Health concurs with the intent and propose of S.R. No. 276 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1084-80 (Joint) Health and Education on S.R. No. 285

The purpose of this resolution is to request the Departments of Education and Health, with the cooperation of the Hawaii Society for Autistic Children, to:

- (1) Create a special classification for Autistic Children;
- (2) Provide adequate diagnostic services to search out and identify such Autistic Children; and
- (3) Provide adequate learning environments that will allow Autistic Children to maximize their abilities and potential to live as nearly as possible a fulfilling and productive life.

Your Committees heard testimony from the Hawaii Society for Autistic Children, Institute for Child Behavior Research, Susan Carey (Past Unit Coordinator of SECO's Autistic and Behavioral Disorders Program), Jane A. Waldron, D.S.W. (Associate Professor of Psychiatry and Director of Leahi Hospital Children's Mental Health Unit), Developmental Disabilities Council, Protection and Advocacy Agency of Hawaii, and other concerned parents of autistic children, as well as concerned individuals for autistic children.

Under the present DOE system, the autistic child is classified as "Severely Emotionally Disturbed," which also includes those children who have psychological problems, not caused by a physical disease of the brain.

As reported by Dr. Edward R. Ritvo, M.D., a professor at the UCLA School of Medicine, and a member of the Professional Advisory Board of the National Society for Autistic Children, "(1) Autism is now a definable and codeable disease according to the Diagnostic and Statistic Manual approved by the American Medical Association and the American Psychiatric Association; (2) classified as a developmental disability by federal standards; (3) and a consensus exists amongst scientists and physicians throughout the world that autism is due to a physical disease of the brain and results in life long disability which requires specialized medical treatment and educational support."

Your Committee finds that the Autistic Child can be properly diagnosed through definable and codeable standards, and should be classified with other children with identical or similar problems. By grouping these children, an appropriate education will be more feasibly attained. This is in contrast to the present system of including the autistic child with the severely emotionally disturbed, where the latter requires a totally different form of education, training and environment to correct their problems.

The crux of this problem of inappropriate classification, is that certain children with distinct and separate problems, need specialized education with properly trained teachers to concentrate on their specific problems. Your Committee finds that if similar children were afforded teachers who could direct their teachings to their specific needs, then these teachers would be used more effectively and such appropriate education would be achieved. Your Committee further finds, that the present system encumbers the special education teacher because that person must play at least two roles, (1) that of being a teacher for the Autistic Child and (2) the other of being a teacher for the Severely Emotionally Disturbed Child. Both positions require a highly specialized and trained person, who has neither the time nor the training to devote 100% of their time to any one particular child. Therefore, by separating and teaching children on the basis of similar problems, each child will be given the maximum education they deserve.

Your Committees on Health and Education concur with the intent and purpose of S.R. No. 285 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 1085-80 Health on S.R. No. 286

The purpose of this resolution is to request the Department of Health to establish a task force within the Mental Health Services Division to study the present utilization of the paraprofessional in the delivery of mental health services and to recommend appropriate measures to affect the quality and quantity of these services to maximize their abilities through job training and in-service training, job description and responsibilities, career-ladder advancement opportunities, and incentives to obtain further education.

Your Committee received testimony in support of this resolution from the Department of Health stating that "such a study will expand current efforts to improve the utilization of paraprofessionals within the Mental Health Division."

Your Committee has amended the resolution by amending the name of the group cited as the UPW Community Mental Health Workers' Unit to the group's proper name as the Mental Health Division Unit #10 Bargaining Unit, and by inserting them into the task force.

Your Committee on Health concurs with the intent and purpose of S.R. No. 286, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 286, S.D. 1.

Signed by all members of the Committee.

SCRep. 1086-80 Health on S.R. No. 289

The purpose of this resolution is to request that an interim task force be organized by the State Health Planning and Development Agency to investigate rising health care costs and methods for containing these costs.

The State Health Planning and Development Agency (SHPDA), Hawaii Medical Association, Department of Social Services and Housing, and the Hospital Association of Hawaii concur with the multi-agency approach to address cost containment strategies in Hawaii. SHPDA further cited that in the recent past, a number of community-based efforts have been launched by health care providers, including the Hospital Association of Hawaii's Voluntary Effort, as well as another effort called the "9% Solution." While these efforts have succeeded in discussing and starting some efforts toward the containment of health care costs, SHPDA finds that Hawaii's health care costs continue to rise.

Testimony from the Department of Social Services and Housing indicated that the spiralling cost of health care services and supplies not only affects the State's Medical Assistance Program, but also private and public sectors of our community. Your Committee recognizes that a continuing evaluation of Hawaii's health resources, health requirements, and innovative ways to utilize limited financial, manpower and other health resources to meet Hawaii's growing health care demands and requirements, needs to include providers of health care, planners, consumers, employers, policy makers, legislators, educators, and insurers.

It is the intent of your Committee to coordinate all entities involved in or affected by rising medical costs in order to address the cost containment problem and strategies in realistic and comprehensive terms. A coordination effort can better address such areas as effective fiscal, managerial and operational measures, and various strategies of cost containment which have been applied in other states, and to develop, as necessary, legislation delineating specific functional responsibilities for implementation of such measures in the private and public sectors.

Your Committee on Health concurs with the intent and purpose of S.R. No. 298 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1087-80 (Joint) Human Resources and Health on S.R. No. 303

The purpose of this resolution is to request the Director of Social Services to study the feasibility of establishing a system of co-payments and placing limits on such restrictions as the number of visits, prescriptions, length of stay for services rendered through the Medicaid Program and allowed by federal law.

Your Committees received testimony from the Department of Social Services and Housing concurring with the intent and purpose of the resolution.

Presently, abuses in regard to over-utilization have occurred and continues to further deplete the limited resources available for the Medicaid Program. Although this is only one of many issues facing the program, your Committees find that studying this problem is an important step.

Your Committees on Human Resources and Health concur with the intent and purpose of S.R. No. 303 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 1088-80 Economic Development on S.R. No. 14

The purpose of this resolution is to promote and support the acquisition and use of electric vehicles in the State of Hawaii, and to urge all state and county agencies to acquire and utilize such vehicles in their operation, whenever feasible.

Your Committee notes that it will soon be technologically and economically feasible for Hawaii to produce most of its electricity from non-fossil fuel sources, and that the encouragement of the use of electric vehicles will then further reduce the state's dependence on imported oil.

Your Committee recognizes that the electric vehicle still has certain disadvantages that may require future legislation to amend such laws as the minimum driving speed. Further, your Committee finds it appropriate for the state and its principalities to support practical research through the acquisition and use of electric vehicles, whenever feasible.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 14 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1089-80 Economic Development on S.R. No. 24

The purpose of this resolution is to encourage the development and commercialization of geothermal energy resources by providing for the waiving of royalty payments to the State for the first ten years' production of geothermal wells.

Your Committee finds the suspension of royalty payments during the initial years of energy production is a preeminent factor in attracting the considerable capital investment required for the exploitation of geothermal resources for electrical production.

Amendments were made to the resolution to better reflect the intent of the committee.

Your Committee on Economic Development is in accord with the intent and purpose of S.R. No. 24, as amended, and recommends its adoption in the form attached hereto as S.R. No. 24, S.D. 1.

Signed by all members of the Committee.

SCRep. 1090-80 Legislative Management

Informing the Senate that S.C.R. No. 62, S.R. Nos. 336 to 339, Conf. Com. Rep. Nos. 15-80 to 77-80 and Stand. Com. Rep. Nos. 1075-80 to 1089-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1091-80 (Joint) Health and Education on S.R. No. 292

The purpose of this resolution is to request the Department of Education to undertake a complete survey to ascertain the exact number of handicapped children in need of special education and to examine its present educational plan for handicapped children, with special emphasis on measures that will fulfill the present problems of filling special education teaching positions, inadequate facilities and the development of alternative plans to rectify these problems.

In previous testimony from the Department of Education, the Department stated that a plan for the handicapped presently exists, but, to this date, your Committees have not been provided with such a plan. In addition, the Department has stated that the plan was developed with an expected cost of \$4.5 million. However, the administration only provided it with \$500,000 for the fiscal year 1980-1981. Your Committees find

that this discrepancy may pose a severe problem for the plan's implementation set for September of this year. Due to this and many other problems facing the plan's start-up, this resolution was drafted.

Your Committees are concerned with the Department of Education's capability to implement the plan this year in light of the limited resources budgeted for it as well as the shortage of certified or certifiable special education teachers and appropriate facilities for the handicapped.

Therefore, your Committees strongly stress the need to continuously analyze the educational plan for the handicapped and to have the progress report to the Legislature by June 30, 1980 with the actual data on the measures of the plan which will be implemented for the 1980-1981 school year. This report should also include those measures which will not be implemented this year and the expected date of their implementation. In regards to the latter, the Department should be prepared to take alternative action to meet the needs of the measures not taken and should include such alternatives in its report with special regard to filling teaching positions, and providing appropriate facilities.

Your Committees on Health and Education concur with the intent and purpose of S.R. No. 292 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 1092-80 Agriculture on Gov. Msg. Nos. 110, 111, 112, 113, and 247

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, 1983;

GEORGE S. FUJII, to the Advisory Committee on Agricultural Products, for term ending December 31, 1983;

MICHAEL GOLDSTEIN, to the Advisory Committee on Flowers and Foliage, for term ending December 31, 1983;

ASHER K. OTA, Ph.D., to the Advisory Committee on Pesticides, for term ending December 31, 1983;

NORMAN E. BLOMBERG, to the Advisory Committee on Pesticides, for term ending December 31, 1983;

MELVIN MIRANDA, to the Advisory Committee on Pesticides, for term ending December 31, 1983;

EDWARD S. KUROKAWA, to the Advisory Committee on Pesticides, for term ending December 31, 1983;

PATRICK Y. NAKAGAWA, to the Advisory Committee on Pesticides, for term ending December 31, 1982;

LIBERT LANDGRAF, to the Advisory Committee on Pesticides, for term ending December 31, 1980; and

SHOICHI NAGAMINE, to the Board of Agriculture, for term ending December 31, 1981.

Signed by all members of the Committee.

SCRep. 1093-80 Intergovernmental Relations on S.R. No. 97

The purpose of this resolution is to expedite the placement and operation of the planned outdoor warning siren system for Waipio Valley on the Big Island.

Your Committee finds that the heavy rains and resultant flash floods have a particularly great impact on the residents of Waipio Valley often creating hazardous situations. Currently there is no outdoor warning siren system for Waipio Valley, but such a siren is vitally needed to minimize future damage and avert loss of life.

Your Committee on Intergovernmental Relations concurs with the intent and purpose of S.R. No. 97 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1094-80 Intergovernmental Relations on Gov. Msg. No. 255

Recommending that the Senate advise and consent to the nominations of DAVID K. KAUPU and VICTOR K. PUNUA, to the Civil Defense Advisory Council, for terms ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1095-80 Ways and Means on H.B. No. 1162

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist not-for-profit corporations providing health care to the general public in accordance with authority granted under amendments to the State Constitution by the 1978 Constitutional Convention.

This bill authorizes the department of budget and finance to issue special purpose revenue bonds for the financing or refinancing of a multi-project health facility program for the following: Castle Memorial Hospital, \$5,235,000; Kapiolani/Children's Medical Center, \$8,000,000; Kuakini Medical Center, \$20,000,000; Queen's Medical Center, \$20,000,000; St. Francis Hospital, \$12,300,000; and Wahiawa General Hospital, \$1,000,000. Your Committee received testimony that the combined interest savings of these six institutions will amount to \$2.4 million to the general public and an additional \$300,000 as direct savings to the State Medicaid Programs each year.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1162, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1096-80 Human Resources on H.B. No. 3006-80

The purpose of this bill is to amend various sections of chapter 581, Hawaii Revised Statutes, Office of Children and Youth (OCY), to update several provisions dealing with the operations and functions of the OCY.

