

SPECIAL COMMITTEE REPORTS

Spec. Com. Rep. No. 1

Your Special Senate Interim Committee to Determine Whether a Limitation on the Number of Bills Which May Be Introduced During a Regular Session Should Be Established, appointed pursuant to S.R. No. 41, S.D. 1, adopted by the Regular Session of 1981, to review whether a limitation on the number of bills which may be introduced during a regular session should be established and if limitation is found to be desirable to recommend the appropriate strategy for implementation, begs leave to report as follows:

Background

During the past five or six years it has been called to the attention of the legislature through various letters to the editor, newspaper articles, editorials, and verbal communication by numerous persons that the number of bills and amount of paper used by the legislature in Hawaii is quite high compared to other states and overburdensome on all concerned. Your Committee notes that this problem is not restricted to Hawaii but has been discussed in national publications such as, "Joint Committee Operations and Bill Procedures in Connecticut", State Government, Summer 1974, pp. 173-174; "Bill Introduction: Should It Be Restricted?", State Legislatures, July/August 1976, p. 9; and "Limiting Bill Introduction: The Legislative Paper Chase", State Legislative Report, December 1979.

Pursuant to a request by S.R. No. 41, S.D. 1, that the Office of the Legislative Reference Bureau assist your Committee, the Committee was furnished with a memorandum concerning actions in other states and an analysis of bill introduction in Hawaii. The memorandum noted that Alaska, Colorado, Connecticut, Indiana, Montana, Nebraska, Tennessee, and Washington were recognized nationally as having some type of bill limitation in effect. These limitations may be grouped as follows:

Limitations on Prefiled Bills. A prefiled bill in other states is one which is submitted to the clerk before session for numbering and printing for distribution either before or early in session. Only Alaska uses this limitation, limiting prefiling to 10 bills, without any limitation in effect during session.

Limitation on Bills, But No Limitation on Prefiled Bills. Colorado has a 6-bill limit, but there is no limit on bills requested before 12/2 which are to be prefiled and introduced on the first day. The limit in Colorado also does not apply to appropriation bills. Montana has a 5-bill limit, but there is no limit on bills requested before the convening of session, interim committee bills, state agency bills, code commission bills, standing committee bills, appropriation bills, or revenue bills. Tennessee provides for a 9-bill limit in the Senate after the third legislative day. There is, however, no limit on prefiled bills, administration bills which must be designated as such and be introduced by the tenth legislative day, or local bills (i.e., bills applicable to a single county).

Bill Limitation--Use of Proposed Bills/Measures. Connecticut does not specifically limit bills, but reduces the preparation of fully drafted bills through the use of proposed bills. These bills are similar to short form bills, as they are numbered, present a purpose, and informally state the substance of the bill. During the middle seventies, only proposed bills could be introduced, but this is no longer true.

Washington instituted a combined limitation and proposed measure rule in 1981 in the House of Representatives. House members are limited to 10 bills over a 2-year legislative term, but there is no limit placed on house committees. Concomitant with this they allow an unlimited use of proposed measures. Unlike proposed bills, a proposed measure is not numbered. House members introduce proposed measures which are sent to a rules committee which may then refer the measures to the appropriate committee for further consideration and preparation in draft form. A proposed measure contains a brief description of the problem and a brief summary of the potential solution.

Bill Limitation. Indiana has a 5-bill limit on members of the House of Representatives in even-numbered years, the short session (budget years). In addition, 25 vehicle bills may be introduced. According to national articles, Indiana has experimented with a 45-bill limit per representative during odd-numbered years, the long session, but no prefiling. Another attempt to both houses which allowed 2 bills to be

introduced each day until cut off in odd-numbered years, while in even-numbered years representatives were limited to 5 bills and senators could introduce 1 bill a day until cut off on the fourth legislative day.

The state your Committee is most familiar with is Nebraska. For the period 1972 to 1978, Nebraska limited members to 10 bills in each session with no limit on committees. During 1979 and 1980 members were limited to 17 bills in each session with no limit on committees. In 1981 the bill limit on members was removed and an 8-bill limit placed on committees.

In Summary. It appears to your Committee that only Indiana presently has a true bill limitation, during budget years in which only budget and emergency items are to be considered. The remaining states appear simply to be moving workload to before session for those with unlimited prefiling and during session for those who use proposed bills or measure limitations. The number of bills introduced in all these states with limitations is substantial.

Hawaii's Experience

The Legislative Reference Bureau analyzed bill introductions in Hawaii for the last three years to determine which bills were administration bills, short form bills, appropriation bills, and all others, for both the Senate and House of Representatives and for all Senators and Representatives serving during 1979, 1980, and 1981. For the Senate the analysis is as follows:

1979	<u>Total Bills</u>	1,825
	Administration	140
	Passed	17
	Short Form Bills	341
	Passed	8 (5 in 80)
	Reported for 3d Reading	14
	Became HD 1/SD 1	16
	Appropriation Bills	498
	Passed	1
	Reported for 3d Reading	13
	Referred to WAM	244
1980	<u>Total Bills</u>	1,321
	Administration Bills	138
	Passed	21
	Short Form Bills	183
	Passed	8
	Reported for 3d Reading	10
	Became HD 1/SD 1	16
	Appropriation Bills	408
	Passed	0
	Reported for 3d Reading	4
	Referred to WAM	275
1981	<u>Total Bills</u>	2,131
	Administration Bills	176
	Passed	22
	Short Form Bills	503
	Passed	15
	Reported for 3d Reading	21
	Became HD 1/SD 1	15

Appropriation Bills	589
Passed	0
Reported for 3d Reading	4
Referred to WAM	155

In addition to this analysis, your Committee notes the number of bills introduced in the Senate from 1971 through the 1981 regular session:

<u>Session</u>	<u>Measures Introduced</u>	
	<u>Bills</u>	<u>Total Biennium</u>
1971	1,315	
1972	791	2,106
1973	1,390	
1974	840	2,230
1974 (special)	--	
1975	1,733	
1976	1,285	3,018
1977	1,532	
1977 (special)	5	
1978	1,092	2,629
1979	1,825	
1980	1,321	3,146
1981	2,131	
1981 (special)	4	

It is apparent that not only has the number of bills risen over the last 11 years, but the number of short form bills and appropriation bills being introduced compared to those which are reported for third reading or which pass is excessive. The Legislative Reference Bureau estimated that paper costs using 1981 figures for the 1979 regular session in the Senate to introduce 498 appropriation bills were \$1,330 and the cost of introducing 341 short form bills was \$910. In addition, the Bureau estimated it cost the Bureau \$2.86 to prepare an appropriation bill based on performing no research and using bill forms. When one adds (1) time to perform research, if any is necessary; (2) use of magnetic cards or computer time; (3) circulating a bill for signatures and generally carrying it around for delivery to the printshop; (4) cost of electricity, rental of reproduction equipment, both copying and printshop machines; (5) preparation of jackets, distribution of jackets to the proper committee, and distribution of bills to interested persons; (6) indexing, preparation of status information, updating such information, staff and computer time; (7) staff time to obtain status information; and (8) floor time to refer bills, the extensive introduction of short form bills and appropriation bills adds appreciably to the cost of the legislature.

Approach

Your Committee reviewed the memorandum furnished by the Office of the Legislative Reference Bureau and held a public hearing on October 7, 1981. The Committee received a briefing from Mr. Richard F. Kahle, Jr., on the information furnished in the Bureau memorandum and received enthusiastic testimony in favor of reducing the number of bills introduced in the legislature from Lieutenant Governor Jean King; Emmett Cahill and Jan Curry, Council of Churches; Tom Grande, Common Cause; Larry Nakatsuka, Chamber of Commerce; Rollie Smith, Health and Community Services Council; George Mason, Pacific Business News; Marion Saunders, League of Women Voters; Allan Saunders, American Civil Liberties Union and for himself; and citizens Marguerite Peach, Donna Gaetano, Linda Rosehill, and Jason Williams. Many of these persons furnished the Committee with worthwhile suggestions on reducing bill introductions. After the hearing, your Committee discussed various methods of limiting bill introductions in the Senate.

Recommendations

The following recommendations are made to the Senate to incorporate in the 1981-1982 Senate Rules for use during the 1982 regular session as initial methods of reducing bill introductions:

1. Eliminate the introduction of short form bills, except for a short form package to be developed by staff to act as a safety net containing vehicle bills which may be used in case of emergency. This short form package should be introduced by the President of the Senate. Your Committee defines a short form bill as one which contains no substantive amendment, no matter how many pages there are to the bill. It is quite apparent when one considers that in 1979--341 short forms were introduced and 8 were enacted in 1979, 5 in 1980; in 1980--183 were introduced and 8 enacted; and in 1981--503 were introduced and 15 enacted; that more short form bills are introduced than are necessary.

Your Committee recommends that Senate Rule 41 be amended to read:

Rule 41. Bills: Introduction

Any bill may be introduced on the report of a committee or by any member[.], except short form bills which may only be introduced by the President of the Senate or the minority party leader after appropriate consultation with committee chairmen and other members of the Senate.

All bills shall be introduced under the order of resolutions.

Bills which shall carry over from a regular session in an odd-numbered year to the next regular session shall retain the numbers assigned to them. The Clerk shall keep a record of the status of all bills in possession of the Senate at the end of the odd-numbered year session and shall publish the record of the status of all such bills prior to the convening of the next regular session.

Every bill introduced or reported out of any committee, which amends an existing section or subsection of the Hawaii Revised Statutes or Session Laws of Hawaii, shall set forth the section or subsection in full, and the matter to be deleted shall be enclosed in brackets and any new matter added to the section or subsection shall be underscored. However, a Supplemental Appropriations Bill need not conform to this rule or an amending bill where the intent and effect of an amending bill can be clearly identified and understood without repeating the entire section or subsection, in which case only the paragraphs, subparagraphs, clauses, or items to be amended need be set forth as the President may allow. The President may allow additional exceptions to this rule.

No floor amendment to a bill shall be voted upon unless a copy of such amendment shall have been presented to the Clerk who shall prepare and distribute copies of the amendment to each member of the Senate present.

2. Your Committee feels that appropriation bills are much overused and serve little purpose. In the Senate, in 1979--498 introduced, 1 passed, in 1980--408 introduced, 0 passed, and in 1981--589 introduced and 0 passed. While your Committee realizes that the budgets for the various branches, claims against the State, criminal injuries compensation, special purpose revenue bonds by constitutional requirement, and appropriations for the office of Hawaiian affairs must be introduced and passed, the number of capital improvement bills introduced can be reduced significantly. Money appropriated for government and private agencies are included in the executive budget. Hearings and consideration of the executive budget provide ample opportunity for such agencies to request inclusion in the executive budget or to request additional funds. Additionally, chapter 42, Hawaii Revised Statutes, provides for the consideration of appropriations to private agencies without the use of legislative bills. Your Committee recommends that Senate Rule 41 be amended to read:

Rule 41. Bills: Introduction

Any bill, except bills only appropriating money, may be introduced on the report of a committee or by any member.

Bills appropriating money for the executive, legislative, and judicial branches of government, for claims against the State, for criminal injuries compensation, or for the office of Hawaiian affairs, or to authorize and appropriate money for special purpose revenue bonds may be introduced by the President of the Senate. Each member may introduce one bill appropriating money for capital improvement projects in the member's elective district. No other bill only appropriating money shall be introduced.

All bills shall be introduced under the order of resolutions.

Bills which shall carry over from a regular session in an odd-numbered year to the next regular session shall retain the numbers assigned to them. The Clerk shall keep a record of the status of all bills in possession of the Senate at the end of the odd-numbered year session and shall publish the record of the status of all such bills prior to the convening of the next regular session.

Every bill introduced or reported out of any committee, which amends an existing section or subsection of the Hawaii Revised Statutes or Session Laws of Hawaii, shall set forth the section or subsection in full, and the matter to be deleted shall be enclosed in brackets and any new matter added to the section or subsection shall be underscored. However, a Supplemental Appropriations Bill need not conform to this rule or an amending bill where the intent and effect of an amending bill can be clearly identified and understood without repeating the entire section or subsection, in which case only the paragraphs, subparagraphs, clauses, or items to be amended need be set forth as the President may allow. The President may allow additional exceptions to this rule.