The OCY was established under Act 207, SLH 1976. Your Committee finds that since this agency's inception, several of its operational and functional responsibilities have become outdated, unrealistic, or unenforceable. This bill amends the OCY statute as follows:

(1) Section 1 relieves the OCY director from sole responsibility for the coordination of programs and services in behalf of children and youth in the State. Your Committee feels that the OCY has no line authority to solely coordinate statewide programs, and that the agencies which deal with the OCY are best served when the OCY functions as an enabling and facilitating arm of State government to promote the coordination of these programs as provided in this bill.

This section also clarifies the OCY's responsibility to assess the policies and practices of other agencies impacting on children and youth by allowing the director to select which assessments are to be conducted, thereby recognizing OCY's limited resources and consequent inability to assess the activities of all these other agencies.

Your Committee further finds that the OCY has engaged hundreds of selected volunteers for useful and necessary tasks, and this section allows the director to reimburse OCY volunteers for expenses incurred in the conduct of OCY business.

(2) Your Committee further finds that due to the limited resources of the OCY, the research which it conducts can only be done on a selected basis. Section 2 of this bill makes the OCY's conduct of research optional instead of mandatory; the OCY may, however, develop and pilot programs when no other public or private agency is able to develop programs to fill a particular gap or critical need area.

Additionally, this bill brings the monitoring and coordinating function of OCY to a less extensive and more manageable level in recognition of the limited resources of OCY; and redefines and clarifies the OCY relationship to the county jurisdictions in carrying out OCY monitoring and coordinating responsibilities under this chapter.

Your Committee further finds that the OCY has already received \$70,000 in federal funds to maintain a data and information system, and this section enables the OCY to

maintain this system as part of its general duties. Additionally, your Committee finds that certain county jurisdictions do not have local "county" committees on children and youth. This section of the bill deletes the word "county" on page 6, line 2. Your Committee feels that the word "local" preceding "county" on the same page and line is sufficient to accomplish this section's intent.

(3) Section 3 of this bill increases the number of OCY advisory council members from nineteen to twenty-one by adding one ex-officio member (the chairperson of the University board of regents) and one regular member (at-large). Your Committee finds that lower education is represented on the Council with the ex-officio membership of the chairperson of the board of education, and the ex-officio membership of a University representative as provided in this bill is desirable to accommodate the concerns of the large segment of youth at the University. The addition of one at-large member is to maintain the proportion of ex-officio members to regular members. Your Committee further finds that currently, four members of the advisory council shall be under the age of twenty-six upon appointment to this body. This bill raises the age limit to thirty to provide the council with increased flexibility whereby young adults under the age of twenty-six at the time of initial appointment to the advisory council may be reappointed to a second four-year term.

(4) Your Committee further finds that current statutes do not provide a procedure for designating a substitute for regular members who are unable to attend meetings of the advisory council. This bill provides such a procedure. Additionally, this section of the bill clarifies the statutory language relative to the designation of a substitute for an ex-officio member who is unable to attend meetings of the advisory council.

(5) Act 187, SLH 1976 transferred the functions of the now defunct youth affairs section of the office of information to the OCY. Among these functions was the direct-duty service of conducting youth internship programs. Your Committee finds that this youth internship function has never been funded, has never been implemented, and is duplicative of other educational training duties conducted by other State agencies. Section 5 of this bill deletes this function from the OCY statute.

After further consideration, your Committee has rescinded its original action of this bill and has restored this measure to the form in which it was received as H.B. No. 3006-80, H.D. 1.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 3006-80, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1097-80 Human Resources on S.C.R. No. 57

The purpose of this concurrent resolution is to request that the Legislative Reference Bureau undertake a study to review the movement of handicapped persons out of state-assisted prevocational programs and to make recommendations to facilitate the achievement of competitive gainful employment by these persons.

Your Committee finds that a large number of handicapped persons are ineligible for vocational rehabilitation services through the Department of Social Services and Housing's division of vocational rehabilitation, and therefore must rely on private, non-profit prevocational programs for training and evaluation. The State recognizes that vocational training services should ideally follow the sequence of special education programs through the Department of Education; prevocational programs through private, non-profit prevocational programs; and vocational rehabilitation through the State, culminating in job placement.

The number of persons requiring these prevocational programs are steadily increasing, as clients at age 19 graduate from the Department of Education's special education programs. The cost of providing these services is also steadily increasing due to the growing number of potential clients requiring the services of prevocational programs. Furthermore, Federal aid to these programs are expected to provide a steadily diminishing percentage of required financial support due to the ceiling which has been placed on Title XX funds.

Your Committee further finds that the State has taken the responsibility of providing services to handicapped persons through age 19, but has failed to guarantee continuation of services to clients attaining adulthood. These persons are denied access to prevocational programs due to inadequate funding for program expansion and the failure of existing programs to move clients into economically independent situations. Presently, only

a small percentage of the handicapped population attains partial or full employment independent of state-assisted programs. Your Committee feels that it is timely for a study to ascertain the movement of handicapped persons out of state-assisted prevocational programs and to make recommendations to facilitate handicapped persons' attainment of gainful employment.

Your Committee has made technical, nonsubstantive amendments to this resolution.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 57, 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. 57, S.D. 1.

Signed by all members of the Committee.

SCRep. 1098-80 Human Resources on S.C.R. No. 58

The purpose of this concurrent resolution is to request the Department of Social Services and Housing (DSSH) to act as the convenor of a meeting or series of meetings to determine the need for a State Interagency Coordination Committee on Child Abuse and Neglect. If such a need is recognized, the meeting(s) shall determine further the means of establishing the coordination committee and its responsibilities, authority, accountability, functions, duties, powers, composition, and resource requirements.

Your Committee finds that child abuse and neglect in Hawaii is a problem of substantial magnitude and requires remedial and preventive action by the State. It has been established that child abuse and neglect is a generational process whereby abused and neglected children will likely grow up to become parents who abuse and neglect their children. If this process is not checked, the problem will be magnified as the years pass.

The legislature recognizes that services aimed at correcting child abuse and neglect problems are provided by an array of public and private programs and these programs can be strengthened by encouraging cooperation and coordination.

This concurrent resolution includes the following agencies as participants in the meeting(s) in order to receive the greatest amount of input and expertise in addressing the problems of child abuse and neglect: Department of Social Services and Housing; Department of Health; Department of Education; Department of the Attorney General; University of Hawaii; Family Court; Office of Children and Youth; County Police Departments; Hawaii State Council on Child Abuse and Neglect; and other appropriate agencies that provide child protective services.

Your Committee has amended this concurrent resolution by deleting the ninth paragraph, which provides for a needs assessment, identification of resources, modification of existing services, and other related responsibilities of the interagency coordinating committee. Your Committee finds that these planning and evaluative functions have already been undertaken by the Office of Children and Youth in response to S.R. No. 407, S.D. 1, 1978. The transmittal section of this concurrent resolution has also been amended to specify that the Senior Judge of the Family Court of each Circuit shall receive a certified copy of this concurrent resolution.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 58, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 58, S.D. 1.

Signed by all members of the Committee.

SCRep. 1099-80 Human Resources on S.R. No. 245

The purpose of this resolution is to request the Legislative Reference Bureau to study the amount of compensation paid to domestic service workers which should qualify these workers for workers' compensation, temporary disability, and employment security benefits.

Your Committee finds that present workers' compensation, temporary disability, and employment security laws require that all domestic workers receiving quarterly compensation in excess of \$225 from an employer are subject to provisions of the aforementioned laws. However, this \$225 ceiling has remained unchanged since 1961 when the minimum wage was \$1.15 per hour. Today's minimum wage of \$3.10 per hour means that an employer paying minimum wages for domestic service can only pay for 5 hours and 48 minutes per week if the employer is to remain below the \$225 ceiling. Therefore, the coverage provided for domestic workers today may be substantially more than intended

when the amount of \$225 was originally established.

This resolution requests the Legislative Reference Bureau to review, analyze and submit recommendations on reducing, retaining, or increasing the amount of compensation paid to persons who provide domestic service which should qualify these workers for workers' compensation, temporary disability, and employment security benefits.

Your Committee has amended this resolution by including clauses to permit the Legislative Reference Bureau to contract with a qualified firm or consortium to conduct the study, and to permit the LRB to seek funds from Act 1, Regular Session of 1980, for this study. Your Committee feels that the scope of the study requested by this resolution may necessitate these additional resources.

Your Committee has also made a technical, non-substantive amendment to this resolution to make reference to the correct HRS section.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 245 as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 245, S.D. 1.

Signed by all members of the Committee.

SCRep. 1100-80 (Majority) Intergovernmental Relations on S.R. No. 266

The purpose of this resolution is to lend support to the Western Coalition of 12 states in their efforts calling for a transfer of certain Federal lands and for a greater voice by state and local governments in the management of all Federal land, water and energy programs.

Your Committee finds that the control and management of the public domain lands by the states will allow responsible development of needed resources in a manner consistent with local desires and environmental criteria.

Your Committee on Intergovernmental Relations concurs with the intent and purpose of S.R. No. 266 and recommends its adoption.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 1101-80 Legislative Management

Informing the Senate that S.R. Nos. 340 to 350, Conf. Com. Rep. Nos. 78-80 to 88-80 and Stand. Com. Rep. Nos. 1091-80 to 1100-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1102-80 Health on Gov. Msg. Nos. 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 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, 206, 207, 208, 209, 210, and 252

Recommending that the Senate advise and consent to the nominations of the following:

DONALD F.B. CHAR, M.D., ERIKA EBERLY, HESTER V. COX, and ROSE ANN POYZER, to the Board of Health, for terms ending December 31, 1980, December 31, 1983, December 31, 1983, and December 31, 1983, respectively;

MARION A. METZ, to the Statewide Health Coordinating Council, for term ending December 31, 1982;

JOHN M. OHTANI, M.D., LEONARD P. PARESA, SR., ROBERT T. KUNICHIKA, MARVIN B. HALL, MANUEL BUENCONSEJO, SUSAN Y. FUJIHARA, MARK B. PERLMUTTER, and KIMIE LANE, to the Statewide Health Coordinating Council, for terms ending December 31, 1983;

MARK M. HAMASAKI, to the Statewide Health Coordinating Council, for term ending December 31, 1982;

SHIRLEY T. AKITA, to the State Planning Council on Developmental Disabilities, for term ending December 31, 1983;

R. WARWICK ARMSTRONG, Ph.D., to the State Planning Council on Developmental Disabilities, for term ending December 31, 1982;

KATHLEEN CAMPBELL, to the State Planning Council on Developmental Disabilities, for term ending December 31, 1981;

ANDREW I.T. CHANG, to the State Planning Council on Developmental Disabilities, for term ending December 31, 1982;

ANGIE CONNOR, M.D., to the State Planning Council on Developmental Disabilities, for term ending December 31, 1982;

EILEEN DEMPSTER, to the State Planning Council on Developmental Disabilities, for term ending December 31, 1983;

MILES S. KAWATACHI, to the State Planning Council on Developmental Disabilities, for term ending December 31, 1981;

DIANNE M. MIYAMOTO, to the State Planning Council on Developmental Disabilities, for term ending December 31, 1981;

DIXON MUGIISHI, to the State Planning Council on Developmental Disabilities, for term ending December 31, 1983;

ALLAN C. OGLESBY, M.D., to the State Planning Council on Developmental Disabilities, for term ending December 31, 1981;

JOHN K. PORTER, to the State Planning Council on Developmental Disabilities, for term ending December 31, 1982;

LEONARD F. TAKAMURA, to the State Planning Council on Developmental Disabilities, for term ending December 31, 1981;