No floor amendment to a bill shall be voted upon unless a copy of such amendment shall have been presented to the Clerk who shall prepare and distribute copies of the amendment to each member of the Senate present.

3. Your Committee feels that too many duplicate bills are introduced in the Senate. Your Committee finds that this is partly due to the requirement of confidentiality by all bill drafting offices--the Legislative Reference Bureau, the Majority Office, and the Republican Office--which results in unavoidable duplication and to the lack of screening of bills prior to introduction. Your Committee recommends:

a. Senators are encouraged to inform all bill drafting agencies stated above that either all their requests are to be public knowledge, or, on a request by request basis, such bill drafting requests may be made public. Your Committee directs the Legislative Reference Bureau, the Majority Office, and the Republican Office to individually prepare and circulate a short memorandum on a weekly basis or more often setting forth the name of the bill requestor and the subject matter of the request.

b. Your Committee further recommends that a review process be incorporated into the Senate procedures to reduce the introduction of duplicate bills and to encourage cosponsorship. To this end, the Committee on Legislative Management should be expanded and its duties increased to perform this review function. It is not the intention of your Committee that the Committee on Legislative Management prevent the introduction of duplicate bills, but merely to call the attention of the individual Senator to the fact of such duplication. Because of the Committee on Legislative Management's possible inability to review large numbers of bills introduced on the last day--1,200 on bill cutoff day in 1980--your Committee recommends that all bills be on the Clerk's desk two days before cut off for review, with waiver of this requirement by the President of the Senate. To accomplish this recommendation, your Committee recommends that Senate Rules 18 and 41 be amended to read:

Rule 18. Committee on Legislative Management:
Special Responsibility

It shall be the duty of the Committee on Legislative Management to oversee the administrative operations of the Senate, including the supervision of accounting and printing services.

The committee shall make recommendations on the expenses to be included in the appropriation bills providing for the expenses of the legislature, and it shall control the expenses of the Senate in accordance with the appropriation acts providing for such expenses. It shall audit and settle all accounts which may be charged to the expenses of the Senate, and it shall audit the accounts of the members. No bills shall be incurred without the order of the committee, and it shall not be lawful for any bill to be paid until the same shall have been audited by the committee. It shall from time to time direct the Clerk to draw drafts on the treasury for the payment of expenses of the Senate. The committee shall report weekly to the Senate on the status of Senate funds.

It shall also be the duty of the committee to review, as may be appropriate, the organization and process of the Senate and to make recommendations to promote greater

efficiency and effectiveness.

It shall also be the duty of the committee to review each Senate bill before introduction in order to reduce duplicate introductions. To this end the committee may encourage cosponsorship or discourage the introduction of bills.

* * *

Rule 41. Bills: Introduction

Any bill may be introduced on the report of a committee or by any member. Each bill to be introduced shall be given to the Clerk not later than forty-eight hours before the final date for introducing bills, unless this time limit is waived by the President.

All bills shall be introduced under the order of resolutions.

Bills which shall carry over from a regular session in an odd-numbered year to the next regular session shall retain the numbers assigned to them. The Clerk shall keep a record of the status of all bills in possession of the Senate at the end of the odd-numbered year session and shall publish the record of the status of all such bills prior to the convening of the next regular session.

Every bill introduced or reported out of any committee, which amends an existing section or subsection of the Hawaii Revised Statutes or Session Laws of Hawaii, shall set forth the section or subsection in full, and the matter to be deleted shall be enclosed in brackets and any new matter added to the section or subsection shall be underscored. However, a Supplemental Appropriations Bill need not conform to this rule or an amending bill where the intent and effect of an amending bill can be clearly identified and understood without repeating the entire section or subsection, in which case only the paragraphs, subparagraphs, clauses, or items to be amended need be set forth as the President may allow. The President may allow additional exceptions to this rule.

No floor amendment to a bill shall be voted upon unless a copy of such amendment shall have been presented to the Clerk who shall prepare and distribute copies of the amendment to each member of the Senate present.

4. Although your Committee was directed only to review bill introductions, it received numerous comments concerning the number of congratulatory or memorial resolutions introduced into the Senate and the time and money spent on each resolution. Your Committee notes that the Office of the Legislative Reference Bureau estimates it cost \$2.86 to prepare a form appropriation bill with no research involved. The cost of preparing a congratulatory or memorial resolution with the necessary research involved and review would therefore be quite high. Further, your Committee notes that Resolutions and Concurrent Resolutions show a tendency to increase since 1970 as follows:

	S e n a t e			
	Resolutions		Concurrent Resolutions	
	<u>Offered</u>	<u>Adopted</u>	<u>Offered</u>	<u>Adopted</u>
1970	359	273	83	46
1971	350	242	60	24
1972	344	239	60	24
1973	318	182	68	25
1974	320	237	56	26
1974 (special)	0	0	2	2
1975	455	237	152	31
1976	469	259	123	59
1977	523	308	175	47
1977 (special)	0	0	0	0
1978	499	336	132	44
1979	517	287	123	20
1980	386	240	64	29
1981	348	218	80	15

Therefore, your Committee recommends that the Hawaii Senate join with other states such as Nebraska and eliminate the congratulatory or memorial resolution and substitute a suitable certificate. In addition to the elimination of congratulatory and memorial resolutions, your Committee believes that floor presentations should be restricted to dignitaries as decided by the President of the Senate. Your Committee therefore recommends that Senate Rule 58 be amended to read:

Rule 58. Resolutions and Motions: Form

All resolutions shall be written in ink or typewritten, dated and signed by the introducer, otherwise they shall not be considered. The Senate shall not introduce any congratulatory or memorial resolution but shall express the sentiment contained in such resolutions by means of a suitable certificate. Motions and amendments may be verbal but shall be reduced to writing if requested by the President, and shall be read from the desk if so desired.

* * *

Rule 65. Petitions, Memorials, and Miscellaneous Communications

(1) Any person may petition the Senate. Petitions and other memorials except as provided in Rule 58 shall be in writing, signed by the Petitioners.

(2) All petitions, memorials, and other papers addressed to the Senate or to the President and members shall be presented to the Senate by the Clerk.

(3) A brief statement of the contents of such petitions, memorials, or other papers shall be made orally by the Clerk.

(4) Every such petition, memorial, or other paper shall be ordered filed or referred to a committee, as of course, by the President, unless such action is objected to by a member at the time such petition, memorial, or other paper is presented.

(5) No such petition, memorial, or other paper shall be debated on the day it is presented, except with the the consent of the Senate.

Signed by Senators Young, Chairman, Anderson, Carpenter, Cobb, George, O'Connor and Yamasaki.

Spec. Com. Rep. No. 2

Your Committee which was appointed as a special committee to investigate the problem of the pesticide heptachlor in milk, begs leave to report as follows:

Your Committee having met, discussed and reviewed rules hereby adopts rules in the form attached and transmits a copy for the official record.

Signed by Senators Cayetano, Chairman, Kawasaki, Ajifu, Carpenter, Cobb, Kobayashi and Yamasaki.

RULES OF THE SENATE COMMITTEE
INVESTIGATING HEPTACHLOR CONTAMINATION IN MILK

PART I. DEFINITIONS

1.1 Definitions.

(A) As used in the rules prescribed by the committee, except as otherwise required by context:

(1) Committee. "Committee" shall mean the Senate committee investigating heptachlor contamination in milk, a special committee established by Senate Resolution No. 73 adopted by the Senate, State of Hawaii, Regular Session of 1982 as an investigating committee pursuant to Chapter 21, Hawaii Revised Statutes.

(2) Testimony. "Testimony" is any form of evidence.

- (3) Quorum. "Quorum" is a majority of the members of the committee.
- (4) Members. "Members" of the committee are the legislators appointed as members to serve on it.
- (5) Interested Person. "Interested person" is any person whose name is mentioned or who is otherwise identified during a hearing of the committee, and who may be adversely affected thereby.
- (6) Executive Session. "Executive session" is a session at which only members of the committee, staff personnel, the witness, and his counsel shall be present. An executive session may be called by two-thirds vote of the committee members.
- (7) Chairman. "Chairman" is the presiding officer of the committee. He may be either the permanent chairman or another member designated on a temporary basis in the absence of the permanent chairman.
- (8) Hearing. "Hearing" means any meeting in the course of an investigatory proceeding, other than a preliminary conference or interview at which no testimony is taken under oath, conducted by the committee for the purpose of taking testimony or receiving other evidence. A hearing may be open to the public or closed to the public.
- (9) Public Hearing. "Public hearing" means any hearing open to the public, or the proceedings of which are made available to the public.

(B) Unless otherwise specifically stated, the terms used in the rules promulgated by the committee pursuant to powers granted to investigating committees under Chapter 21, Hawaii Revised Statutes, shall have the meaning defined by said Chapter 21.

PART II. RULES OF PROCEDURE

2.1. Committee Action.

No action shall be taken by the committee at any meeting unless a quorum is present. The committee may act by a majority vote of the members present and voting at a meeting at which there is a quorum, unless the provisions of these rules or any statute require a greater number or proportion.

2.2. Issuance of Subpoena.

The investigating committee may issue, by majority vote of all its members, subpoenas requiring the attendance of witnesses and subpoenas duces tecum requiring the production of books, documents, or other evidence, in any matter pending before the committee.

2.3. Hearings.

The committee may hold hearings, appropriate for the performance of its duties, at such times and places as the committee determines. The committee shall not conduct a hearing unless a quorum is present.

2.4. Notice to Witnesses.

(A) A reasonable time before they are to testify, all prospective witnesses shall be notified of the subject matter and scope of the investigation.

(B) When subpoenas are served, the person served shall also be served with a copy of the resolution or statute establishing the committee, a copy of the rules under which the committee functions, a general statement informing him of the subject matter of the committee's investigation or inquiry, and a notice that he may be accompanied at the hearing by counsel of his own choosing.

(C) Service of a subpoena requiring the attendance of a person at a hearing of the committee shall be made at least five days prior to the date of the hearing unless a shorter period of time is authorized by majority vote of all the members of the committee in a particular instance when, in their opinion, the giving

of five days notice is not practicable; but if a shorter period of time is authorized, the person subpoenaed shall be given reasonable notice of the hearing, consistent with the particular circumstances involved.

2.5. Notice to Members.

Each member of the committee shall be given at least three days written notice of any hearing to be held when the legislature is in session and at least seven days written notice of any hearing to be held when the legislature is not in session. Advance written notice to members may be waived by a majority vote of the committee.

2.6. Who Shall Conduct Hearing and Take Testimony.

The Chairman, if present and able to act, shall preside at all hearings of the committee and shall conduct the examination of witnesses himself or supervise examination by other members of the committee, the committee's counsel, or members of the committee's staff who are so authorized. In the chairman's absence or disability, the vice-chairman shall serve as presiding officer. In the absence or disability of both the chairman and vice-chairman, the presiding officer shall be selected from among the other members by a majority vote of all members of the committee.

2.7. How Testimony is Taken.

All hearings of the committee shall be public and all testimony taken thereat unless the committee, by at least two-thirds vote of all its members, determines that a hearing should not be open to the public in a particular instance. All testimony given or adduced at a hearing shall be under oath or affirmation unless the requirement is dispensed within a particular instance by a majority vote of the committee members present at the hearing. Any member of the committee may administer an oath or affirmation to a witness at a hearing of the committee.

2.8. Records.

The committee shall cause a record to be made of all proceedings in which testimony or other evidence is demanded or adduced, which record shall include rulings of the chair, questions of the committee and its own staff, the testimony or responses of witnesses, sworn written statements submitted to the committee, and such other matters as the committee or its chairman may direct.

2.9. Release of Testimony.

(A) The decision to release testimony and the decision as to the form and manner in which testimony shall be released shall be upon the majority of all members of the committee.

(B) A witness at a hearing, upon his advance request and at his own expense, shall be furnished a certified transcript of his testimony at the hearing. A witness shall not be entitled to obtain a transcript of the executive session testimony of other witnesses.

2.10. Contempt.

(A) A person shall be in contempt if he:

(1) Fails or refuses to appear in compliance with a subpoena or, having appeared, fails or refuses to testify under oath or affirmation;

(2) Fails or refuses to answer any relevant question or fails or refuses to furnish any relevant book, paper, or other document subpoenaed by or on behalf of an investigating committee, or

(3) Commits any other act or offense against an investigating committee, which, if committed against the legislature or either house thereof, would constitute a contempt.

(B) The investigating committee may by majority vote of all its members, report to the Senate, any instance of alleged contempt. The president shall certify a statement of such contempt under his signature as president, to the attorney general who shall prosecute the offender in any court of the State. If the legislature is not in session, a statement of the alleged contempt shall be certified by the chairman of the committee. An instance of alleged contempt shall be considered as though committed in or against the Senate or the legislature itself.

(C) A person guilty of contempt shall be fined not more than \$1,000 or imprisoned not more than one year or both.

PART III. RULES GOVERNING RIGHTS OF WITNESSES

3.1. Counsel.

Every witness at a hearing of the committee may be accompanied by counsel of his own choosing, who may advise the witness as to his rights, subject to reasonable limitations which the committee may prescribe to prevent obstruction of or interference with the orderly conduct of the hearing.

3.2. Pertinency of Requested Testimony.

The witness or his counsel may challenge any request for his testimony as not pertinent to the subject matter and scope of the investigation, in which case the relation believed to exist between the request and the subject matter and scope of the investigation shall be explained.

3.3. Who Can Compel Testimony.

The committee chairman may direct a witness to answer any relevant question or furnish any relevant book, paper or other document, the production of which has been required by subpoena duces tecum, unless the direction is overruled by majority vote of the committee members present, disobedience shall constitute a contempt.

3.4. Television, Films, Radio.

No hearing, or part thereof, shall be televised, filmed or broadcasted except upon approval by majority vote of all the members of the committee.

3.5. Statements and Proposed Questions.

(A) The witness or his counsel may insert in the record sworn, written statements of reasonable length relevant to the subject matter and scope of the investigation. In giving testimony, the witness may explain his answers briefly.

(B) A witness at a hearing or his counsel, with the consent of a majority of the committee members present at the hearing, may file with the committee for incorporation into the record of the hearing sworn written statements relevant to the purpose, subject matter, and scope of the committee's investigation or inquiry. In giving testimony, the witness may explain his answers briefly.

3.6. Privileges.

The witness shall be given the benefit of any privilege which he could have claimed in court as a party to a civil action; provided that the committee chairman direct compliance with any request for testimony to which claim of privilege has been made. However, the chairman's directing may be overruled by unanimous vote of all the remaining members of the committee.

3.7. Rights of Interested Persons.

Any interested person, may, upon his request or upon the request of any member of the committee, appear personally before the committee and testify in his own behalf, or, with the committee's consent, file sworn written statement of facts or other documentary evidence for incorporation into the record.

PART IV. RULES GOVERNING DISCLOSURE

4.1. Committee Members - Disclosure of Executive Session Proceedings.

No member of the committee shall disclose information regarding testimony given or adduced at an executive session, unless otherwise authorized by the committee.

4.2. Staff - Disclosure of Proceedings.

No staff member of the committee shall disclose information regarding testimony given or adduced at any proceeding unless otherwise authorized by the committee.

4.3. Release of Public or Press Release.

No information regarding testimony given or adduced at any proceeding shall be disclosed in any public or press release unless otherwise authorized by the chairman with the consent of a majority of committee members.

4.4. Confidential Information.

All information of a defamatory or highly prejudicial nature received by or for the committee other than in an open or closed hearing shall be deemed to be confidential. No such information shall be made public unless authorized by majority vote of all the members of the committee for legislative purposes, or unless its use is required for judicial purposes.

PART V. RULES OF GENERAL APPLICABILITY

5.1. Rules Consistent with Applicable Laws and Rules; Severability.

These rules govern procedure in and before the committee under Chapter 21, Hawaii Revised Statutes and the applicable rules of the Senate, State of Hawaii, Regular Session of 1982. If any of these rules of the committee is held to be inconsistent with law, or any applicable rules of the Senate, the invalidity thereof shall not affect the other rules which can be given effect without the invalid rule.

CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 1-82 on H.B. No. 3092-82 (Majority)

The purpose of this bill, as amended herein, is to ensure an equitable and fair election system in Hawaii by clarifying and confirming that a reapportionment commission shall, after being duly constituted, continue in existence until it has completed a reapportionment plan and an election is held thereunder.

Section 2, Article IV of the Hawaii Constitution provides in part that:

"Members of the commission shall hold office until each reapportionment plan becomes effective or until such time as may be provided by law".

Presently, no statutory law provides for any other term of office for the commission members other than as provided in Section 2, Article IV, of the State Constitution, that the members shall hold office until the plan becomes effective. In considering and enacting H.B. No. 7 implementing Section 4, Article III, of the State Constitution (which has since been redesignated as Section 2, Article IV), and in particular Section 1 (which is now §25-1, Hawaii Revised Statutes), the Hawaii Legislature in 1969 noted as follows:

"No amendment was made to section 1 of the bill. This section provides for the appointment, certification, office and term of the members of the commission in the manner prescribed in section 4, Article III, of the State Constitution. The Constitution is precise and detailed in this respect, and your Committee believes it sufficient to set forth the manner of appointment, certification, etc., by reference without statutory elaboration thereof." (1969 House Journal at page 625)

Inasmuch as the Legislature never intended to provide, by statute, any other term of office than as set forth in Section 2, Article IV, so much of Section 25-2(a), Hawaii Revised Statutes, which provides in part that "the final legislative reapportionment plan... shall, upon publication, become effective as of the date of filing" was never intended to be and cannot be, construed to define the constitutional intent of when a plan becomes effective. The plain meaning of a reapportionment plan which becomes effective under the constitution is one that is valid and capable of being legally implemented and operative. And, inherent in the use of the word "effective" under Section 25-2(a), Hawaii Revised Statutes, is that the plan is valid and capable of being legally implemented and operative. Thus, under existing constitutional and statutory provisions, the legislative intent has always been that a reapportionment commission is not discharged simply upon a reapportionment plan being filed and published if such a plan is found to be invalid and neither capable of being legally implemented nor operative for any election.

In order to clarify and confirm this intent, your Committee has amended the bill so that members of the commission shall hold office until an election is held under a reapportionment plan of the commission, commencing with the 1981 reapportionment year.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3092-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3092-82, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Nakamura, Hirono, Kawakami, Waihee and Liu
Managers on the part of the House

Representative Liu did not concur.

Conf. Com. Rep. No. 2-82 on S.B. No. 2642-82

The purpose of this bill is to provide for the continued operation of the Juvenile Justice Interagency Board and to alter its membership to increase input.

Present law places the Juvenile Justice Interagency Board under the authority of the State Law Enforcement Agency (SLEPA) for administrative purposes. However, SLEPA is scheduled to cease operations on March 31, 1983. This bill provides for the transfer of administrative responsibility from SLEPA to the Department of the Attorney General.

The bill provided further that the board membership be increased from seven to ten members and included the director of the Office of Children and Youth as an ex officio member.

Your Committee upon further reconsideration has amended the bill to provide for the board to be comprised of nine members and has excluded the director of the Office of Children and Youth from membership because that agency functions as an advisory board rather than as a policy making board. The bill has also been amended to require that at least one resident member from each county in the state serve on the board. This will increase valuable input and provide statewide representation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2642-82, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2642-82, H.D. 1, C.D. 1.

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

Representatives Nakamura, Honda, Shito, Taniguchi and Liu
Managers on the part of the House

Conf. Com. Rep. No. 3-82 on H.B. No. 2585-82

The purpose of this bill is to amend Sections 707-750 and 707, Hawaii Revised Statutes, by specifying that the offense of promoting child abuse applies to "pornographic" material in which minors are used.

On April 27, 1981, Section 707-751 of the Hawaii Revised Statutes relating to the promoting of child abuse in the second degree was found to be unconstitutional by a circuit court judge. The court's order indicated that the statute prohibited speech protected by the First and Fourteenth Amendment of the United States Constitution as well as speech that is not protected. The court indicated that because the statute did not incorporate the three-part test defining obscenity as enunciated by the U.S. Supreme Court in the case of Miller v. California, the statute prohibited non-obscene as well as obscene materials. The court further indicated that since non-obscene expression is permitted and protected by the First Amendment, the statute is overbroad on its face and unconstitutional.

The state is currently appealing the trial judge's decision to the Hawaii Supreme Court. However, your Committee believes that any question as to what is being prohibited should be clarified.

The bill provides that the conduct or material being prohibited in the child abuse statutes relates to pornography.

Your Committee amended the bill by adopting the definition of pornography as used in Section 712-1210, Hawaii Revised Statutes, to apply to sections 707-750 and 707-751.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2585-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2585-82, H.D. 1, S.D. 1, C.D. 1.

Senators Carpenter, George and Kobayashi
Managers on the part of the Senate

Representatives Nakamura, Hirono, Honda, Waihee and Liu
Managers on the part of the House

Conf. Com. Rep. No. 4-82 on H.B. No. 2215-82

The purpose of this bill is to streamline the procedures for obtaining and issuing ex parte temporary restraining orders to prevent acts of or the recurrence of domestic abuse.

The bill provides a new chapter entitled "Domestic Abuse Protection Orders" which will replace the existing chapter 585, Hawaii Revised Statutes, entitled "Ex Parte Temporary Restraining Orders."

The bill provides that the family court shall have jurisdiction with actions brought pursuant to this bill and that such actions be given docket priorities by the court.

The bill provides that there shall exist an action known as a petition for an order for protection in cases of domestic violence.

Your Committee amended the bill to provide that a protective order may not be issued for periods in excess of ninety (90) days from the date of the initial order.

Your Committee feels that due to the temporary nature of the relief granted under this chapter, that an order issued by the court pursuant to this chapter should not exceed a period of ninety days. Should circumstances warrant extended periods of court ordered protection, further hearings should be held or alternative forms of relief should be sought from the appropriate courts.

The bill has been further amended to provide that each county police department give information on the status of protective orders to other law enforcement officers in the same county.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2215-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2215-82, H.D. 1, S.D. 1, C.D. 1.

Senators Carpenter, George and Uwaine
Managers on the part of the Senate

Representatives Nakamura, Hirono, Honda, Waihee and Liu
Managers on the part of the House

Conf. Com. Rep. No. 5-82 on S.B. No. 2379-82

The purpose of this bill is to give judges discretion to sentence a person to a term of imprisonment to run concurrently or consecutively.

Presently, the law requires a judge to sentence a person to terms of imprisonment to run concurrently, giving no discretion to judges. This requirement negates the deterrent and punishment aspects of sentencing and in so doing fails to deter similar future behavior on the part of the particular individual involved. The bill provides that judges have discretion to sentence a person to consecutive terms of imprisonment. Your Committee feels that judges will exercise their discretion in invoking consecutive terms of imprisonment when appropriate as in instances where the defendant committed multiple or subsequent offenses.

The bill further provides for the deletion of current law dealing with consecutive terms of imprisonment for escape and crimes committed while imprisoned. The provisions of the deleted section are essentially covered by the granting of discretionary power to the judges in imposing consecutive sentences. Thus, your Committee made technical changes consistent with the deletion.

The bill also provided that the court impose a mandatory maximum and consecutive term of imprisonment for the crime of assault in the first degree committed by a person who is imprisoned in a correctional institution. Your Committee amended the bill by deleting this provision since the court's discretionary power to invoke a consecutive term of imprisonment will cover that situation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2379-82, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2379-82, H.D. 1, C.D. 1.

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

Representatives Nakamura, Honda, Shito, Taniguchi and Liu
Managers on the part of the House

Conf. Com. Rep. No. 6-82 on H.B. No. 2815-82

The purpose of this bill is to reinsert into section 286-51, Hawaii Revised Statutes, authorization for the counties to assess a fifty (50) cent county fee to be paid into a fund for the purpose of highway beautification and the disposition of abandoned vehicles, which was inadvertently deleted by Act 237, SLH 1976.