LAMBERT K. WAI, to the State Planning Council on Developmental Disabilities, for term ending December 31, 1982;

GARRET H. YANAGI, Ph.D., to the State Planning Council on Developmental Disabilities, for term ending December 31, 1983;

G. TERRY YOUNG, to the State Planning Council on Developmental Disabilities, for term ending December 31, 1983;

MATTHEW S.K. PYUN, JR., CAROL M. STRAIT, W. THOMAS FINLEY, JOHN R. PENEBACKER, ROBERT C. MARVIT, M.D., and HARRY H. KANADA, to the Advisory Commission on Drug Abuse and Controlled Substances, for terms ending December 31, 1982, December 31, 1983, December 31, 1983, December 31, 1983, December 31, 1980, and December 31, 1983, respectively;

WILLIAM BLANCHARD, to the State Emergency Medical Services Advisory Committee, for term ending December 31, 1982;

MERLE D. CROW, to the State Emergency Medical Services Advisory Committee, for term ending December 31, 1981;

JEFFREY C. GOODMAN, M.D., to the State Emergency Medical Services Advisory Committee, for term ending December 31, 1981;

GLENN R. HAMBERG, to the State Emergency Medical Services Advisory Committee, for term ending December 31, 1983;

ALWYN G. HANSEN, to the State Emergency Medical Services Advisory Committee, for term ending December 31, 1982;

JOHN H. IDE, to the State Emergency Medical Services Advisory Committee, for term ending December 31, 1983;

BARBARA K. IDETA, to the State Emergency Medical Services Advisory Committee, for term ending December 31, 1982;

DJON INDRA LIM, M.D., to the State Emergency Medical Services Advisory Committee, for term ending December 31, 1981;

NATALIE L. PFEIFER, to the State Emergency Medical Services Advisory Committee, for term ending December 31, 1983;

SHIRLEY K. TAKAHASHI, to the State Emergency Medical Services Advisory Committee, for term ending December 31, 1981;

SAKAE UEHARA, M.D., to the State Emergency Medical Services Advisory Committee, for term ending December 31, 1982;

LIVINGSTON M.F. WONG, M.D., to the State Emergency Medical Services Advisory Committee, for term ending December 31, 1983;

SUMIKO K. TANOUYE and ROY A. FORBES, to the Hawaii County Hospital Management Advisory Committee, for terms ending December 31, 1983;

ALLEN B. OBLOW, NORMAN E.P. AWEAU, and BENEDICT L. HO, to the County Hospital Management Advisory Committee, City and County of Honolulu, for terms ending December 31, 1981, December 31, 1983, and December 31, 1983, respectively.

GORO HOKAMA, to the Maui County Hospital Management Advisory Committee, for term ending December 31, 1982;

PATSY S. KINOSHITA, to the Maui County Hospital Management Advisory Committee, for term ending December 31, 1983;

KENNETH ASATO, GERALD M.H. LAU, JOHN A. IMOTO, RALPH T. MIYASHIRO, JR., STEPHEN HOWARD TENBY, M.D., and FERN V. CLARK, to the East Honolulu Subarea Health Planning Council, for terms ending December 31, 1983, and VERNON Y.N. CHOCK, for term ending December 31, 1982;

RONALD F.M. LEE, RICHARD T. KATO, HAZEL AKIM-NAONE, HARRY H. IMY, HERITA AGMATA, and FAAAGI TAUFETE'E, to the West Honolulu Subarea Health Planning Council, for terms ending December 31, 1983, and RICHARD C. COURSON, D.D.S., for term ending December 31, 1982;

SERGIO N. DOMONDON, RUBY L. HARGRAVE, RUSSELL SOWERS, HAULANI LEAL, and MELVIN Y. HISHIMOTO, to the Central Oahu Subarea Health Planning Council, for terms ending December 31, 1983;

SANDRA BAERS, CONSTANCE M. STALKER, EARLE H. NAKAGAWA, O.D., KAYO R. CHUNG, and EDWARD TSUKASA, to the Windward Oahu Subarea Health Planning Council, for terms ending December 31, 1983, JUNE I. TAKENAKA, for term ending December 31, 1982, and VIRGINIA M. BURCHETT, for term ending December 31, 1980;

JOHN J. VOLANTI, KATIE MOA, YVONNE H. DeCANTO, VICKI-ANN BARROS, REVEREND CHARLES A. WOTHKE, and ANITA A. MOORE, to the Waianae Coast Subarea Health Planning Council, for terms ending December 31, 1983, and JAMES E. ROSCHER, for term ending December 31, 1981;

GENNIE ANA LENUANI KINNEY, MARK B. PERLMUTTER, PAUL N. TALLETT, MILDRED GUERRERO, NELLIE A. METCALF, and RUTH A. KUNIMURA, to the Hawaii County Subarea Health Planning Council, for terms ending December 31, 1983, and HANNAH K. SPRINGER, for term ending December 31, 1981;

BETTY JUNE BELL, W. ULU BREEN, MABEL FUJIUCHI, JOSEPHINE C. DUVAUCHELLE, and CHIYOZO JOE SHIRAMIZU, to the Kauai County Subarea Health Planning Council, for terms ending December 31, 1983, and GEORGE KANNA, D.D.S., and WILLIAM R. FLANDERS, for term ending December 31, 1982;

GLENN S. IZAWA, KIMIE LANE, JO-ANN T. RIDAO, JAMES L. STOLL, and KATHLEEN R. JOHNSON, to the Maui County Subarea Health Planning Council, for terms ending December 31, 1983;

AUDREY ROCHA REED, to the Maui County Subarea Health Planning Council, for term ending December 31, 1981; and

ANGELA M. MOREHEAD, MANUEL MAXIE MORENO, and TAMOTSU HIRAOKA, to the Kauai County Hospital Management Advisory Committee, for terms ending December 31, 1983, December 31, 1983, and December 31, 1982, respectively.

Signed by all members of the Committee.

SCRep. 1103-80 Human Resources on Gov. Msg. No. 213

Recommending that the Senate advise and consent to the nominations of the following:

RICHARD S. DUMANCAS, to the Civil Service Commission, for term ending December 31, 1982;

ROBERT B. RANESES, to the Civil Service Commission, for term ending December 31, 1983; and

EDWARD S. KUSHI, JR., to the Civil Service Commission, for term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1104-80 Human Resources on Gov. Msg. No. 215

Recommending that the Senate advise and consent to the nomination of RENTON L.K. NIP, to the Hawaii Employment Relations Board, for term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1105-80 Human Resources on Gov. Msg. No. 216

Recommending that the Senate advise and consent to the nominations of the following:

JAMIE MCCORMICK, to the Commission on the Handicapped, for term ending December 31, 1983;

EMIR BERG, to the Commission on the Handicapped, for term ending December 31, 1983;

M. BETH GODLEY ARRUDA, to the Commission on the Handicapped, for term ending December 31, 1983; and

ROY A. WILLIAMS, to the Commission on the Handicapped, for term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1106-80 Human Resources on Gov. Msg. No. 217

Recommending that the Senate advise and consent to the nominations of the following:

SANDRA L. HAMMOND, VIOLET Z. KAM, TORU SUZUKI, VIRGIE CHATTERGY, ED.D., and GERRI WATANABE, to the Advisory Commission on Manpower and Full Employment, for terms ending December 31, 1983;

HENRY V. ROSARIO and MASASHI ARINAGA, to the Advisory Commission on Manpower and Full Employment, for terms ending December 31, 1982; and

MICHAEL C.K. WONG, to the Advisory Commission on Manpower and Full Employment, for term ending December 31, 1980.

Signed by all members of the Committee.

SCRep. 1107-80 Human Resources on Gov. Msg. No. 218

Recommending that the Senate advise and consent to the nomination of PAUL PLADERA, to the Board of Vocational Rehabilitation, for term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1108-80 Human Resources on Gov. Msg. No. 253

Recommending that the Senate advise and consent to the nominations of the following:

BERNADINE M. MOKIAO, EDWARD K. FUJIMOTO, Ph.D., and JOSEPHINE E. DAY, to the State Advisory Council for Children and Youth, for terms ending December 31, 1983;

VELMA M. SANTOS, to the State Advisory Council for Children and Youth, for term ending December 31, 1982;

SHIRLEY K. KAMAKELE, to the State Advisory Council for Children and Youth, for term ending December 31, 1981; and

RENA ALAO, to the State Advisory Council for Children and Youth, for term ending December 31, 1980.

Signed by all members of the Committee.

SCRep. 1109-80 Human Resources on Gov. Msg. No. 254

Recommending that the Senate advise and consent to the nominations of GORDON C. MURAKAMI, THOMAS T. TOGUCHI, and CHRISTIAN TIRRE, to the Board of Trustees, Hawaii Public Employees Health Fund, for terms ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1110-80 Human Resources on Gov. Msg. No. 284

Recommending that the Senate advise and consent to the nominations of the following:

LOIS H. MATSUDA, CAROLINA S. BOLAND, SANDRA T. OHARA, and BARBARA ADAMS, to the Board of Social Services, for terms ending December 31, 1983; and

WILLIAM K. PACATANG, to the Board of Social Services, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1111-80 Human Resources on Gov. Msg. No. 214

Recommending that the Senate advise and consent to the nominations of the following:

YASO ABE, EDWIN Y. CHUN, CAROL KIKKAWA, REVEREND FRANCO MANUEL, ETHEL T. MORI, SUNG DAI SEU, and SATORU IZUTSU, Ph.D., to the Policy Advisory Board for Elderly Affairs, for terms ending December 31, 1983;

J. WARD RUSSELL, to the Policy Advisory Board for Elderly Affairs, for term ending December 31, 1982; and

BARBARA H. LUPPOLD, to the Policy Advisory Board for Elderly Affairs, for term ending December 31, 1980.

Signed by all members of the Committee.

SCRep. 1112-80 Housing and Hawaiian Homes on Gov. Msg. Nos. 219 and 220

Recommending that the Senate advise and consent to the nominations of the following:

JEFFREY S. TAI and ELEANOR K. AHUNA, to the Hawaiian Homes Commission, for terms ending December 31, 1983; and

STEVEN M. NAGATA, TAMOTSU KITAGAWA, JOHN W. ANDERSON, JR., and DANIEL S. MIYASATO, to the Advisory Council for Housing and Construction Industry, for terms ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1113-80 Housing and Hawaiian Homes on Gov. Msg. Nos. 281 and 282

Recommending that the Senate advise and consent to the nominations of the following:

MITSUO SHIMIZU, MICHAEL J. COY, and THOMAS M. ITAGAKI, to the Hawaii Community Development Authority, for terms ending December 31, 1983, December 31, 1983, and December 31, 1982, respectively; and

PAUL A. TOM, to the Hawaii Housing Authority, for term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1114-80 (Majority) Ways and Means on Gov. Msg. No. 234

Recommending that the Senate advise and consent to the nomination of KIM TET LEE to the Board of Trustees, Employees' Retirement System for the State of Hawaii, for term ending January 1, 1985, and reports as follows:

Your Committee on Ways and Means has reviewed the background, character, experience, and qualification of the nominee and has interviewed him on his perspective of his role and responsibilities as a public member of the Board of Trustees of the Employees' Retirement System.

The nominee is a member and beneficiary of the Employees' Retirement System. He was also formerly the Executive Secretary of the System for eleven years, from 1966 until he retired in 1977. The nominee is also a member of the Hawaii Government Employees Association and has drafted and actively lobbied for legislation designed at increasing retirement benefits of pensioners of the Employees' Retirement System.

Reservations were expressed by members of your Committee as to the appropriateness of appointment of the nominee to the public representative seat on the Board of Trustees in light of the nominee being a retiree-beneficiary of the system and having taken a significant role in proposing an expansion of benefits to retirees.

The nominee has represented to your Committee that he has previously severed his connection with efforts to increase retiree benefits through legislative action. He has also represented and assured your Committee that it is his intent to serve in an objective fashion and for the furtherance of the interests of the public whom he will be representing on the Board of Trustees. Your Committee is satisfied with the assurances provided by the nominee in this regard.

Your Committee is also of the belief that the nominee is eminently qualified to serve as a trustee due to his extensive background and experience in the area of public pensions and retirement systems.

Your Committee on Ways and Means finds the nominee to be qualified for the position to which he has been nominated and recommends that the Senate advise and consent to the nomination.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 1115-80 Education on Gov. Msg. Nos. 160 and 251

Recommending that the Senate advise and consent to the nominations of the following:

MARGARET H. CAMERON, WAYNE W.K. CHANG and LUCILLE B. COOPER, to the State Foundation on Culture and the Arts, for terms ending December 31, 1983;

G. JOETTE KELLEY, LAWRENCE KAWASAKI, EDWARD ESPIRITU, JR., and MARY S. MONDEN, to the Library Advisory Commission, County of Maui, for terms ending December 31, 1983.

Signed by all members of the Committee except Senators Anderson and Saiki.

SCRep. 1116-80 Education on Gov. Msg. Nos. 278, 279, and 280

Recommending that the Senate advise and consent to the nominations of the following:

DAISY L. AGUIAR, ROY L. BENHAM, LILLIAN CAMERON, and THELMA BLACK, to the King Kamehameha Celebration Commission, for terms ending December 31, 1983, with the exception of THELMA BLACK, whose term ends on December 31, 1982;

LYNNE T. SHIMAZU and CHITOSE KANUHA to the Library Advisory Commission, County of Hawaii, for terms ending December 31, 1983;

EDITH L. CLEMENTS, CLINTON K. AKANA, LI'AMANAIA AFUVAI, JR., and ROY K. SASAKI, to the Library Advisory Commission, City and County of Honolulu, for terms ending December 31, 1983, with the exception of ROY K. SASAKI, whose term ends on December 31, 1981.

Signed by all members of the Committee except Senators Abercrombie, Kawasaki, Ajifu, Anderson and Saiki.

SCRep. 1117-80 Education on S.R. No. 196

The purpose of this resolution is to request the Department of Education to consider the Act IV Blanche Pope Elementary School as a model for the Hawaiian Education Program.

The Department of Education reviewed the Hawaiian studies activities of Blanche Pope Elementary School during 1978-1979. Thus, your Committee feels that the Department can now identify the merits of the Blanche Pope Elementary School Hawaiian studies activities that may be incorporated in the Hawaiian Education Program as deemed appropriate.

It should be noted that the intent of this resolution is to establish the Blanche Pope Elementary School as one of many models for the Hawaiian Education Program and not the single definitive model.

Your Committee on Education concurs with the intent and purpose of S.R. No. 196 and recommends its adoption.

Signed by all members of the Committee except Senators Abercrombie, Kawasaki, Ajifu, Anderson and Saiki.

SCRep. 1118-80 Education on S.R. No. 251

The purpose of this resolution is to have the Department of Education develop an energy conservation education program in the elementary and secondary schools and submit a progress report to the Legislature on the actions taken in accordance with this request at least twenty days prior to the convening of the 1981 Regular session.

Your Committee on Education has amended the resolution to better clarify its purpose and intent. At the public hearing for this resolution, the Department of Education testified that they already had taken steps towards the implementation of the purpose of this resolution. Your Committee would like to have the Department of Education report on its progress in the area of energy conservation education, what has been implemented into the school curriculum thus far, and other such relevant information. Energy conservation is a concern to all of us and as such, must be promoted in our educational system.

Your Committee on 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 except Senators Abercrombie, Kawasaki, Ajifu, Anderson and Saiki.

SCRep. 1119-80 Education on S.R. No. 252

The purpose of this resolution is to request the Department of Education, in conjunction with the appropriate agencies, to conduct a study to determine the progress and success of the School Security Program and the effect, if any, it has had on curbing the violence occurring within our schools.

In its budget requests to the Legislature, the Department of Education has requested the State to provide more money to hire additional security aides. Before additional funds are appropriated, your Committee believes that a study should be made on the effectiveness of the security program.

Your Committee on Education concurs with the intent and purpose of S.R. No. 252 and recommends its adoption.

Signed by all members of the Committee except Senators Anderson and Saiki.

SCRep. 1120-80 Education on S.R. No. 253

The purpose of this resolution is to request the Department of Education to develop a job preparation program for energy-related jobs in the vocational curriculums of secondary schools. The Department of Education is to submit a status report to the Legislature on its actions taken in accordance with this resolution at least twenty days prior to the convening of the 1981 Regular Session.

Your Committee on Education has amended the resolution to better clarify its purpose and intent. At the public hearing for this resolution, the Department of Education testified that they had already implemented the concept of energy conservation, as well as skills in energy-saving techniques and applications, into the vocational-technical programs of

their department. Your Committee would like to have the Department of Education report on its progress in the area of a job preparation program for energy-related jobs, clearly describing what is already in place and what is still outstanding.

Energy conservation is a concern to us all, and as such should be promoted in our public schools.

Your Committee on Education concurs with the intent and purpose of S.R. No. 253, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 253, S.D. 1.

Signed by all members of the Committee except Senators Abercrombie, Kawasaki, Ajifu, Anderson and Saiki.

SCRep. 1121-80 Education on S.R. No. 255

The purpose of this resolution is to request the Department of Education to study the book shortage problem in our public schools.

Textbooks are an essential part of our education system. A school system that cannot supply each student with a textbook for his personal use is not fulfilling its mandate to provide the best possible education to our children.

It is with this concern in mind that your Committee on Education requests the Department of Education to study the book shortage situation. The Department of Education is requested to study all possible solutions for alleviating our present book shortage problem, the reasons why the shortage occurred in the first place, and possible ways in which the Legislature can help. Such a study shall also contain possible ways of curbing book damage and losses.

Such a dilemma as the one we are presently facing should never recur again. The Legislature, as well as the Department of Education, must take steps to ensure that it never does.

Your Committee on Education concurs with the intent and purpose of S.R. No. 255 and recommends its adoption.

Signed by all members of the Committee except Senators Abercrombie, Kawasaki, Ajifu, Anderson and Saiki.

SCRep. 1122-80 Education on S.R. No. 283

The purpose of this resolution is to request the Board of Education to review the criteria for admission of gifted and talented children who fail to meet standard age requirements for school admission and to consider means of developing flexibility in the admission of these students.

Your Committee on Education believes that admission into school should not be solely based upon chronological age but rather on the child's academic, social, emotional, and physical maturity. If a child is prepared to enter school at the age of four, he should be allowed to do so with the consent of his parents and the Department of Education.

Your Committee would like to have the Department of Education consider and evaluate all possible criteria for determining the overall maturity and readiness of a child to enter school early and report its findings to the Legislature so that appropriate steps may be taken.

Your Committee on Education concurs with the intent and purpose of S.R. No. 283 and recommends its adoption.

Signed by all members of the Committee except Senators Anderson and Saiki.

SCRep. 1123-80 Education on S.R. No. 306

The purpose of this resolution is to request Hawaii's Congressional delegation to seek additional revenue sharing funds for Hawaii's educational programs.

The State of Hawaii education program is in great need of funds to carry out necessary projects. Funds are needed for the State to meet Federal requirements in the area of education for handicapped children, for the purchase of much needed textbooks in the schools, and for schools to be effectively repaired and maintained. Additional federal

funds must be made available to the states if they are to meet federal standards. The Hawaii Congressional delegation is requested to seek these additional funds.

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 Senators Anderson and Saiki.

SCRep. 1124-80 Education on S.R. No. 309

The purpose of this resolution is to request the Department of Education to review the Language Arts Multi-Cultural Program in light of deciding the feasibility of extending the program to other areas of the State.

The LAMP program was initiated in those Big Island schools which reported the lowest Scholastic Aptitude Test (SAT) scores. The program was successful in increasing the SAT scores by 85%, as well as improving basic skills, communication skills and the attitude of third and fourth grade students.

As the LAMP program involves reaching and equipping children in their early years, it helps for their future educational development.

Your Committee adopted a suggestion from testimony presented by amending the resolution to request the Legislative Reference Bureau to conduct the study as an impartial evaluator. The Department of Education shall cooperate.

Your Committee on Education concurs with the intent and purpose of S.R. No. 309, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 309, S.D. 1.

Signed by all members of the Committee except Senators Abercrombie, Kawasaki, Ajifu, Anderson and Saiki.

SCRep. 1125-80 Consumer Protection and Commerce on Gov. Msg. Nos. 248, 249, 271, 272, 273, 274, 275, and 276

Recommending that the Senate advise and consent to the nominations of the following:

RICHARD E. PETERSON and ARTHUR FINK, to the Elevator Mechanics Licensing Board, for terms ending December 31, 1983;

GEORGE GOTO, M.D., to the Board of Medical Examiners, for term ending December 31, 1981;

CHEUK TONG TSE, MABEL S.C. CHANG, YOSEI SHINSATO, and JOHN K. CHAR, D.D. S., to the Board of Acupuncture, for terms ending December 31, 1983, December 31, 1982, December 31, 1983, and December 31, 1981, respectively.

DR. ROY H. TANAKA, D.C., to the Board of Chiropractic Examiners, for term ending December 31, 1983;

ALOYSIUS M. TEXEIRA, to the Cemetery and Mortuary Board, for term ending December 31, 1982;

MELVIN M. KAETSU, LEONARD F. SCANLAN, GEORGE M. WAIALEALE, JALNA S. KEALA, KWAN HO KUH, JEAN F. CORNUELLE, KEENAN K. KELEKOLIO, ROBERT M. ODA, MARVIN R. FUNES, and PAMELA S. KIMURA, to the Consumer Advisory Council, for terms to serve at the pleasure of the Governor;

DONALD D. CHAPMAN, TADAKA NAKAHATA, CESAR PORTUGAL, JULI M. KIMURA-WALTERS, and MASAJI YAMASHITA, to the Board of Registration of Professional Engineers, Architects, and Surveyors, for terms ending December 31, 1983, December 31, 1983, December 31, 1983, and December 31, 1982, respectively; and

JOHN K. UYETAKE and GREGORY T. LAURETA, to the Motor Vehicle Industry Licensing Board, for terms ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1126-80 Economic Development on H.C.R. No. 124

The purpose of this concurrent resolution is to approve the development of parcels of land in North Kona for industrial, business and other comparable and permissible uses and to authorize the Department of Land and Natural Resources to develop parcels of land for such uses.

Your Committee finds that there is substantial demand for industrial land in North Kona on the island of Hawaii, and that the State has suitable land located in the Kealakehe Tract which might be used for the development of an industrial park pursuant to section 176-60, Hawaii Revised Statutes. In order for the Department of Land and Natural Resources to proceed, section 171-60, H.R.S., requires the prior legislative authorization by concurrent resolution and the Governor's approval.

Your Committee received testimony in support of this concurrent resolution from the Department of Land and Natural Resources, citing the department's willingness to explore the feasibility of developing the Kealakehe Tract in conjunction with a private developer, and to proceed under the provisions of section 171-60 once so authorized by the Governor, and by concurrent resolution by the legislature.

Your Committee has amended the resolution by adding an additional be it resolved clause requesting the Department of Land and Natural Resources to make a feasibility study before proceeding with the development authorized by the resolution.

Your Committee has also made minor non-substantive amendments to the resolution.

Your Committee on Economic Development concurs with the intent and purpose of H.C.R. No. 124, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 124, S.D. 1.

Signed by all members of the Committee except Senators Carpenter, Cobb, Young, Carroll and George.