Your Committee upon further consideration has amended the effective date of H.B. No. 2815-82, H.D. 1, S.D. 1 from January 1, 1983 to July 1, 1982.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2815-82, H.D. 1, S.D. 1, as amended therein, and recommend that it pass Final Reading in the form attached hereto as H.B. No. 2815-82, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Dods, Andrews, Say, Taniguchi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 7-82 on H.B. No. 2817-82

The purpose of this bill is to require the registration of all off-road vehicles in the state, defined in the bill as "any motorized vehicle which is designed for or used in areas not otherwise designated as a public street or highway," except for U.S. military vehicles, motorized construction and demolition vehicles, and motorized vehicles and implements of farming and husbandry that are not designed for and not used on public highways.

Your Committee upon further consideration has amended page 3, lines 13-16 of H.B. No. 2817-82, H.D. 2, S.D. 1 to read: "vehicles, and motorized vehicles and implements of farming and husbandry, except where such motorized vehicles are designed for and use public highway." This amendment adds motorized vehicles used for farming or husbandry to the class of vehicles and implements exempted from the registration requirements imposed by section 286-41, HRS. The amendment also corrects a typographical error.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2817-82, 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. 2817-82, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Dods, Levin, Okamura, Takitani, Taniguchi and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 8-82 on H.B. No. 2826-82

The purpose of this bill is to change the method of admitting mentally retarded persons to Waimano Training School and Hospital from the present commitment procedure to guardianship and voluntary admission procedures. This bill further amends Chapter 560, Hawaii Revised Statutes, to provide that the Family Court has authority to grant the guardian the power to apply for voluntary admission to Waimano.

Present law provides for admission to Waimano Training School and Hospital through the Family Court civil commitment procedure and requires that the director of Health serve as guardian for any person admitted to the facility.

Your Committee finds that a guardianship procedure for adults is more appropriate than civil commitment in providing for the care of mentally retarded persons through institutionalization. Mentally retarded persons are generally admitted to Waimano because they lack the ability to care for themselves in the community and can benefit from institutional programs. The emphasis at Waimano is not upon coercive confinement due to dangerousness but upon placement in an optimum care setting.

This bill provides for voluntary admission of an adult by a legally appointed guardian who has been specifically authorized by court order to apply for admission to Waimano. Application for voluntary admission of a minor may be filed by a parent or person having legal custody of the minor, as similarly provided under current law. The Family Court, in establishing the need for a guardian, would ascertain that a person is mentally retarded, in need of institutional care, and is incapable of independent self-management. The director of health may be appointed as guardian only when no other suitable person is available.

Basic eligibility criteria for admission to Waimano are not changed, in that a committee consisting of a physician, a clinical psychologist, and a social worker must certify that a person is mentally retarded, incapable of independent self-support and self-management, and currently in need of institutionalization. However, authority to approve or reject applications for admission, currently vested in the Family Court, is shifted to the director of health. The director must determine that no less restrictive alternative exists before approving an application for admission. A re-examination and redetermination of the need for institutionalization is required at least annually.

Your Committee has amended page 8, line 19 of the bill by inserting the word "family" before "court" in order to specify that the Family Court has jurisdiction to award a guardian with the authority to voluntarily admit a ward to Waimano.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2826-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2826-82, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Nakamura, Honda, Liu, Shito and Taniguchi
Managers on the part of the House

Conf. Com. Rep. No. 9-82 on S.B. No. 2550-82

The purpose of this bill is to amend Chapter 134, Hawaii Revised Statutes, relating to firearms and ammunition.

The bill provides that firearm registration forms shall be uniform throughout the state and deletes the requirement that a person must register the quantity and class of ammunition in his possession. Your Committee finds that ammunition is of an expendable nature and federal record keeping of handgun ammunition already exists.

The bill mandated the police departments to waive fingerprinting and photographing of applicants for permits to acquire firearms, whose fingerprints and photographs are already on file. Each chief of police was also mandated to issue permits to acquire firearms. Your Committee amended the bill by deleting the provision which mandated waiving of fingerprints and photographs so that the police can retain the discretion to re-take fingerprints or photographs if they feel it is necessary. Your Committee also deleted the provision which mandated each police chief to issue permits to acquire firearms.

The bill further provides for the exemption of federally licensed firearms dealers from the ten-day waiting period for permits to acquire firearms. Also exempted from the waiting period were persons who have previously obtained a firearms permit. Your Committee amended this provision to exempt, from this waiting period, only persons who have previously obtained a permit within a one year period.

The bill deleted the requirement under present law that a person obtain a hunting license for hunting or target shooting and that a minor also acquire a hunting license. Your Committee has amended the bill to retain these licensing requirements to maintain the proper safety of the public in the use of firearms. However, an amendment has been made to provide and clarify that a hunting license is not required for target shooting. In addition, the permit issued to minors shall be valid in all counties for a period of one year.

Your Committee has amended the bill to change the reference to Section 191-6 to specify Section 191-5 instead, because section 191-6 has been repealed.

Finally, your Committee has made technical, nonsubstantive amendments to the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2550-82, 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. 2550-82, S.D. 1, H.D. 1, C.D. 1.

Senators Carpenter, Kawasaki and Uwaine
Managers on the part of the Senate

Representatives Nakamura, Chun, Kawakami, Liu and Waihee
Managers on the part of the House

Conf. Com. Rep. No. 10-82 on H.B. No. 791

The purpose of this bill is to expand the applicability of the Housing Loan and Mortgage Program to include persons who own vacant residential property.

Your Committee finds that there are a number of families, particularly on the Neighbor Islands and in rural Oahu, who own vacant lots and as a result, are ineligible for Hula Mae loans although they would qualify in all other respects. Largely because of the prohibition on ownership of property, past Hula Mae bond issues have been used primarily for mortgage loans on Oahu. Your Committee feels that a more equitable distribution of mortgage funds among the various counties is desirable.

Your Committee wishes to emphasize that ownership of land will not give a person an unfair advantage over other Hula Mae applicants as the vacant lot will be considered as

an asset subject to asset limitations of the Hula Mae program.

Upon further consideration, your Committee has made the following amendments to H.B. No. 791, H.D. 1, S.D. 1:

- 1) The definition of "eligible borrower" has been amended to provide that the borrower or the borrower's spouse does not own any interest in a "principal residence" within or without the State and has not owned a principal residence within the three years immediately prior to the application for an eligible loan.
- 2) The definition of "eligible loan" has been amended to mean a loan for the permanent financing of a dwelling unit. This amendment clarifies that a Hula Mae loan is for the permanent financing of a dwelling unit rather than for its construction. The use of Hula Mae loans for interim construction financing is prohibited under the Federal Mortgage Subsidy Bond Tax Act of 1980.
- 3) The section governing eligible loans for vacant parcels has been deleted.
- 4) The act will be repealed on July 1, 1984.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 791, 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. 791, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Shito, Honda, Levin, Segawa and Lacy
Managers on the part of the House

Conf. Com. Rep. No. 11-82 on H.B. No. 1988-82

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

The individual housing account established by this bill would operate much like an individual retirement account now allowed by state and federal income tax law. A maximum of \$5,000 a year could be contributed to the account and such contribution would be deductible from gross income while the interest thereon would be taxable in the year accrued. The total contribution to such an account would be for \$25,000 over a period of not more than ten years. This amount would become taxable upon distribution. The moneys from the account would have to be used for the purchase of a first principal residence or would be taxed at extraordinary rates to prevent other use. Once purchased the residence must be lived in for a three year period or the taxpayer will be further penalized.

Upon further consideration, your Committee has amended the bill to provide that:

- 1) interest accrued from an individual housing account is no longer taxable in the year accrued but is treated in the same manner as contributions to the account.
- 2) the distribution from an individual housing account will not be taxable if it is used for a downpayment on a first principal residence in Hawaii.
- 3) the penalty imposed upon resale or transfer of a residence purchased with the distribution from an individual housing account has been extended from a three year period after purchase to indefinitely.

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

Senators Yamasaki, Anderson, Cayetano and Young
Managers on the part of the Senate

Representatives Shito, Morioka, Chun, Honda and Lacy
Managers on the part of the House

Conf. Com. Rep. No. 12-82 on H.B. No. 2201-82

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

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

The "housekeeping" amendment to the Housing Loan and Mortgage Act would relieve the Hawaii Housing Authority of the burdensome obligation of assigning and delivering to the trustee each mortgage note and the related mortgage for each mortgage loan purchased under the Hula Mae program. The proposed new section 356-206(d) would provide adequate assurance to bondholders that the pledge made by the authority on behalf of the bondholders is a perfected and enforceable pledge.

Upon further consideration, your Committee has amended the bill by:

- 1) Changing the aggregate principal amount of revenue bonds which may be issued by the Hawaii Housing Authority pursuant to part III, chapter 39, and part II, chapter 356, Hawaii Revised Statutes, from \$1,000,000 to \$9,000,000.
- 2) Changing the expiration date of the Act to December 31, 1983.
- 3) Making other nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2201-82, 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. 2201-82, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Shito, Kunimura, Albano, Chun, Honda, Ige, Kobayashi, Levin, Lacy and Wong
Managers on the part of the House

Conf. Com. Rep. No. 13-82 on H.B. No. 2838-82

The purposes of this bill are 1) to extend the state mortgage loan guarantee program for low- and moderate- income households to "shell" homes and 2) to make an appropriation to be paid into the state mortgage guarantee fund.

The existing state mortgage guarantee program in chapter 359G, Hawaii Revised Statutes, provides a state guarantee of twenty-five percent of the principal loan amount for self-help housing units. This bill would increase the state guarantee from twenty-five to one hundred percent of the loan amount, and would extend the program to "shell" homes. The "shell" housing concept, which refers to units which are habitable but unfinished and can be completed or expanded, has been gaining in popularity as housing becomes increasingly unaffordable to Hawaii's residents.

Upon further consideration, your Committee has amended this bill by appropriating out of the general revenues of the State of Hawaii the sum of \$400,000 instead of \$250,000 for the fiscal year 1982-1983.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2838-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2838-82, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Shito, Kunimura, Honda, Ige, Levin, Nakasato Segawa, Toguchi, Lacy and Liu
Managers on the part of the House

Conf. Com. Rep. No. 14-82 on S.B. No. 1697

The purpose of this bill is to provide for the extension of the jobsharing pilot project in the Department of Education.

Your Committee finds that the job-sharing pilot project, which was implemented in 1978-79, has gained widespread support. However, before your Committee recommends converting this project to a permanent program, your Committee finds that the number of positions now permitted, should be increased and further examination of pairing two tenured employees should continue. Extension of the program through the 1983-84 academic year should provide ample time to evaluate these changes in the pilot project.

Your Committee has amended the bill by requiring the Legislative Auditor to monitor and evaluate only the changes proposed in this bill rather than the entire job-sharing concept and project which have already been done in the past.

Your Committee has also made technical changes which have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1697, 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. 1697, S.D. 1, H.D. 2, C.D. 1.

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

Representatives Kiyabu, Toguchi, Albano, Takitani and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 15-82 on S.B. No. 2350-82

The purpose of this bill is to allow restitution agreements between a school principal and a pupil or the pupil's parent or guardian where damages do not exceed \$5,000.

The bill would also allow a district superintendent to review an agreement made by a principal and at the district superintendent's discretion, refer the case to the Attorney General. In cases where damages exceed \$5,000, the district superintendent must refer the case to the Attorney General.

Your Committee finds that school vandalism is costly to Hawaii taxpayers and even partial figures indicate costs of almost \$1 million per year for the last four years as a result of vandalism. Your Committee further finds that this situation cannot be tolerated and the pupils responsible for vandalism and their parents or guardians, rather than the taxpayers, should be responsible for such costs.

Your Committee notes that, at the district superintendent level, a good faith effort should be made to make restitution on any matter referred by a principal. However, your Committee finds that, failing restitution, it should be made absolutely clear that the district superintendent has the capacity and authority to refer the matter to the Attorney General for action.