SCRep. 1127-80 Judiciary on Gov. Msg. No. 259

Recommending that the Senate consent to the nomination of DONALD K. TSUKIYAMA, to the Circuit Court of the First Circuit, Eleventh Judge, for a ten-year term, in accordance with Article VI, Section 3 of the Hawaii State Constitution.

Signed by all members of the Committee.

SCRep. 1128-80 Judiciary on Gov. Msg. No. 266

Recommending that the Senate consent to the nomination of RICHARD Y.C. AU, to the Circuit Court of the First Circuit, Second Judge, for a ten-year term, in accordance with Article VI, Section 3 of the Hawaii State Constitution.

Signed by all members of the Committee.

SCRep. 1129-80 Judiciary on Gov. Msg. No. 270

Recommending that the Senate consent to the nomination of BERTRAM T. KANBARA, to the Circuit Court of the First Circuit, Tenth Judge, for a ten-year term, in accordance with Article VI, Section 3 of the Hawaii State Constitution.

Signed by all members of the Committee.

SCRep. 1130-80 Judiciary on Gov. Msg. No. 283

Recommending that the Senate advise and consent to the nominations of MYRTLE MOKIAO, H.K. BRUSS KEPPELER, TERENCE T. YOSHIOKA, THOMAS R. COLE, and DONALD M. FUJIMOTO to the Defender Council, for terms to serve at the pleasure of the Governor.

SCRep. 1131-80 Ways and Means on Gov. Msg. No. 286

Recommending that the Senate advise and consent to the nominations of HERMAN P. CLARK, EDMUND TOMA, and EDWIN K. HAYASHI, to the Stadium Authority, for terms ending December 31, 1983.

Signed by all members of the Committee except Senators Hara, Anderson and Yee.

SCRep. 1132-80 Ways and Means on Gov. Msg. No. 291, 292, 293, 294, 295, 296, and 297

Recommending that the Senate advise and consent to the nominations of AH QUON MC ELRATH, FRED W. BENNION, CHRISTOPHER G. PABLO, ALBERT S. NISHIMURA, HIDEO MATSUSHITA, JOHN M. HAMANO, and RICHARD L. POLLACK, to the Tax Review Commission, for terms ending upon completion of the Commission's duties.

Signed by all members of the Committee except Senators Kawasaki, Hara, Anderson and Yee.

SCRep. 1133-80 Legislative Management

Informing the Senate that S.C.R. Nos. 63 and 64, S.R. Nos. 351 to 358, Conf. Com. Rep. No. 89-80, and Stand. Com. Rep. Nos. 1102-80 to 1132-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1134-80 Ways and Means on S.C.R. No. 59

The purpose of this concurrent resolution is to request that specific issues in the area of tax administration, income tax, and excise tax, be considered by the tax review commission in its evaluation of the State's tax structure and recommendations of revenue and tax policy.

Your Committee believes that review of the areas enumerated in this concurrent resolution would be of invaluable service to the legislature in its subsequent assessment of tax laws.

Your Committee on Ways and Means concurs with the intent and purpose of S.C.R. No. 59 and recommends its adoption.

Signed by all members of the Committee except Senators Hara, Anderson and Yee.

SCRep. 1135-80 Ways and Means on S.R. No. 311

The purpose of this resolution is to request that specific issues in the area of tax administration, income tax, and excise tax, be considered by the tax review commission in its evaluation of the State's tax structure and recommendations of revenue and tax policy.

Your Committee believes that review of the areas enumerated in this resolution would be of invaluable service to the legislature in its subsequent assessment of tax laws.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 311 and recommends its adoption.

Signed by all members of the Committee except Senators Hara, Anderson and Yee.

SCRep. 1136-80 Ways and Means on S.R. No. 313

The purpose of this Resolution is to request the Senate Committee on Ways and Means and the Department of Taxation to jointly study the inclusion of wind and flood waters under the definition of "natural disasters" in chapter 234, Hawaii Revised Statutes, relating to tax relief for natural disaster victims.

Your Committee agrees with the purpose of this resolution.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 313 and recommends its adoption.

Signed by all members of the Committee except Senators Hara, Anderson and Yee.

SCRep. 1137-80 Health on S.R. No. 113

The purpose of this resolution is to request a study of the feasibility of transferring the operational and managerial functions of the County/State hospitals to private agencies, and the financial implications involved.

In 1970, a Legislative Audit of the hospital system cited deficiencies which hindered optimum operational efficiency of the hospitals. Since 1970, the cost of operating the

County/State hospital system has escalated as a result of increased costs in labor, equipment, supply, and facility maintenance.

Your Committee is concerned about these increasing costs and notes that several states, by converting their facilities to private operations, have realized cost savings while providing increased services, greater convenience to patients, and, more significantly, better quality services.

The Department of Health testimony stated that since 1975, the Department has examined various alternatives and reports on the management of its hospital system. The system has made significant improvements by implementing a number of beneficial changes since the State assumed operational and management control over the County hospitals in January, 1979. These changes have resulted in accreditation of eight of the twelve facilities from the Joint Commission on Accreditation of Hospitals, and certification of all twelve hospitals under Title 18 (Medicare) and Title 19 (Medicaid).

The Department of Health testimony further stated that "no private agency has come forth with a viable plan to take over the County/State hospitals." Your Committee feels that merely waiting for a proposal from a private agency is unrealistic, and, rather, the Department should plan for the future by exploring alternative approaches in their continual efforts to maximize efficiency and economy in the operation and management of its hospital system. To this end, your Committee has made appropriate amendments to the resolution to request the Department of Health to develop a file of pertinent information relating to the County/State hospital's operating and management system which can be submitted to management firms for future contractual proposals and to submit a copy of the file to the Legislature prior to the convening of the 1981 session.

Your Committee on Health concurs with the intent and purpose of S.R. No. 113, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 113, S.D. 1.

Signed by all members of the Committee except Senators Chong and Yee.

SCRep. 1138-80 Ecology, Environment and Recreation on Gov. Msg. No. 277

Recommending that the Senate advise and consent to the nomination of ALVIN M. INOUE, to the Fish and Wildlife Advisory Committee, County of Hawaii, for term ending December 31, 1981.

Signed by all members of the Committee.

SCRep. 1139-80 (Joint/Majority) Health and Ecology, Environment and Recreation on S.R. No. 281

The purpose of this resolution is to request the Director of Health to create an advisory committee to study, investigate, report on, and make recommendations on radiological factors which have an impact on the environment, the health and safety of human and marine life of the State.

Your Committees heard testimony from individuals and groups concerned with the proliferation of radioactive materials and find it to be imperative that we protect the citizens of this State from these potentially hazardous materials. Your Committees further find that a committee should be composed of both technical experts and concerned members of the general public in order to ensure that both public and scientific concerns are considered.

Your Committees on Health and Ecology, Environment and Recreation concur with the intent and purpose of S.R. No. 281 and recommend its adoption.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 1140-80 Public Utilities on S.R. No. 234

The purpose of this resolution is to request the Legislative Auditor to review and recommend changes to Chapter 269, Hawaii Revised Statutes, Public Utilities Commission as it pertains to the production of energy.

The testimony presented, both for and against this resolution, has made this Committee aware that it is necessary to review and to re-evaluate the State's public utility policy as expressed in Chapter 269, Hawaii Revised Statutes.

Your Committee finds that our supply of natural resources is being utilized at an ever increasing rate. The energy crisis has reached a critical stage and there is no sign of improvement. The cost of providing energy is approaching the point where eventually, consumers will not be able to pay for its cost. As in the case of our water resources where we are forced to limit development in certain areas, natural gas will soon reach the same crisis point since we are heavily dependent on it to replace petroleum based energy. Our need for petroleum by-products in all areas of our lives, such as in our clothing, plastics, medicines, rubber, fertilizers, and paper, will force us to curtail our petroleum energy uses even more.

Although many piecemeal solutions have been proposed to the on-going problem, there has been no comprehensive review of public utilities legislation as a whole to determine its appropriateness. Your Committee feels that we need to establish a framework which will allow us to approach these problems with overall solutions instead of on a piecemeal basis.

Your Committee heard testimony which revealed that our efforts to cope with this problem are limited by the very laws established to provide public utility services to our community. Chapter 269, Hawaii Revised Statutes, which established Hawaii's public utility law and policy, was enacted in 1913. When this law was enacted, shortages and depletion of our natural resources was unimaginable. During the last decade, we have experienced a tremendous shortage in our natural resources and no substantive changes have been made to our statutes to resolve our problem as a whole.

We are now in an era where we must solve our problems in the area of conservation and create alternate sources of energy. We must be able to ensure that the consumer is receiving every possible cost benefit. In addition, we must also be able to examine the public utility business practices, such as the tax advantages gained from the consolidation of tax returns that allow parent companies, divisions, and subsidiaries to realize tremendous savings, but which are not passed on to the consumer.

In view of the foregoing, your Committee has amended the resolution by broadening its scope to state your Committee's concerns regarding the present energy situation and the adequacy of Chapter 269 to meet the current energy problems. Additionally, the scope of the requested review of Chapter 269 has been broadened to include a determination if changes should be made to meet your Committee's concerns as stated in the resolution.

Your Committee has further amended this resolution by removing any reference to Kauai Electric, since it is apparent that the problem and need for review is greater than the location of company records.

Your Committee on Public Utilities concurs with the intent and purpose of S.R. No. 234, as amended herein, and recommends its referral to the Committee on Legislative Management in the form attached hereto as S.R. No. 234, S.D. 1.

Signed by all members of the Committee except Senators Mizuguchi, Anderson and Soares.

SCRep. 1141-80 Judiciary on S.R. No. 109

The purpose of this study is to request the Intake Service Center to provide the Legislature with information regarding the expected prison population for the State of Hawaii during the period from the present to the year 2000.

Your Committee received testimony from the Department of Social Services and Housing that the correctional facilities in this State are badly overcrowded. This condition greatly taxes the facilities ability to achieve some of their primary goals, i.e., public safety, protection of the staff and inmates from other dangerous inmates, rehabilitation, and humane treatment within the confines of the prisons.

Upon a recommendation from the Department of Social Services and Housing, the Statistical Analysis Center (SAC) has been included as an agency which should participate in this study to provide a projection of the expected prison population.

Your Committee on Judiciary 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 except Senators Cobb, Mizuguchi, Ushijima and Carroll.

SCRep. 1142-80 Judiciary on S.R. No. 197

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a study of the on-going county coroner system including evaluations of the costs, personnel, jurisdiction and administration of the present system and a projection of the future needs of this State in this regard.

Presently, Hawaii does not have a uniform statewide county coroner and medical examiner system. This situation has caused marked discrepancies from county to county in the investigation of unnatural deaths due to factors such as lack of forensic pathology expertise, budget constraints, and lack of interest by regional physicians. There is also no uniform reporting system in this State to record unnatural deaths resulting in a lack of accurate data available on the numbers of these deaths or kinds of deaths each year.

Your Committee recognizes that a standardized system for investigation and reporting of unnatural deaths is essential for the proper administration of justice where deaths involve criminal and civil litigation.

Testimony was received from the Hawaii Society of Pathologists, the Hawaii Medical Association, and the John A. Burns School of Medicine of the University of Hawaii all of whom were in favor of adoption of this resolution.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 197 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Cobb, Mizuguchi, Ushijima and Carroll.

SCRep. 1143-80 Judiciary on S.R. No. 295

The purpose of this resolution is to request the Senate Committee on Judiciary and the House Committee on Consumer Protection to undertake a joint interim study to review the business corporation laws of this State.

Since the first enactment of laws regulating corporations in this State, there has never been a systematic and comprehensive study of these laws.

During the 1980 Legislative Session the Senate Committee on Judiciary and the House Committee on Consumer Protection with the assistance of the Committee to Revise the Hawaii Corporation Law undertook a major review of these laws through S.B. No. 1829-80, "Relating to the Hawaii Business Corporation Act."