Your Committee also finds that, because of the serious nature of school vandalism, reports should be made to the Board of Education by the Department of Education on an annual basis concerning damages, settlements and results.

Your Committee has amended the bill to lower the limit on agreements for restitution and, concurrently, lower the limit on matters which must be referred to the Attorney General for action. Your Committee feels this is a more realistic dollar figure based on the provisions of the bill.

Your Committee has further amended the bill by deleting the words "Hawaii Revised Statutes" after reference to Section 577-3 on pages 3 and 4 of the bill. The amendment is to conform to recommended drafting style and has no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2350-82, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2350-82, H.D. 2, C.D. 1.

Senators Abercrombie, Cayetano and Kobayashi
Managers on the part of the Senate

Representatives Toguchi, Hirono, Say, Taniguchi and Isbell
Managers on the part of the House

Conf. Com. Rep. No. 16-82 on S.B. No. 2353-82

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

Job sharing is the voluntary equal division of one full-time permanent position between two employees on a job-sharing team, each performing one half of the work required for the permanent position. The two half-time positions resulting from the division of one full-time position would constitute two job-sharing positions. The merits of job-sharing have been cited in reports by the Legislative Auditor, the Board of Education, and the Department of Personnel Services.

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

Your Committee has amended the bill, which required that all job-sharing teams be composed of one permanent and one newly hired employee, to allow permanent employees to fill both positions in a job-sharing team. This amendment, however, limits the number of full-time positions divided between two permanent employees to twenty-five. The purpose of this amendment is to provide the Board of Education with greater flexibility in implementing this pilot project.

Your Committee has also amended the bill by hyphenating "job-sharing", where used as an adjective, to maintain consistent spelling. In the Conference Draft these corrections appear on page 1, lines 10 and 11, and page 6, line 18.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2353-82, 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. 2353-82, S.D. 1, H.D. 2, C.D. 1.

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

Representatives Kiyabu, Toguchi, Albano, Takitani and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 17-82 on S.B. No. 2561-82

The purpose of this bill is to safeguard a condominium's funds against misuse or misappropriation by those persons handling the funds.

Currently, the bonding requirement for a managing agent is \$25,000, while self-managed projects are required to carry a \$10,000 bond. Your Committee finds that the current fidelity bond requirements are inadequate, considering the amounts of money entrusted and the range in sizes of projects and management companies.

This bill proposes to require a \$50,000 fidelity bond for each of the managing agent's condominium management contracts. The bill further proposes that evidence of fidelity bonds be provided by the managing agent to the real estate commission. Self-managed projects would have their bonding requirement increased from \$10,000 to \$50,000.

Your Committee upon further consideration, including local industry practice, has amended S.B. No. 2561-82, S.D. 1, H.D. 1, as follows:

- (1) The bonding requirements in both subsections (b) and (c) have been restated as a formula of \$250 multiplied by the number of units covered by the bond. Minimum and maximum amounts of bond have been set respectively at \$10,000 and \$50,000.

This flexible approach will accommodate protection for larger projects while not overburdening smaller managing agents or self-managed projects.

- (2) The formula in subsection (b) provides that the aggregate number of units, covered by an agent's several management contracts, be used in determining the agent's minimum bonding requirement. Since a single maximum of \$50,000 applies, this allows a single fidelity bond to provide blanket coverage for all of an agent's projects.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2561-82, 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. 2561-82, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 18-82 on H.B. No. 2444-82

The purpose of this bill is to clarify which persons are authorized to determine that a person is dead and which persons are authorized to certify cause of death.

The current provisions under section 327C-1, Hawaii Revised Statutes, limit persons who can determine that an individual is dead to doctors of medicine licensed under Chapter 453, Hawaii Revised Statutes. Thus, doctors of osteopathy and commissioned medical officers of the United States Army, Navy, Marine Corps or Public Health Service and doctors of medicine licensed in another State, cannot legally determine that an individual is dead although they are authorized to certify the cause of death under Chapter 338.

This bill amends section 327C-1, to permit medical or osteopathic physicians, licensed under Chapters 453 or 460, Hawaii Revised Statutes, or those excepted from licensure requirements by section 453-2(3) to determine that a person is dead.

This bill amends Section 338-1(6) which currently includes naturopaths in the definition of "physician". Department of Health findings indicate that naturopaths are not qualified to certify causes of death. Accordingly, Section 338-1(6) has been amended in this bill to delete naturopaths from the definition of "physician" and the definition was also amended to conform with revisions to section 327C-1 as specified in this bill.

Sections 442-17 and 455-8 presently authorize chiropractors and naturopaths, respectively, to certify causes of death. This bill deletes references to certification of the cause of death by chiropractors and naturopaths on the basis that neither are qualified to certify the cause of death or to determine that a person is dead.

Your Committee has made a technical, nonsubstantive amendment to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2444-82, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2444-82, S.D. 1, C.D. 1.

Senators Cayetano, Saiki and Toyofuku
Managers on the part of the Senate

Representatives Nakamura, Baker, Chun, Shito and Liu
Managers on the part of the House

Conf. Com. Rep. No. 19-82 on S.B. No. 2765-82

The purpose of this bill is to increase the amount of the performance bond for contracts made with the state or counties from the present two months' rental to not less than two months' rental except for contracts for the sale and delivery of in-bond merchandise at Honolulu International Airport where the bond required will be not less than six months of the highest minimum annual rental guaranty. The present bond of two months' rental is not sufficient for the orderly preparation, advertising and award of major contracts.

Your Committee upon further consideration has made the following amendments to S.B. No. 2765-82, S.D. 1, H.D. 2.

- (1) For all contracts other than in-bond merchandise, the performance bond required will be in an amount not less than two months' rental and other charges, if any.
- (2) For in-bond merchandise contracts the bond required will be in an amount not less than four months of the highest minimum annual rental guaranty.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2765-82, 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. 2765-82, S.D. 1, H.D. 2, C.D. 1.

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

Representatives Dods, Kiyabu, Andrews, de Heer, Nakasato, Waihee, Anderson
and Marumoto
Managers on the part of the House

Conf. Com. Rep. No. 20-82 on H.B. No. 2192-82

The purpose of this bill is to clarify and amend certain requirements for corporate filings with the Department of Regulatory Agencies, to clarify the existence of the department's rule making authority with respect to corporations, and to more strictly regulate the mergers of certain subsidiaries of the same corporation.

Presently, certificates of an increase or reduction of capital or capital stock, of an amendment of the corporate articles or charter, and of an extension of the duration of the articles or charter must be signed by two officers of the corporation. This bill would clarify that these certificates, required to be filed with the Department, cannot be signed by only one person who is a dual officer of the corporation.

Current law also requires all corporations to file by March 31 of each year corporate exhibits, stating each corporations's state of affairs as of the preceding December 31. This bill would extend the filing deadline to June 30 so that the Department of Regulatory Agencies is not inundated with these filings in such a short span of time.

This bill, as received, would also specifically state in Chapters 416 and 418 the department's rule making authority with respect to corporations.

Presently, subsidiaries of a parent corporation merge under general statutory provisions relating to mergers. The merger of subsidiary corporations, however, because of the very nature of their "familial" relationship should be more carefully regulated.

This bill would require a corporations's subsidiaries to follow procedures similar to those relating to mergers between a parent corporation and its subsidiary.

It should be noted that these provisions only apply to situations where the parent corporation owns at least ninety per cent of the outstanding shares of each class of stock of the subsidiaries to be merged.

Your Committee has made a technical, nonsubstantive amendment to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2192-82, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2192-82, S.D. 1, C.D. 1.

Senators Cobb, Uwayne and Henderson
Managers on the part of the Senate

Representatives Blair, Hirono, Taniguchi and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 21-82 on H.B. No. 1553

The purposes of this bill are to require an offeror of a take-over bid, as defined by Section 417E-1(7), Hawaii Revised Statutes, to compensate a dissenting stockholder in the event of a merger or consolidation caused by the offeror as a result of the take-over bid, and to more strictly regulate the merger of subsidiaries of the same corporation.

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

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

Your Committee has amended the bill by deleting reference to the provisions relating to the merger of subsidiaries of corporations since the substance of the proposed changes are the subject matter of another bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1553, 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. 1553, H.D. 1, S.D. 1, C.D. 1.

Senators Cobb, Henderson and Uwaine
Managers on the part of the Senate

Representatives Blair, Hirono, Taniguchi and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 22-82 on H.B. No. 2890-82

The purpose of this bill is to maintain parity between industrial loan companies and savings and loans in the area of premiums allowed to customers.

Your Committee notes that one of the original intentions behind the enactment of Chapter 408A, Hawaii Revised Statutes, was to conform certain rates and practices of industrial loan companies to those of savings and loans. The rules governing savings and loans have since changed, however, which has resulted in a difference with regard to premiums which may be offered by each kind of institution.

This bill would correct this disparity by treating premiums offered by industrial loan companies as advertising expenses instead of interest.

Your Committee has amended the bill by adding a specific reference to the limitation on interest contained in Section 408A-28(a), for purposes of clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2890-82, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2890-82, S.D. 1, C.D. 1.

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

Representatives Blair, Baker, Chun and Liu
Managers on the part of the House

Conf. Com. Rep. No. 23-82 on H.B. No. 1653

The purpose of this bill is to clarify the percentage of votes required to amend the declarations or bylaws of condominium associations under chapter 514A, Hawaii Revised Statutes.

Your Committee notes that there are various ambiguities in the present voting requirements under section 514A-11(1) and 514A-82(1). Presently, the law does not specify the percentage of votes required to amend a declaration, and is unclear about whether the percentage required to amend the bylaws pertains to all owners or to those present at a meeting for that purpose.

This bill would require seventy-five per cent of all apartment owners of an association to approve an amendment to a declaration. Votes may be taken at an association meeting in person, by proxy, or by mail. The bill also deletes the requirement that bylaws be annexed to and made a part of the declaration. Otherwise, the stricter requirement for amending the declaration may supersede the specific provision relating to bylaws.

Nothing in this bill requires personal attendance at association meetings to vote on amendments to a declaration or the bylaws. Apartment owners may continue to vote in person or by proxy as presently provided by statute. Further, nothing in this bill prevents an association, if it so desires, from specifying a higher percentage than is required by this bill to amend a declaration or the bylaws.

Your Committee has amended the bill to allow the bylaws to be amended by the approval of not less than sixty-five per cent of all apartment owners. Your Committee believes that the present requirement of seventy-five per cent was too restrictive, especially in large associations.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1653, 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. 1653, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 24-82 on H.B. No. 2870-82

The purpose of this bill is to add a new section to Chapter 481B, Hawaii Revised Statutes, which would regulate the business practices of sensitivity-awareness groups.

Presently, business organizations dealing with the concept of sensitivity-awareness, self-awareness, understanding of self and others, and related subjects, are not regulated in any manner.

Your Committee notes that certain business practices of certain sensitivity-awareness groups should be subject to regulation. Your Committee notes that recruitment of participants for sessions or programs along with the payment of substantial deposits are sometimes made when the subject is most vulnerable to persuasion which may account for a cancellation rate higher than would otherwise be the case.

Your Committee feels that because of the nature of the sensitivity-awareness group's influence upon individuals who attend sessions or seminars, explicit assurances of equitable business practices should be provided.

Your Committee has amended the bill by clarifying that full refunds are subject to costs incurred by the sensitivity-awareness group, up to the lesser of \$50 or 20 per cent of the price of the course, as a result of the person's initial deposit and commitment to attend.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2870-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2870-82, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Blair, Taniguchi, Waihee and Liu
Managers on the part of the House

Conf. Com. Rep. No. 25-82 on S.B. No. 2531-82

The purpose of this bill is to amend Section 383-7, 386-1, 392-5 and 393-5, Hawaii Revised Statutes, which would exclude coverage for a vacuum cleaner dealer performing services solely by way of commission.

The present laws require every employer to provide wage-loss and medical benefits for all eligible employees. However, a conflict between state and federal laws in regards to vacuum cleaner dealers has existed. The federal government has issued a ruling (Revenue Ruling 55-734; Doc #7851109) declaring vacuum cleaner dealers are not employees under the federal law while under state laws no such exemption exists for these dealers. Therefore, due to the federal ruling, employers make no contributions to federal unemployment insurance and are not required to withhold federal income tax or social security tax.

Under state labor laws the dealer is not considered an independent contractor and therefore the employer must make contributions to the state unemployment fund and is required to withhold state income tax.

Additionally, the current status of the law has created confusion under the state taxation laws. Because the salesperson is treated as an independent contractor under federal laws and an employee under state laws, all commissions he receives are subject to a four per cent general excise tax and must be paid by the company. Thus, recordkeeping requirements for employers are difficult and has created a state of confusion as to the status of independent contractors.

Your Committee upon further consideration has made the following amendment to S.B. No. 2531-82, S.D. 1, H.D. 1 by amending the definition of vacuum cleaner dealer to read as follows:

Service performed by a vacuum cleaner salesman for an employing unit, if all such services performed by the individual for such employing unit are performed for remuneration solely by way of commission.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2531-82, 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. 2531-82, S.D. 1, H.D. 1, C.D. 1.

Senators Uwaine, Abercrombie and Henderson
Managers on the part of the Senate

Representatives D. Hagino, Albano, Say, Tungpalan and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 26-82 on H.B. No. 2183-82

The purpose of this bill is to transfer the powers and duties of the Marine Affairs Coordinator to the Department of Planning and Economic Development.

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

Your Committee, upon consideration, has amended the bill by adding a new section to Chapter 201 to appropriately assign the powers relating to and the responsibilities for marine affairs of the state to the Department of Planning and Economic Development.

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

Senators Henderson, Machida and Yee
Managers on the part of the Senate

Representatives Matsuura, Fukunaga, G. Hagino, Kawakami, Kobayashi, Takamine and Narvaes
Managers on the part of the House

Conf. Com. Rep. No. 27-82 on H.B. No. 2408-82

The purpose of this bill is to amend Chapter 410, Hawaii Revised Statutes, State Chartered Credit Unions, to conform with the Federal Credit Union Act.

Since enactment of the Hawaii Credit Union Act in 1973, rapid changes in federal financial regulations have made it increasingly outdated. Therefore, this bill will accomplish a major modernization of Chapter 410.

Some of the major amendments that the bill proposes are to allow credit union boards to set their own interest rate ceilings for loans and to allow credit unions to participate in electronic funds transfer systems, and offer credit and debit card services, and negotiable instruments to their members. In addition, the bill would allow for the establishment of a corporate credit union under the state act.

Your Committee has made numerous technical amendments and corrections to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2408-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2408-82, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Blair, Honda, Kawakami and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 28-82 on H.B. No. 2057-82

The purpose of this bill is to amend Chapter 328 of the Hawaii Revised Statutes to clarify certain provisions regarding the sale of drugs.

This bill would effectively change the existing law by: 1) providing a definition of "principal labeler" and setting forth the responsibility of a principal labeler upon the recall of a drug; 2) defining an "agent" of a dispenser and the permissible duties of the agent in informing consumers about equivalent drug products; 3) specifying the conditions under which a dispenser may or may not substitute an equivalent drug product; 4) requiring prescription labels for generic drugs to state the name or commonly accepted

abbreviation of the principal labeler of the drug; and 5) changing the content of the State Drug Formulary and providing for the establishment of fees for the distribution thereof.

Under this bill, no substitution of an equivalent drug product would be permitted upon an initial or original oral prescription, whereas substitution would be permitted upon an oral refill if the prior written prescription allowed such substitution. Additionally, regardless of what may be written on the prescription about substitutions, no substitution would be allowed when an oral instruction to that effect is given by a prescriber or his authorized employee.

Upon further review, your Committee feels that in the interest of the consumer, substitution of an equivalent drug product should be permitted on a broad basis. Additionally, your Committee firmly believes that there is a strong public policy interest in providing the consumer with as much information as is practicable in relation to drug product selection, through disclosures as to the nature of the drug which is being substituted. Accordingly, your Committee has made the following amendments to H.B. No. 2057-82, H.D. 1, S.D. 1:

- (1) Section 328-92 (b) has been amended to allow substitution upon an initial or original oral prescription unless the prescriber or his authorized employee orally orders "no substitution", and to clarify those instances in which a dispenser may or may not substitute an equivalent drug product.
- (2) Section 328-93 has been amended to require that the prescription label for a generic drug reflect the brand name of the drug for which the generic drug is being substituted.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2057-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2057-82, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Segawa, Blair, Ige, Shito and Liu
Managers on the part of the House

Conf. Com. Rep. No. 29-82 on H.B. No. 2477-82

The purpose of this bill is to clarify the hazardous waste management responsibilities of the Department of Health by authorizing the director of Health to regulate and permit facilities that treat, store, and dispose of hazardous waste. The bill also authorizes the director of Health to impose financial responsibility requirements on facilities that treat, store, or dispose of hazardous waste.

Your Committee finds that under current law there are no statutory provisions regarding hazardous waste management in the state. Because of the potentially dangerous effects of hazardous waste, proper procedures for the treatment, storage, transfer, and disposal of such materials are essential.

After careful consideration your Committee has amended H.B. No. 2477-82, H.D. 1, S.D. 1, by changing the definition of "hazardous waste" on pages 10-11, paragraph 6. The definition of "hazardous waste" has been amended to conform to the definition of "hazardous waste" as defined by the federal Resource Conservation and Recovery Act of 1976, as amended.

The amended definition on pages 10-11, paragraph (6) of this bill reads as follows:

"(6) "Hazardous waste" [includes, but is not limited to such items as plastics, explosives, acids, caustics, chemicals, poisons, drugs, asbestos fibers, pathogenic wastes from hospitals, sanitoriums, nursing homes, clinics, and veterinary hospitals, waste from slaughterhouses, poultry processing plants and the like.] means hazardous waste as defined in the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C. 6901, et. seq.), as amended."

Other technical nonsubstantive corrections have also been made to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2477-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2477-82, H.D. 1, S.D. 1, C.D. 1.

Senators Kobayashi, Cobb and Mizuguchi
Managers on the part of the Senate

Representatives Baker, Fukunaga, Kiyabu, Okamura and Monahan
Managers on the part of the House

Conf. Com. Rep. No. 30-82 on S.B. No. 2145-82

The purpose of this bill is to assure that private employers who encourage their employees to participate in ridesharing arrangements will not be held liable for injuries sustained by ridesharing participants. Questions about such liability have been a major impediment to employer-sponsored ridesharing programs in the past.

Your Committee upon further consideration has amended S.B. No. 2145-82, S.D. 1, H.D. 1, by combining the provisions of subsections 2(a) and 2(b) into one section. This amendment was made in order to clarify and better express the bill's intent to establish a statutory proscription of employers' liability for their encouragement of ridesharing programs, without otherwise altering existing law.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2145-82, 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. 2145-82, S.D. 1, H.D. 1, C.D. 1.

Senators George, Uwaine and Cobb
Managers on the part of the Senate

Representatives Dods, D. Hagino, Tungpalan, Waihee and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 31-82 on H.B. No. 2836-82

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

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

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

This bill provides homeowners with some protection against failure of mortgage servicing agents to properly deal with their funds by requiring bonding of such agents, a physical presence in the state and recordkeeping. The bill also provides penalties for failure to comply with the requirements imposed.

Your Committee therefore agrees with the purpose of the bill and have amended it as follows:

(1) To provide that the amount of the bond required shall be \$25,000 until July 1, 1983. After July 1, 1983, the amount shall be \$50,000.

(2) To provide that the trust account required to be established by this bill must have its funds placed in a federally insured depository institution.

(3) To provide that the persons affected by the provisions of this bill shall have 90 days from the effective date of the bill's approval within which to comply with the requirements.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2836-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2836-82, H.D. 1, S.D. 1, C.D. 1.

Senators Cobb, Henderson and Uwaine
Managers on the part of the Senate

Representatives Blair, Honda, Shito and Liu
Managers on the part of the House

Conf. Com. Rep. No. 32-82 on H.B. No. 2936-82

The purposes of this bill are to allow industrial loan companies to charge up to twenty-four per cent per year interest on open-end loans made or committed between May 31, 1980 and July 1, 1985, to retain to the extent that the maximum interest rate allowed is not exceeded, loan fees or points paid by borrowers who prepay their loans, and to permit the more economical and efficient method of extending rather than redocumenting loans that were made prior to May 31, 1980, and which mature between that date and July 1, 1985.

Act 197, Session Laws of Hawaii 1980, increased the maximum interest rate that can be charged on closed-end loans made or committed after May 31, 1980 and prior to July 1, 1985, to twenty-four per cent per year. It is unclear, however, whether the present law permits the interest charged on open-end loans to be adjusted up to the twenty-four per cent rate. This bill would clarify that the interest rate charged on open-end loans made between May 31, 1980 and July 1, 1985 may be increased up to a twenty-four per cent maximum, provided that the borrower is given fifteen days prior notice of the increase.

Your Committee has amended this provision by extending the period required for notice to consumer borrowers to thirty days and eliminating any notice requirement for commercial borrowers. Your Committee feels that notice in the commercial borrowing situation is not necessary since commercial entities should be deemed to be able to understand the loan transaction and any modifications to the interest rate that may be contained therein.

Presently the law is silent as to the refundability of loan fees (commonly called "points") in the event of early repayment in full. This bill would allow industrial loan companies to retain points and fees to the extent that the maximum rate of interest allowed is not exceeded when the points are calculated as interest on the loan, even if the borrower pays off the loan prior to maturity.

Your Committee has amended this portion of the bill by deleting the proposed amendments relating to the non-refundability of points and retaining the present language. Your Committee notes that the present practice among lenders is to calculate the points charged into the interest rate upon origination of the loan and therefore do not exceed the permitted rate upon pre-payment of the loan.

Similarly, present law does not contain any provision regarding interest rate limits for loans which were made prior to May 31, 1980, which mature prior to July 1, 1985 and which are to be extended. Borrowers are therefore forced to re-contract and re-document such loans in order to obtain an interest rate in excess of 18 percent and borrowers incur the resulting fees for re-documenting. This bill will save borrowers such extra costs by allowing simple extensions of these loans.

Your Committee notes that the effect of this bill is not to allow industrial loan companies to charge any higher interest rates than they otherwise would charge. If a loan is rewritten and redocumented as required under the present law, or extended as provided for by this bill, the rate of interest would be subject to negotiation between the lender and borrower. This bill merely allows for a more economical method of refinancing a loan made prior to May 31, 1980.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2936-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2936-82, H.D. 1, S.D. 1, C.D. 1.

Senators Cobb, Henderson and Uwaine
Managers on the part of the Senate

Representatives Blair, Baker, Chun and Liu
Managers on the part of the House

Conf. Com. Rep. No. 33-83 on H.B. No. 2813-82

The purpose of this bill is to amend the requirements necessary for an applicant to qualify for a special management area minor permit or a special management area use permit by raising the dollar cutoff for such permits from \$25,000 to \$100,000. Additionally, the bill substitutes the more precisely defined term "valuation" for the presently used term "total cost or fair market value". The bill also directs the Department of Planning and Economic Development to conduct a statewide survey and overall assessment of how Chapter 205A, Hawaii Revised Statutes, has affected development projects impacted by the law.

Your Committee finds that the \$25,000 cutoff between "minor" and "major" permits was established by the legislature in 1975. It was an attempt to distinguish between those projects with significant impact on the shoreline and those of less significance. Since that time, however, development costs have risen steadily, and \$25,000 is no longer an appropriate dollar cutoff for minor construction. Raising this dollar amount would rectify this situation and enable administrators to better meet the intent of the statute.

A related problem is the requirement that the "total cost or fair market value" of the development be used as a basis for determining whether a permit is minor or not. This gives little guidance as to what items should be considered in cost computation and has led to confusion and attempts to circumvent the intent of the law. Substituting the more precisely defined term "valuation" for the vague and difficult to interpret phrase "total cost or fair market value" would significantly strengthen the statute.