These committees compared the Delaware Corporation Law, the Model Business Corporation Act, and the Hawaii Revised Statutes. The synthesis of this work is S.B. No. 1829-80, S.D. 2.

Further work in this area is necessary; however, due to the voluminous nature of this bill and the expertise necessary for a full and complete study of corporate law.

This resolution has been amended to make technical, non-substantive changes.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 295, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 295, S.D. 1.

Signed by all members of the Committee except Senators Cobb, Mizuguchi, Ushijima and Carroll.

SCRep. 1144-80 Judiciary on S.R. No. 293

The purpose of this resolution is to have the Department of Social Services and Housing conduct a study to establish a Hawaii Juvenile Crime Prevention Program Coordinating Office within the Office of Children and Youth.

The testimony of Criminal Justice students from Chaminade University identified the fragmentation and lack of a unified approach as one of the major problems in Hawaii's juvenile justice system. It is their belief that the establishment of a Juvenile Crime Prevention Program Coordinating Office would be a step towards a unified approach in dealing with juvenile delinquency in our State.

In their testimony, the Office of Children and Youth, the State Law Enforcement Planning Agency, and the Department of Social Services and Housing supported the purpose and intent of the resolution. The Office of Children and Youth, however, stated that it would oppose the resolution unless the study specified what the functions should be for such a coordinating body, and based on these functions, determine which agency might be the most appropriate body to perform these functions.

Your Committee believes that prevention is a vital part of the juvenile justice system, and supports the idea of the creation of an office to coordinate various programs dealing with prevention such as the Waianae Rap Center and Palama Settlement. Your Committee is in accord with the reservations of the Office of Children and Youth concerning the functions of such an office and recommends that the study examine the specific functions that this office would perform.

Your Committee has amended the resolution to include the Office of Children and Youth and the State Law Enforcement Planning Agency in the study because the study is in the purview of both agencies. Your Committee has also made several technical non-substantive amendments.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 293, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 293, S.D. 1.

Signed by all members of the Committee except Senators Cobb, Mizuguchi, Ushijima and Carroll.

SCRep. 1145-80 Judiciary on S.R. No. 296

The purpose of this resolution is to request the Senate Committee on Judiciary and the House Committee on Consumer Protection to undertake a joint interim study to review the nonprofit corporation laws of this State.

Since the first enactment of laws regulating nonprofit corporations in this State, there has never been a systematic and comprehensive study of these laws.

During the 1980 Legislative Session the Senate Committee on Judiciary and the House Committee on Consumer Protection with the assistance of the Committee to Revise the Hawaii Nonprofit Corporation Law undertook a major review of these laws through S.B. No. 1828-80, "Relating to the Hawaii Non-profit Corporation Act."

These committees compared S.B. No. 182880, the Model Nonprofit Corporation Act, and the Hawaii Revised Statutes. The synthesis of this work is S.B. No. 182880, S.D. 2.

Further work in this area is necessary; however, due to the voluminous nature of this bill and the expertise necessary for a full and complete study of corporate law.

This resolution has been amended to make technical non-substantive changes.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 296, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 296, S.D. 1.

Signed by all members of the Committee except Senators Cobb, Mizuguchi, Ushijima and Carroll.

SCRep. 1146-80 Judiciary on S.R. No. 298

The purpose of this resolution is to request the Director of the State Law Enforcement Planning Agency (SLEPA) to conduct a study of the planning and design for juvenile intake centers. The concept of such centers is new in this State and was introduced in S.B. No. 1851-80 (S.D. 2, H.D. 1, C. 1) that was introduced during the 1980 Regular Session of the Tenth Legislature.

Your Committee finds that the establishment of juvenile intake centers as envisioned in S.B. No. 1851-80 will greatly facilitate the "front-end" handling of distressed juveniles. Such initial contact with the juvenile justice system can often prove critical in the effect it works on a youth especially with the disposition path thereby determined. The diversity of youths in distress with problems ranging from severe law violations to debilitating family problems requires expert care and handling. These juvenile intake centers will replace the present system of police intake followed by subsequent referral to outside

agencies, detention home, family court, or back to the family, with often little or no follow-up.

The police department simply cannot provide appropriate detention services, family counseling opportunities, and proper referral services for the youths that currently are being processed there. Furthermore, the stigma associated with prolonged involvement with the police department can have a destructive impact on certain youths.

Prefatory language to the S.B. No. 1851-80 section on the juvenile intake centers expresses their objective as providing:

"...intake agencies to perform the functions of registering, family counseling, and temporary custody of juveniles in trouble in order to speed up the intake process, increase the changes of returning non-law violators to their families, and provide appropriate conditions of confinement for those juveniles who require temporary custodial treatment."

Both the Family Court of the First Circuit and the State Law Enforcement Planning Agency submitted testimony fully endorsing the intent of this resolution.

Your Committee has amended the resolution for clarification purposes. The two suggested revisions of Family Court have been adopted. To reflect the resolution's effect on all the family courts of the State's circuit courts, the phrase "Chairman of the Board of Family Court Judges" is inserted prior to "Judge Betty M. Vitousek" in the final paragraph. In addition, the reference to "Family Court" in the paragraph just preceding the final paragraph is made plural by changing "court" to "courts." The phrase "the Department of" is inserted prior to "Accounting and General Services" to conform to proper format.

Furthermore, the second paragraph in the resolution's amended form was inserted to further define the subject of the study, namely the juvenile intake centers.

"The word "structures" in the third paragraph was changed to "centers" for the sake of clarity and uniformity.

The findings and recommendations of this study conducted by the Director of the State Law Enforcement Planning Agency will be reported to the legislature twenty days prior to the convening of the Regular Session of 1981. The resolution further provides that the Director shall consult with the Family Courts and the Director of the Department of Accounting and General Services in conducting this study.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 298, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 298, S.D. 1.

Signed by all members of the Committee except Senators Cobb, Mizuguchi, Ushijima and Carroll.

SCRep. 1147-80 Judiciary on S.R. No. 300

The purpose of this resolution is to request the Director of the Department of Social Services and Housing to undertake a preliminary study in conjunction with the Director of the State Law Enforcement Planning Agency (SLEPA) for the development and design of a permanent plan for the Koolau Youth Correctional Facility.

Your Committee finds that the present dilapidated physical condition of the Koolau facility is unacceptable. Most of the buildings are thirty years old and greatly in need of refurbishment. Furthermore, the programs and philosophies being implemented at the facility are all in need of review, and in some cases substantial revision.

In other words, the level of effectiveness in the facility's multipurpose role of incarceration, rehabilitation, and punishment requires significant improvement to bring it to an acceptable level with respect to current standards and trends in the field of juvenile justice. The facility represents one of the integral elements of the State's juvenile justice system and as such must be maintained at a responsible level.

To this end, the Director of the Department of Social Services and Housing is to conduct a preliminary study to determine a permanent plan for the Koolau correctional facility's physical plant and program design to best effectuate its correctional purposes. This study shall be conducted in conjunction with the Director of SLEPA.

The two directors submitted testimony before this Committee on April 14, 1980 supporting the intent of this resolution. The findings and recommendations of this study will be

reported to the Legislature prior to the convening of the 1981 Regular Session in conformance with the resolution's requirements.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 300 and recommends its adoption.

Signed by all members of the Committee except Senators Cobb, Mizuguchi, Ushijima and Carroll.

SCRep. 1148-80 Judiciary on S.R. No. 301

The purpose of this resolution is to study Hawaii's laws regarding guardianship, civil commitment and protective services. It calls upon the Senate Judiciary Committee to conduct an interim study of these subject areas, with the assistance of the Task Force for the Study of Laws Concerning Guardianship, Civil Commitment and Protective Services in the State of Hawaii, and to report its findings and recommendations to the legislature.

Your Committee finds that many citizens of this State, due to various disabilities, are temporarily or permanently unable to make choices for themselves or to protect their own rights. We recognize that our laws contain various discrete provisions, enacted at different times, which have the effect of removing the right of choice from such persons and vesting that right in another person. We recognize that a humane and efficient response to the needs of such persons requires a coherent synthesis of laws and programs, not a patchwork, piecemeal approach. We find that the adequacy of our response to this human need is indeed a reflection of our own humanity.

Your Committee is aware of the scope and complexity of the task that confront us. There is a delicate balance to be struck between the state's capacity to intervene in a person's life, even for beneficent purposes, and the individual's rights of privacy and not to be deprived of life, liberty or property without due process of law. These conflicting values have been most dramatically illustrated in the area of civil commitment, but apply with equal impact in each area to which this resolution addresses itself.

Your Committee finds that the Task Force for the Study of Laws Concerning Guardianship, Civil Commitment and Protective Services in the State of Hawaii was formed in 1978 by a nucleus of individual citizens and representatives of public and private agencies. Operating without any public funds, on a shoestring budget, the Task Force is nevertheless well along in its systematic study and analysis of our laws and delivery of services to incapacitated citizens. We find that the first fruits of its labor have been a valuable contribution to a clearer understanding of the problems we face and their possible solutions, including some statutory amendments already enacted by this session of the Legislature. We find that the Task Force is performing a necessary and desirable function, has amply demonstrated its value and deserves public support to enable it to conclude its task.

Your Committee has amended this resolution to correct a typographical error.

Your Committee on Judiciary concurs with the intent and purpose of S.R. 301, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 301, S.D. 1.

Signed by all members of the Committee except Senators Cobb, Mizuguchi, Ushijima and Carroll.

SCRep. 1149-80 Human Resources on H.C.R. No. 65

The purpose of this concurrent resolution is to approve the report on the final compensation plan submitted by the personnel directors of the State, Judiciary, and the counties, including the report published by the Public Employees Compensation Appeals Board.

Your Committee finds that this report reflects the findings and recommendations of the Conference of Personnel Directors and the Public Employees Compensation Appeals Board on the repricing adjustments for the blue- and white-collar compensation plans for the State, the Judiciary, and the counties. Current statutes require the compensation plan for civil service employees to be reviewed every oddnumbered year.

Your Committee on Human Resources concurs with the intent and purpose of H.C.R. No. 65 and recommends its adoption.

Signed by all members of the Committee except Senators Abercrombie and Soares.

SCRep. 1150-80 (Joint) Government Operations and Efficiency and Judiciary on S.R. 17

The purpose of this resolution is to request a joint study to be undertaken by the Senate Committees on Government Operations and Efficiency and Judiciary to look into administrative agency compliance with legislative enactments requiring the adoption of rules and regulations.

Your Committees find that there has never been a determination made as to whether or not government agencies governed by the Hawaii Administrative Procedure Act have in fact complied with all the requirements pursuant to the Act. Such a study would also be consistent with the role of the Legislature to maintain oversight over the rules adopted by these agencies.

Your Committee on Government Operations and Efficiency and Judiciary concurs with the intent and purpose of S.R. No. 17 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committees except Senators Ushijima and Young.

SCRep. 1151-80 (Joint) Health and Judiciary on S.R. No. 278

The purpose of this resolution is to request an interim study to address the issue of medical records retention. Additionally, the study is to determine the implications for privacy if a third party repository system were implemented, and calls for all health care providers to suspend implementing medical records destruction policies for one year from the adoption of this resolution.

Testimony from the Department of Health, We, the Women of Hawaii, and a member of the Hawaii Medical Record Association supports such a study focusing on the impact and implications of medical records retention, including cost, legality, medical needs, length of retention period, and methods of storage and retrieval.

Your Committees recognize that the retention of medical records is of extreme concern for medico-legal purposes, genetic counseling, and for continuing epidemiological, genetic, and drug research. Your Committees also recognize that while the social and human costs incurred from individual patients being denied the benefits derived from the availability of adequate medical records is of extreme concern, the cost to medical facilities and individual practitioners for long-term retention may also be significant.

It is the intent of your Committees that the difficulties in storage, retrieval, and cost of medical records retention be studied from both the single practitioner level as well as from the major medical institution level in order that the possible options and their implications/impact on the full range of health care providers will be reviewed.

Your Committees have amended the resolution to designate the Department of Health as the lead agency for the study, and added numerous other representatives including individuals from the medical records field, pathology, genetic services and microfilm.

Your Committees on Health and Judiciary concur 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 Committees except Senators Abercrombie, Ushijima, Carroll and Yee.

SCRep. 1152-80 (Joint) Human Resources and Judiciary on S.R. No. 297

The purpose of this resolution is to request a study of the availability of child shelter facilities in the State. After extensive investigation, your Committees discovered that child shelter facilities form an integral part of the juvenile justice system and are in alarmingly short supply to meet the current and especially projected needs of this State's distressed youths.

Youths are in need of shelter for a variety of reasons ranging from repeated status offenses to family problems. Such youths are often confronted with the alternatives of detention home or street-living due to an acute shortage in the community of appropriate facilities. Sensitive handling of youths in these stressful circumstances is crucial to resolve their immediate dilemma and also help prevent future delinquency of a more serious nature.

To this end, this resolution directs the Director of the Department of Social Services and Housing to examine the most cost effective means of providing adequate child facilities

including the degree of assistance that is required from the State. The mix between privately and publicly-supplied facilities will be an important aspect of the investigation.

The resolution directs the Director of the Department of Social Services and Housing to consult with the chairman of the Board of Family Court Judges, Judge Betty M. Vitousek, in the preparation of this study. The study's findings will be reported to the Legislature twenty days prior to the convening of the 1981 Regular Session.

Both the Department of Social Services and Housing and the Family Court submitted testimony before this Committee in support of the resolution.

Your Committee made several revisions to the resolution. The Family Court of the First Circuit suggested that in light of the impact such a study and its findings likely will have on the entire State, the final paragraph's reference to "Judge Betty M. Vitousek" should be preceded by the qualifying phrase "Chairman of the Board of Family Court Judges."

Further alterations to the resolution were necessary to clarify its intent. The phrase "the availability and" was interjected just prior to "future requirements" to clearly indicate that both the availability of child shelter facilities and their specific requirements are to be studied. Paragraphs four and five were altered slightly to more properly express that the Director of "the Department" of Social Services and Housing is to conduct the study.

Your Committees on Human Resources and Judiciary concur with the intent and purpose of S.R. No. 297, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 297, S.D. 1.

Signed by all members of the Committees except Senators Abercrombie and Ushijima.

SCRep. 1153-80 Health on S.R. No. 269

The purpose of this resolution is to request a study on the feasibility of the planning, land acquisition, construction, and funding for construction, management and operations of a Hawaii State Veterans Home.

Testimony from the Department of Health and the Hawaii State Veterans Council supported the intent of the resolution to address the needs of the approximately 93,000 veterans residing in the State.

The Council stated that Title 38, U.S.C. authorizes states to establish veterans homes, and that each state is required to appropriate 35% of the total cost to be matched by 65% from the federal government. This money may be used for construction or remodeling of an existing facility.

The Council further testified that there is presently 37,000 square feet in Unit "G" on the grounds of Tripler Army Medical Center which can accommodate 100 beds at a cost of approximately \$700,000 to the State.

Your Committee heard testimony that in 1977 the Legislative Reference Bureau submitted a study on the feasibility of a Hawaii State Veterans Home pursuant to H.R. 29, 1976, and \$25,000 was appropriated in 1977 by the Legislature to the Department of Health for a veterans home. The Department of Health stated that no further activity has occurred because of questions raised on the appropriate implementing agency for the funds, and they have been unable to study other concerns for the establishment of a state veterans home.

A concern expressed during the hearing was that the feasibility study should be conducted prior to any attempts to acquire land. Your Committee finds that both a feasibility study and the possibility of acquiring land from the federal government can be conducted simultaneously. However, the findings and recommendations of the study should be reviewed by the Legislature before any plans on acquiring any land are finalized.

There have been a number of questions raised over the possibility of acquiring land owned by the federal government for a state veterans home. After further research, your Committee finds that the State has a number of options in transferring lands given to the State by the federal government. These options include auctioning a lease of the land to an eleemosynary organization or contracting with a private organization to manage and operate a veterans home. We find that the State is not necessarily expected to assume complete responsibility of a state veterans home.

It is the intent of your Committee that the findings and recommendations of the 1977 Legislative Reference Bureau feasibility study be reviewed, updated, and revised, as necessary, by the Department of Health, in cooperation with the Legislative Reference Bureau, Department of Land and Natural Resources, Department of Social Services and Housing, and the Hawaii State Veterans Council. The title and body of the resolution have been amended accordingly.

We recognize that a number of concerns requested by the feasibility study have already been studied by the Legislative Reference Bureau, but a number of concerns have not. We have also amended the resolution by requesting a feasibility on those concerns which were not addressed by the 1977 Legislative Reference Bureau study.

Your Committee on Health concurs with the intent and purpose of S.R. No. 269, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 269, S.D. 1.

Signed by all members of the Committee except Senators Abercrombie, Saiki and Yee.

SCRep. 1154-80 (Joint) Health and Human Resources on S.R. No. 287

The purpose of this resolution is to request the Department of Social Services and Housing to conduct a seminar on the problems facing the State's Medicaid Program.

Presently, Hawaii's Medicaid Program is faced with many problems dealing with over-utilization of services, fraud and abuse, claims procedures, cost control, cost-containment and other matters. Since the Medicaid Program is largely directed by the federal government, the State is hampered by following federal guidelines in administering this program.

The Department of Social Services and Housing's testimony concurred with the intent and purpose of the resolution and recommended that assistance should be sought from the federal government in rectifying the problems faced in Hawaii. By involving the federal government, problems will be addressed considering both federal and state requirements.

Your Committees agree with this approach and have amended this resolution to include assistance from the Health Care Financing Administration (HCFA) of the U.S. Department of Health, Education and Welfare. This agency is primarily responsible for assisting states in improving the quality and efficiency of program management. This agency also supplies on-site technical assistance and coordinates technical assistance between states.

Your Committees have amended the resolution by changing the date for submitting the findings and recommendations of the seminar to November 14, 1980 rather than one month after the seminar. Your Committees felt that because of the complexity and depth of the problems to be undertaken in the seminar, more time should be given to the Department.

Your Committees on Health and Human Resources concur with the intent and purpose of S.R. No. 287, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 287, S.D. 1.

Signed by all members of the Committees except Senators Abercrombie, Anderson and Yee.

SCRep. 1155-80 Health on S.R. No. 288

The purpose of this resolution is to request the Department of Health to study legislative options regarding health promotion and wellness. In addition, the Department is requested to establish the health areas which should be given the highest priority, with special consideration being given to preventing premature death and permanent disability.

Testimony from the Department of Social Services and Housing and the Department of Health supports the intent of the resolution. The Department of Health stated that state programs have been directed towards protection from disease and the promotion of health. In addition, the Department has begun to expand its role in promoting changes in personal behavior and lifestyle by beginning such programs as the federally funded Health Education-Risk Reduction Project.

Your Committee finds that state health programs should not only be directed toward prevention and treatment of disease but should also focus on the affirmative promotion

of health and wellness. Programs to promote health and wellness, as used by your Committee, includes programs which encourage personal lifestyles conducive to good health and personal commitment to good health, rather than mere absence of disease.

There are many variables which affect the success or failure of programs promoting health and wellness. In order to achieve successful programs, these variables, such as specific patterns of human behavior, lifestyle commitments, and types of government actions most likely to affect identified problems, need to be studied.

Your Committee finds that the development of legislative policy in Hawaii regarding the promotion of health and wellness, with particular emphasis of preventing premature death and disability, is of great importance in protecting the health and welfare of the citizens of the State. Such a policy will enable the State to focus its resources on the highest priority problem areas and help to ensure complementary and cohesive programs.

In developing legislative policy on the promotion of health and wellness, consideration should be given to the appropriate role of government in stimulating and changing private behavior, the barriers to change, alternative programs and the costs of such programs, differences of opinion regarding the promotion of health and wellness, the attitudes of community leaders regarding needs and appropriate governmental actions, and the most likely cost-effective areas and target populations for public programs. The study of such considerations will require the collaborative efforts of knowledgeable experts in a variety of disciplines related to public health affairs.

It is your Committee's intent that the study requested in this resolution be focused on, but not be limited to, the following areas:

- (a) Analysis of existing data to develop key indicators which describe the current health status of the citizens of Hawaii, with particular regard to preventing premature death and permanent disability;
- (b) Identification and prioritization of the most prevalent preventable health problems which cause significant economic and social losses and costs to the State;
- (c) Review of the means to update these analyses on a routine basis;
- (d) Identification of the major factors contributing to such preventable health problems, with recommendations as to programs which might be most effective in reducing or inhibiting their impact in the future;
- (e) Review of the current state health programs in terms of their impact on the identified highest priority areas, including recommendations for program modification designed to improve their impact in reducing preventable premature death and disability;
- (f) Development of the strengths of various programs designed to foster health promotion, wellness, and prevention of disease and accidents.

It is the intent of your Committee to facilitate, coordinate, and effectively implement appropriate legislation in the area of health with the guidance and expertise of the Department of Health. It is anticipated that the Department's study will recommend specific areas where new policy would be appropriate as a means of reducing or inhibiting conditioning factors which have been identified as contributing to the high incidence of costly preventable health problems.

Your Committee on Health is in accord with the intent and purpose of S.R. No. 288 and recommends its adoption.

Signed by all members of the Committee except Senators Campbell, Saiki and Yee.

SCRep. 1156-80 Agriculture on S.R. No. 101

The purpose of this resolution is to have the Department of Land and Natural Resources, the Department of Agriculture, the County of Hawaii, and agencies of the State government who share in the responsibility for the agriculture parks program to use all necessary means to expedite completion of the Panaewa Agricultural Park, County of Hawaii.

Your Committee finds that the County of Hawaii continues to be a leading center for agricultural production in the State as evidenced in part by the finding that nearly 66 per cent of the State's 2,400 farms are in Hawaii County. Your Committee believes that an early completion of the Panaewa Agricultural Park will demonstrate that the agricultural

parks program is an important and vital force in the State's efforts to promote the continued development of diversified agriculture.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 101 and recommends its adoption.

Signed by all members of the Committee except Senators Yim, Anderson and Carroll.

SCRep. 1157-80 Agriculture on S.R. No. 103

The purpose of this resolution is to request the Department of Land and Natural Resources to explore the feasibility of converting the wetlands of the Pearl Harbor area on Oahu into an agricultural park.

Your Committee recognizes that farmers on Oahu have voiced the belief that the wetlands of the Pearl Harbor area constitute unique lands which can produce a variety of specialized paddy crops such as watercress, lotus, swamp cabbage, and water chestnuts.

Your Committee agrees that the conversion of the wetlands of the Pearl Harbor area into an agricultural park would accomplish several important State policy goals including furthering the development of diversified agriculture and preserving the character and nature of the existing wetlands.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 103 and recommends its adoption.

Signed by all members of the Committee except Senators Yim, Anderson and Carroll.

SCRep. 1158-80 Agriculture on S.R. No. 141

The purpose of this resolution is to request the Governor's Agriculture Coordinating Committee to initiate actions, including convening such meetings as may be necessary with farmers and farmer groups, the State Departments of Agriculture and Planning and Economic Development, and the College of Tropical Agriculture and Human Resources of the University of Hawaii, to achieve the creation of a management consultant team to advise and assist new and fledgling agricultural cooperative associations in the State.

Your Committee is fully aware that it is becoming increasingly apparent to farmers and farmer groups that well-managed cooperative associations by commodity groupings or some other logical makeup is the key to the viability of agriculture generally and to diversified agriculture in particular.