Your Committee has amended H.B. No. 2813-82, H.D. 1, S.D. 1, by establishing \$65,000 as the dollar cutoff for special management area minor permits or special management area use permits. Although construction and development costs have risen since 1975 when the original \$25,000 cutoff figure was legislatively established, increasing that dollar amount to \$100,000 does not appear to be justified at this time.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2813-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2813-82, H.D. 1, S.D. 1, C.D. 1.

Senators Henderson, Uwaine and Yee
Managers on the part of the Senate

Representatives Baker, Fukunaga, Matsuura, Okamura and Isbell
Managers on the part of the House

Conf. Com. Rep. No. 34-82 on S.B. No. 2399-82

The purpose of this bill is to establish separate offices for the bank examiner and insurance commissioner, each to be placed within the Department of Regulatory Agencies for administrative purposes.

Under present law, the Director of Regulatory Agencies is deemed the bank examiner and insurance commissioner. This has resulted in an overly centralized administration of the regulated industries. Additionally, the size and importance of the financial institution and insurance industries have markedly increased in importance, size, and complexity.

Your Committee agrees with the intent of the bill to establish separate offices for the examiner and commissioner, each to be included within the Department of Regulatory Agencies as separate offices within the jurisdiction of the Director.

Your Committee upon further consideration has amended this bill by deleting the first sentence in Section 19 of the bill, which refers to S.B. No. 2759-82. Your Committee understands and intends that the salary of the bank examiner shall not be more than the maximum salary of first deputies to department heads.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2399-82, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2399-82, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Cobb and Machida
Managers on the part of the Senate

Representatives Blair, Kunimura, Kiyabu, Morioka and Wong
Managers on the part of the House

Conf. Com. Rep. No. 35-82 on S.B. No. 2513-82

The purpose of this bill is to require every person who operates an electric light or power business as a public utility regardless of whether or not the utility's franchise provides for a payment of a tax based on the gross receipts to the county in which it operates, to file a statement with the director of finance in the county in which the utility operates. The statement will reflect all gross receipts received by the utility from all electric light or power furnished to consumers during the preceding calendar year. The utility must pay to the director 2-1/2 per cent of the gross receipts. This bill would provide for a uniform franchise tax rate of 2-1/2 per cent for every county throughout the State of Hawaii.

The purpose of a utility's franchise is to benefit utility customers by granting utilities the right to use public easements for their services to utility customers without having to apply for separate rights-of-way whenever a need arises for such right. In order to allow for uniform treatment of the franchise by all counties to all utility consumers in Hawaii, the passage of this bill is imperative.

Your Committee upon further consideration has made the following amendments to S.B. No. 2513-82, S.D. 1, H.D. 2. Your Committee felt that the bill as presently drafted was confusing as it might be interpreted as allowing a county to not only tax the utility 2-1/2 per cent pursuant to statute, but also collect any other franchise tax the utility and county might have agreed to pursuant to a previous agreement. Your Committee has amended the bill to correct this possible misinterpretation, and accordingly it is the intent of the Committee that the 2-1/2 per cent of gross receipts is the maximum amount collectible by the county whether by statute, agreement or a combination of both.

Your Committee concurs with the House amendment to Section 3 in that the utility needs this extra period of time in order to prepare the necessary data if an increase in the payment to the county is effected by this bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2513-82, 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. 2513-82, S.D. 1, H.D. 2, C.D. 1.

Senators Yamasaki, Soares and Cobb
Managers on the part of the Senate

Representatives Blair, Kunimura, Kiyabu, Morioka and Wong
Managers on the part of the House

Conf. Com. Rep. No. 36-82 on H.B. No. 2313-82

The purpose of this bill is to amend sections 286G-2 and 286G-3 of the Hawaii Revised Statutes by adjusting the amount of the fine levied on traffic offenses for the driver education and training fund.

Testimony received from the Administrative Director of the Courts indicated that present annual operating costs of the program exceed annual revenues; unexpended funds from previous years, which have been used to cover the shortfalls, will be depleted during the current fiscal year. An increase in the fine amount from the present one dollar to three dollars is needed to assure that current revenues will be sufficient to cover costs of the program.

Your Committee finds that the requested adjustment is justified and has amended this bill by increasing the amount of the fine levied on traffic offenses for the driver education and training fund from two dollars to three dollars.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2313-82, 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. 2313-82, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Nakamura, Nakasato, Andrews, Baker, Dods, G. Hagino, Liu and Marumoto
Managers on the part of the House

Conf. Com. Rep. No. 37-82 on H.B. No. 2359-82

The purpose of this bill is to appropriate funds to establish a statewide witness protection program, in the office of the Attorney General, or provide for the security and protection

of government witnesses, potential government witnesses, and their relatives and associates. Official proceedings or investigations involving organized crime, racketeering activity or career criminal prosecutions are to be assigned greatest priority in the protection program.

Your Committee finds that there is an urgent need for a statewide witness protection program because of the growing complexity of combatting organized crime. It is intended that the Attorney General provide coordination of the program among county, state, and federal agencies.

Your Committee has amended this bill by changing the appropriated amount from \$500,000 to \$750,000.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2359-82, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2359-82, H.D. 1, S.D. 2, C.D. 1.

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

Representatives Nakamura, Kunimura, Andrews, Nakasato, Taniguchi, Waihee, Liu and Marumoto
Managers on the part of the House

Conf. Com. Rep. No. 38-82 on H.B. No. 2559-82

The purpose of this bill is to provide funds for the payment of a settlement negotiated by the State of Hawaii and Dillingham Corporation, doing business as Hawaiian Dredging and Construction Company ("HD&C"), involving a suit (Civil No. 59357) filed by Dillingham Corporation against the State of Hawaii in 1979.

The Department of Transportation contracted with HD&C in 1973 for a construction project on Interstate Route H-2, Waikakalaua Stream Bridge calling for 380 working days. The project actually took almost three years to complete and is the basis of HD&C's \$1.8 million suit against the state. An extensive evaluation conducted during a joint analysis and negotiation procedure found that the state's errors, primarily in designs and plans, were responsible for 129 days of the delay.

The \$520,000 appropriation will cover the negotiated settlement rather than engage in costly and time-consuming litigation. Also, the Federal Highway Administration has been asked to participate by reimbursing 90 per cent of the settlement amount paid by the state.

The appropriation is to lapse into the general fund on June 30, 1983.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2559-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2559-82, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Nakamura, Kunimura, Shito, Waihee and Liu
Managers on the part of the House

Conf. Com. Rep. No. 39-82 on H.B. No. 2679-82

The purpose of this bill is to amend Act 22, First Special Session Laws of Hawaii, 1981, by increasing the appropriations for appointments of legal counsel made by the courts for indigent defendants in criminal and related cases.

Act 22 of the First Special Session Laws of Hawaii, 1981, appropriated \$400,000 for each of the fiscal years 1981-1982 and 1982-1983. This bill would increase the appropriation to \$600,000 for each fiscal year.

Your Committee finds that increased appropriations are needed because Act 22 also increased the allowable compensation for services rendered by court appointed counsel. Costs of increased fees, together with increased numbers of court appointments, exceeding previous estimates, have resulted in rapid depletion of appropriated funds. However, your Committee finds that the amounts appropriated by this bill are insufficient for current needs. Previous testimony indicated that at the current rate of expenditure, previous

appropriations for fiscal year 1981-1982 will be depleted by mid-March, and an estimated \$300,000 is needed to cover costs through July 1, 1982. Present trends indicate that caseloads for fiscal year 1982-1983 will be even greater than those for the current fiscal year, thereby necessitating an additional appropriation of \$400,000 for that fiscal year. Accordingly, your Committee has amended the bill to provide appropriations of \$700,000 for fiscal year 1981-1982 and \$800,000 for fiscal year 1982-1983.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2679-82, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2679-82, S.D. 1, C.D. 1.

Senators Yamasaki, Carpenter and Uwaine
Managers on the part of the Senate

Representatives Nakamura, Kunimura, Kawakami, Waihee and Liu
Managers on the part of the House

Conf. Com. Rep. No. 40-82 on H.B. No. 3119-82

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

The present county zoning laws prohibit the cohabitation of more than five unrelated adults in a residential facility regardless of the special housing needs of the individuals. The economic and social pressures on the elderly, handicapped, and developmentally or totally disabled persons often make it difficult for them to locate and maintain an appropriate living situation without the option of group living.

The House Committees on Housing and Public Assistance and Human Services made amendments to the bill as follows:

1. deleted all references to totally disabled persons;
2. added "under sections 346-121 through 346-124" after "housing" on page 1, line 13 of the bill;
3. amended the definitions for elderly, handicapped, and developmentally disabled by deleting the contents of subsection (b) of the bill and replacing it with the following:
 - "(b) For the purposes of this section, "elderly person", "handicapped persons", and "developmentally disabled person" means an adult who is in need of minimal protective oversight care in the adult's daily living activities. The resident shall be capable of taking appropriate action for his or her own safety under emergency conditions.";
4. added a new subsection (c):
 - "(c) The department of social services and housing shall establish rules pursuant to Chapter 91 for the purposes of this section.";
5. made technical, nonsubstantive amendments.

The Senate Committee on Housing and Hawaiian Homes amended the bill and its purpose to allow group living in residential areas of elderly, handicapped, developmentally disabled, and totally disabled person provided that the facility is properly licensed and provides housing for not more than eight such persons and two managers.

Those amendments are as follows:

1. added a section defining the intent of the proposed program to read as follows:

"Findings and purpose. Present law limits the number of residents in special group homes to a level which is economically unfeasible. This Act, by allowing eight unrelated adults to live in a group home, will allow special needs people a chance to live independently in their own community.";
2. amended sections of the Hawaii Revised Statutes which require the Director of Health and the Department of Social Services and Housing to adopt rules for the

licensing of care homes and adult boarding homes, respectively, by adding a proviso that such rules in areas zoned for residential use shall allow group living, as defined by the bill;

3. added a new section to county zoning law disallowing any prohibition on such group living in areas zoned for residential use;
4. changed the effective date to September 1, 1982.

Your Committee on Conference made further amendments to the bill as follows:

1. deleted reference to eight unrelated persons in the findings and purpose clause of the bill because it is the intent of your Committee to exempt the different special group homes (care homes, adult family boarding homes, and independent group residences) from the cohabitation limitation of up to five unrelated adults imposed by the present county zoning laws;
2. deleted all references to "managers" and replaced them with "home operator and facility staff";
3. amended section 321-15.6(b)(2) to allow up to five persons living in a family care home. The present Department of Health regulations provide for two types of care home facilities: a family care home, which includes up to four residents, and a residential care home, which allows from five or more residents;
4. clarified section 46-4(d) to include group living facilities licensed by the state as provided for under sections 321-15.6, 346-91 or 346-122 (care homes, adult family boarding homes, and independent group residences, respectively);
5. made technical, nonsubstantive amendments.

The purpose of these amendments is to address the different group living facilities licensed by the Department of Social Services and Housing and the Department of Health. Your Committee is cognizant of the special needs of the elderly, the handicapped, the developmentally, and the totally disabled persons who are at different levels of functioning and who require different levels of care. However, economic and social pressures make it difficult for them to locate and maintain an appropriate living situation. Group living will allow them to live independently in their own community.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3119-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3119-82, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Shito, Chun, Ige, Kobayashi and Lacy
Managers on the part of the House

Conf. Com. Rep. No. 41-82 on H.B. No. 1948-82

The purpose of this bill is to improve the agricultural loan program by amending Section 155-9, Hawaii Revised Statutes, as follows:

- (1) Permit the Board of Agriculture to authorize its chairperson to approve loans where the requested amount plus any principal balance on existing loans to the applicant does not exceed \$25,000 in State funds.
- (2) Provide that the maximum amount for classes A, C, D, and F loans allowed to an individual applicant shall also apply to any loan application submitted by a partnership, corporation, or other entity and for the purpose of determining whether the maximum amount to any individual will be exceeded, the amount of outstanding loans to any such entities in which such individual has a legal or equitable interest in excess of twenty per cent shall be taken into account.
- (3) Provide class D emergency loans for emergencies other than those presently listed in the statute as determined by the Board of Agriculture.
- (4) Provide that the maximum amount and period for class D emergency loans be determined by the Board of Agriculture.