Your Committee agrees that in light of the continuing policy support for the furtherance of Hawaiian agriculture, it would appear necessary and desirable that a management consultant team be created to aid new and fledgling agricultural cooperative associations.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 141 and recommends its adoption.

Signed by all members of the Committee except Senators Yim, Anderson and Carroll.

SCRep. 1159-80 Agriculture on S.R. No. 142

The purpose of this resolution is to request the Senate President to designate the appropriate committee or committees of the Senate to conduct hearings concerning the leasing of agricultural lands in consonance with the concerns cited in the resolution.

Your Committee has been informed by the Hawaii Farm Bureau Federation, the major organization of diversified agriculture farmers in Hawaii, and other farmers and farmer groups, that certain changes in existing State laws or policies and practices of the Department of Land and Natural Resources in the leasing or regulation of public or private lands for agricultural purposes may be outmoded or may otherwise need to be changed to assure the survival of diversified agriculture in Hawaii.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 142 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Yim, Anderson and Carroll.

SCRep. 1160-80 Agriculture on S.R. No. 143

The purpose of this resolution is to respectfully urge Hawaii's delegation to Congress to sponsor and actively support the enactment of legislation relating to edible fresh ginger-spice roots.

Your Committee notes that among the commercial crops which have been grown successfully in Hawaii and having significant export potential is Zingiber Officianale Roscoe, an edible fresh ginger-spice root, which is also known as Jamaica ginger, and in Hawaii as "Awapuhi Pake".

Your Committee finds that the federal Agricultural Marketing Act of 1937, as amended, lists commodities for which imports must meet the same or comparable grade, size, quality, and maturity requirements as in effect for domestic commodities under federal marketing orders and could only be so added by federal legislation.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 143 and recommends its adoption.

Signed by all members of the Committee except Senators Yim, Anderson and Carroll.

SCRep. 1161-80 Agriculture on S.R. No. 144

The purpose of this resolution is to request the Department of Land and Natural Resources to give full and careful consideration in adopting a statewide policy for the preservation of precious State lands uniquely suited for the cultivation of taro and other wetland crops.

Your Committee finds and concludes that the taro farmers' suggestion that the State Department of Land and Natural Resources adopt a policy on State land leases for priority use or restricted use of low (bottom) lands with available gravity water for "paddy crop" production is a concern deserving of serious favorable consideration.

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 except Senators Yim, Anderson and Carroll.

SCRep. 1162-80 (Majority) Agriculture on S.R. No. 167

The purpose of this resolution is to request the Department of Agriculture to give serious consideration for the installation of a cooling and holding facility for farm products in Kona, Hawaii.

Your Committee is fully aware of the issues and concerns raised which include the following:

Many farmers in West Hawaii presently ship their produce to market by air;

There is presently no assurance to the farmers that their produce will be shipped out on the day of harvest;

There is no facility in the greater Kona area which can be used to store farm products that cannot be shipped out to market destinations on the day of harvest; and

Every single hour of delay in marketing farm produce causes rapid deterioration in the quality of the produce in the absence of an adequate holding facility.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 167 and recommends its adoption.

Signed by all members of the Committee except Senators Yim, Anderson and Carroll.
Senator Kawasaki did not concur.

SCRep. 1163-80 Agriculture on S.R. No. 168

The purpose of this resolution is to request the Governor's Agricultural Coordinating Committee (GACC) to examine the feasibility of installing a fumigation chamber to process farm products in Kona, Hawaii.

Your Committee finds that at present, there is no facility in "West Hawaii", an area which includes approximately one-half of the land area of the Island of Hawaii and commonly

thought to include the town of Waimea at its northernmost tip, Ka Lae (South Cape) at its southernmost tip and the various towns and cities located between these two points.

Your Committee further notes that the absence of a fumigation chamber in West Hawaii is a major impediment to the stability, viability, and development of diversified agriculture in that area.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 168 and recommends its adoption.

Signed by all members of the Committee except Senators Yim, Anderson and Carroll.

SCRep. 1164-80 Agriculture on S.R. No. 233

The purpose of this resolution is to request the President of the Senate to appoint an interim Senate Committee to perform a statewide review of the problem of cattle and other livestock rustling during the 1980 interim period.

Your Committee is cognizant that cattle rustling and the theft of other livestock has been a recurrent and serious problem for Hawaii's ranchers and livestock producers.

Your Committee is further aware that livestock producers must operate highly efficient ranches or farms in order to make a profit, given, among other considerations, the generally higher cost of engaging in commercial agriculture in Hawaii due to the relatively higher wages that are paid to their employees; the high cost of feed; and the increasing volume of imported red meat and poultry products which compete in the local marketplace with locally produced items.

Your Committee fully endorses Hawaii's livestock industry which continues to represent the largest segment of diversified agriculture in the State and represents approximately twenty percent of the total annual value of farm sales.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 233 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Yim, Anderson and Carroll.

SCRep. 1165-80 Agriculture on H.C.R. No. 69

The purpose of this resolution is to request the Soil Conservation Service Administrator to carefully reconsider the proposal to phase out the Plant Materials Program and Plant Materials Center under the United States Department of Agriculture, Soil Conservation Service, and to maintain program funding at its present level.

Your Committee learned that the Plant Materials Program administered by the United States Soil Conservation Service complements and strengthens every soil and water conservation effort in the State. The program supplies technical assistance at no cost to private land owners, organizations, and State and county agencies to help develop specific plants to solve specific conservation problems.

Your Committee finds that the Plant Materials Program emphasizes testing and release of plants for conservation purposes and is the only program in Hawaii accomplishing this specific purpose.

Your Committee finds that the Soil Conservation Service's Plant Materials Program has close working relationships with many agencies of the State and counties, as well as many of Hawaii's farmers and ranchers. Your Committee further finds that the Plant Materials Program under its present federal control can more adequately concentrate on finding plants specifically adapted to our island ecology. In this manner, the program will continue to function to complement or supplement on-going research efforts of the various State, county, and private organizations.

Your Committee on Agriculture concurs with the intent and purpose of H.C.R. No. 69 and recommends its adoption.

Signed by all members of the Committee except Senators Yim, Anderson and Carroll.

SCRep. 1166-80 Higher Education on Gov. Msg. No. 211

Recommending that the Senate advise and consent to the nomination of GEORGE J. FUKUNAGA, to the State Post-Secondary Education Committee, for term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1167-80 Higher Education on S.R. No. 280

The purpose of this resolution is to request the University of Hawaii Board of Regents to implement the recommendations contained in the report of the Advisory Committee which studied and recommended improvements in the agriculture education programs of the University of Hawaii system.

Your Committee received testimony in support of this resolution from UH-Manoa Chancellor Durward Long and Mr. Ron Terry, member of the Advisory Committee. Chancellor Long noted that both the Manoa and Hilo campuses were in the process of reviewing the report of the Advisory Committee as part of the 1981-83 budget and program planning process. In supporting passage of the resolution, Mr. Terry noted that the serious problems in the area of instruction outlined in the report of the Advisory Committee must be addressed, but not at the expense of the college's research and extension activity.

Your Committee on Higher Education is in accord with the intent and purpose of S.R. No. 280 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1168-80 (Joint) Transportation and Agriculture on S.R. No. 102

The purpose of this resolution is to urge Matson Navigation Company to provide direct ocean transportation from Hawaii County to California for shipment of agricultural commodities.

The Department of Planning and Economic Development (DPED) testified that it works with associations and cooperatives to promote Hawaii agricultural products and to develop mainland markets for export of Hawaii agricultural commodities. DPED is cognizant of the competition Hawaii growers face in mainland markets and of the inefficiencies of longer hauls and excessive handling of perishables destined for those markets.

Direct shipments of agricultural commodities to the mainland from Hawaii ports with reasonable eastbound commodity rates would aid growers in their effort to maintain a competitive position in California and the adjacent areas.

Upon consideration of this resolution, your Committees find that all modes of providing direct shipment of agricultural commodities to California should be explored; and further, that the Governor's Agricultural Coordination Committee should be charged with opening discussions with the appropriate parties regarding such shipment of agricultural commodities. Therefore, the title and content of the resolution have been appropriately amended.

Your Committees on Transportation and Agriculture concur with the intent and purpose of S.R. No. 102, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 102, S.D. 1.

Signed by all members of the Committees.

SCRep. 1169-80 Transportation on S.R. No. 235

The purpose of this resolution is to express the Senate's endorsement of the Waimea-Kekaha Bikeway project and to support the Administration's application for federal funds to build such a bikeway.

The Department of Transportation (DOT) testified that this project is one of the priority bikeway projects in the Kauai Bike Plan. According to the State Bikeways Master Plan prepared by the DOT, bicycle ridership on Kauai is heaviest between Waimea and Kekaha.

The County Council of Kauai testified that it is important that transportation alternatives to the private automobile be provided. A bikepath between Waimea and Kekaha on the west side of Kauai would be such an alternative. The community support for such a bikepath is enthusiastic and widespread.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 235 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1170-80 Transportation on S.R. No. 260

The purpose of this resolution is to request the Department of Transportation to report on park-and-ride locations that may be placed on vacant land or right-of-ways owned by the State.

The City and County of Honolulu testified that the information requested by this resolution is similar to the information being compiled for a park-and-ride study currently being undertaken for the City and County by a consultant. The study is entitled, "Development of Methodology, Functional Standards and Design Guidelines, Park-and-Ride Sites for Honolulu". The study is nearly completed and a final draft report has been prepared for review.

As part of the study, the consultant has developed site selection and screening methodology for evaluating potential park-and-ride sites. The consultant evaluated 22 sites on Oahu using this methodology. Several of these sites are on State property; however, they do not include vacant State lands.

The Department of Transportation testified in favor of the resolution and will be preparing an inventory for each parcel of vacant land owned by the State and adjacent to major roads and highways that have possibilities of being converted into park-and-ride locations. Your Committee feels that the report requested in this resolution when used in conjunction with the City and County study will aid in the implementation of park-and-ride locations.

Your Committee amended the resolution by deleting the reporting of rights-of-way owned by the State as possible park-and-ride locations. The reporting of rights-of-way was deleted because it is already included in the City and County of Honolulu's park-and-ride study.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 260, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 260, S.D.1.

Signed by all members of the Committee.

SCRep. 1171-80 Legislative Management

Informing the Senate that S.R. Nos. 359 to 372 and Stand. Com. Rep. Nos. 1134-80 to 1170-80 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1172-80 Legislative Management

Informing the Senate that S.R. No. 373 has been printed and is ready for distribution.

Signed by all members of the Committee.

SCRep. 1173-80 Ways and Means on H.B. No. 1361

The purpose of this bill is to increase the excise tax credits which taxpayers may claim against the state income tax beginning with tax years after December 31, 1979.

Your Committee agrees with the purpose of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1361, H.D. 3, 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 Yim.

SCRep. 1174-80 Ways and Means on H.B. No. 2552-80

The purpose of this bill is to increase the personal exemption for individual income tax purposes from \$750 to \$1,000.

Congress enacted the Tax Revenue Act of 1978 which increased the personal exemption on the federal level from \$750 to \$1,000. In an effort to maintain conformity between state and federal income tax laws, and also as a means of providing tax relief to individual income taxpayers, your Committee believes that the personal exemption should be increased to \$1,000.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2552-80 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong and Yim.

SCRep. 1175-80 Legislative Management

Informing the Senate that Conf. Com. Rep. Nos. 90-80 to 96-80, Stand. Com. Rep. Nos. 1173-80 and 1174-80, H.B. No. 1222, H.D. 1, S.D. 3, C.D. 1, and S.B. No. 2635-80, S.D. 2, H.D. 1, C.D. 1, have been printed and are ready for distribution.

Signed by all members of the Committee.