(5) Increase the maximum amount on class E loans to cooperatives and corporations from \$250,000 to \$500,000 or eighty per cent of the cost of the project, whichever is the lesser, on capital improvement loans and from \$150,000 to \$300,000 on operating loans.

(6) Increase the maximum amount on class F loans for initial loans to new farmer programs from \$75,000 or ninety per cent of the cost of the project to \$100,000 or eighty-five per cent of the cost of the project, whichever is the lesser.

This bill also appropriates \$1,500,000 for fiscal year 1981-1982 and \$3,500,000 for fiscal year 1982-1983 to the agricultural loan revolving fund.

Presently, an individual can apply for a loan as a qualified individual and also seek additional loans as a partnership or corporation, and that individual may indirectly benefit from loans in excess of the maximum amounts for each class of loan. The provision described in item (2) above will prevent any individual from obtaining more than the maximum amount on each class of loan.

The provisions described in items (3) and (4) above will allow the Board of Agriculture flexibility in responding to emergencies.

Your Committee finds that segments of the agriculture industry, particularly the sugar, dairy and papaya segments, are experiencing emergencies at this time and are in urgent need of state assistance. Emergency situations require immediate action if the problems are to be speedily and effectively rectified with only minimum loss. This bill expands the Department of Agriculture's authority to make emergency loans and is necessary to cope with the current emergencies of the agriculture industry. This bill also appropriates moneys for fiscal years 1981-1982 and 1982-1983 from which loans may be made.

Under the normal legislative process, this bill would have to pass Final Reading after passage of the supplemental appropriations bill. The Constitution of the State of Hawaii, however, allows a bill which contains an appropriation to pass before the supplemental appropriations bill if the Governor recommends immediate passage. The Governor has recommended this bill for immediate passage in recognition of the fact that farmers require emergency farm loans immediately, because of current emergencies.

For this reason, your Committee, upon consideration, has amended H.B. No. 1948-82, H.D. 2, S.D. 1 by inserting a new section into the bill, to be numbered section 1, which contains legislative findings and purpose and a recommendation by the Governor for immediate passage in accordance with Article VII, section 9, of the Constitution of the State of Hawaii.

Your Committee has also amended the emergency loans section of this bill by amending section 155-9(4), Hawaii Revised Statutes, to provide that the Board of Agriculture shall require that any settlement or moneys received by qualified farmers as a result of such an emergency shall first be applied to the repayment of such an emergency loan made under chapter 155, Hawaii Revised Statutes.

Your Committee has further amended this bill for purposes of consistency by re-numbering the remaining sections of the bill.

Your Committee has further amended H.B. No. 1948-82, H.D. 2, S.D. 1, by appropriating \$3,000,000 for fiscal year 1981-1982 and \$3,000,000 for fiscal year 1982-1983.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1948-82, 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. 1948-82, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Ajifu and Henderson
Managers on the part of the Senate

Representatives Takamine, Kiyabu, Morioka, Okamura and Isbell
Managers on the part of the House

Conf. Com. Rep. No. 42-82 on H.B. No. 2511-82

The purpose of this bill is to establish a compliance resolution fund from which the Director of Regulatory Agencies could expend moneys for hiring and training needed personnel.

A study done by the Legislative Auditor relating to the handling of consumer complaints was critical of the regulated industries programs. Your Committee believes that at least

part of the problem that the Department of Regulatory Agencies faces is lack of staffing to adequately process all consumer complaints satisfactorily.

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

The bill also authorizes the use of surpluses in existing departmental funds or board or commission special funds to provide start-up moneys for the immediate hiring of necessary staff.

Your Committee believes that the department will be faced with multiple problems in order to adequately deal with the deficiencies pointed out by the auditor's report. Your Committee therefore believes that this bill will provide the department with a resource that it needs to reorganize its procedures for handling consumer complaints.

Your Committee has retained the safeguard provision requiring the director to submit an annual accounting of the fund and the collection and allocation of funds thereof, to the governor and legislature. Your Committee agrees that this provision will provide the supervision necessary to ensure that the fund is administered in the manner intended.

Your Committee has also retained the concept of placing an expiration date on the life of the fund. Your Committee has, however, extended that date until July 1, 1987, in order to allow the department sufficient time to gather experience in the administration of the fund.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2511-82, 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. 2511-82, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Cobb and Machida
Managers on the part of the Senate

Representatives Blair, Hirono, Ikeda, Kunimura, Kiyabu, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong
Managers on the part of the House

Representative Narvaes did not sign the report.

Conf. Com. Rep. No. 43-82 on H.B. No. 2947-82

The purpose of this bill is to support the development of animal agriculture and aquaculture in Hawaii by appropriating funds for an aquaculture and live-stock feeds production program in Hawaii.

The cost of feed, and the additional costs associated with shipping from the mainland United States to Hawaii either feed or the ingredients required to make it, significantly affects the profitability of animal agriculture and aquaculture in Hawaii. Research is needed to develop a successful program to utilize marginal land and sea water to grow new crops and create a source of low cost ingredients for the feed industry.

The Oceanic Institute has, with the help of past funding, developed the technical staff, equipment, and facilities required to perform such research. Your Committee feels that adequate funding is now necessary to utilize the work already done and for the Oceanic Institute to successfully perform the research proposed by this bill.

While this bill, as received, appropriates \$200,000 for such research, your Committee finds that additional funds are necessary to allow the Oceanic Institute to adequately perform such research on an aquaculture and live-stock feeds production program.

For this reason, your Committee, upon further consideration, has amended this bill by appropriating \$300,000.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2947-82, 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. 2947, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Ajifu and Henderson
Managers on the part of the Senate

Representatives Takamine, Kiyabu, Fukunaga, G. Hagino, Hashimoto, Levin, Matsuura, Okamura, Monahan and Wong
Managers on the part of the House

Conf. Com. Rep. No. 44-82 on H.B. No. 509

The purpose of this bill is to provide life insurers with alternate methods for the fixing of maximum interest rates chargeable on life insurance policy loans.

Presently, insurance companies may charge up to eight per cent per annum on life insurance policy loans. The bill would allow life insurers to periodically vary the maximum interest rate chargeable on life insurance policy loans by reference to an index of long term corporate bonds as published by Moody's Investors Service, or alternately by the rate used in determining the policy's cash surrender value plus one per cent per annum.

The bill also provides that the maximum rate chargeable shall be fixed at least annually for such policies and requires the insurer to notify the policyholder of the actual rate and any changes thereto.

Your Committee notes that this portion of the bill is patterned after the model law which was adopted unanimously by the National Association of Insurance Commissioners in December 1980. Further, your Committee has been informed that in 1981, the model law was enacted or approved in 20 states.

Your Committee notes that the effect of the artificially low ceiling on interest rates on policy loans in a high interest rate environment results in a substantial increase in policy loans and creates serious cash flow problems for the industry. The diversion of investment funds to low interest policy loans results in less investment income to the detriment of policy-holders. Your Committee believes that allowing life insurance companies to make a reasonable rate of return on policy loans will help to keep the cost of insurance lower than it would otherwise be.

This bill also adds a provision limiting the rate of interest charged on a policy loan to ten per cent for policies with a face amount of \$50,000 or less. Your Committee has, however, amended the bill by deleting this requirement and instead requiring that all life insurers offer fixed rate policies at eight per cent as a condition to offering variable rate policies in the state.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 509, 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. 509, H.D. 1, S.D. 1, C.D. 1.

Senators Cobb, Henderson and Uwaine
Managers on the part of the Senate

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

Representative Dods did not sign the report.

Conf. Com. Rep. No. 45-82 on H.B. No. 2295-82

The purpose of the bill is to limit the number of boards and commissions subject to sunset review under Chapter 26H, Hawaii Revised Statutes, to eight per year.

Chapter 26H, Hawaii Revised Statutes, provides for groups of regulatory boards and commissions to be repealed yearly unless affirmative action is taken by the Legislature to extend the existence of the boards and commissions scheduled for repeal. The next group of boards and commissions is scheduled to be repealed as of December 31, 1983.

This bill would limit the number of boards and commissions reviewed each year to a maximum of eight in order to ensure that the Legislative Auditor and the Department of Regulatory Agencies are not overburdened in any one year.

In keeping with the general intent of the bill to improve the sunset review process, your Committee has amended the bill to reorganize the schedule of programs for review and has added four existing regulatory programs to the review cycle that are not presently subject to the sunset review process. These programs are: Factory Built Housing, Solar Energy Device Dealers, Travel Agencies, and Commercial Employment Agencies. Your Committee has also deleted the limitation of eight programs reviewed per year as the review schedule proposed by this bill has no more than six programs for review per year.

Your Committee on Conference is in accord with the intent and prupose of H.B. No. 2295-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2295-82, H.D. 1, S.D. 1, C.D. 1.

Senators Cobb, Soares and Uwaine
Managers on the part of the Senate

Representatives Blair, Chun, Hirono and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 46-82 on H.B. No. 2778-82

The purpose of this bill is to set forth in statutes the Department of Health's responsibility for certain related services and to identify more specifically the role of the Department of Health in providing these services, such as occupational therapy, physical therapy, school health services, mental health and medical services for diagnostic or evaluative purposes to exceptional children.

Your Committee finds that the bill would emphasize the responsibility of the State of Hawaii for special education students and to more clearly delineate the roles of the Department of Health and the Department of Education in support of handicapped children.

Presently, the law only provides that the Department of Health may provide certain services. This bill would require the department to do so.

Your Committee amended the bill by adding the proviso that services be provided "within the funds available". Your Committee has also amended this bill to make technical corrections of a nonsubstantive nature.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2778-82, 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. 2778-82, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Toguchi, Say, Kobayashi, Ige and Lacy
Managers on the part of the House

Conf. Com. Rep. No. 47-82 on H.B. No. 2767-82

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

Your Committee recognizes that each school has its own special strengths and weaknesses and that in certain matters, the individual school is the best arbiter of its educational priorities and needs. Your Committee therefore supports and recommends the system of educational resources provided by this bill which would equitably distribute discretionary funding to the schools, with positions from the Instructional Resource Augmentation Program also included to be used to meet the unique needs of the elementary schools.

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

Your Committee declares as legislative intent that, beginning with the executive budget submission for the 1983-85 biennium, the Department of Education shall include and display its recommended appropriations for the School Priority Fund as a Level V program under EDN 106. Your Committee further notes that the district reserve provided for in this bill will ensure that the resources of the School Priority Fund may be used to supplement the existing appropriation for the Hawaii English Program.

Your Committee has amended this bill by:

(1) Re-inserting "for elementary schools and for secondary" on page 2, line 25, which was inadvertently deleted in Senate Draft 2 of this bill.

(2) Deleting the provision on page 3, lines 4-9, authorizing the Superintendent of Education to withhold up to five percent of the School Priority Fund moneys for a state reserve. Your Committee believes that the district reserve provided in the bill will offer sufficient flexibility to deal with special contingencies which may be encountered in implementing the fund.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2767-82, H.D. 3, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2767-82, H.D. 3, S.D. 2, C.D. 1.

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

Representatives Kiyabu, Toguchi, Aki, Albano, Andrews, Hashimoto, Say, Tungpalan,
Marumoto and Monahan
Managers on the part of the House

Representative Monahan did not sign the report.

Conf. Com. Rep. No. 48-82 on S.B. No. 2346-82

The purpose of this bill is to allow the governor to control the amount of tax revenues spent to educate federally connected students in public schools if the amount of available federal funds paid pursuant to title 20, United States Code, section 238 is unsatisfactory. The bill authorizes the governor to enter into negotiations with the appropriate agency or entity of the federal government for the purpose of securing a reasonable portion of the cost incurred by the state to provide federally connected students with an education comparable to that provided to the children of its residents.

The federal impact aid program, as provided in Public Law 81-874, was enacted in 1950 to provide federal financial assistance to local school districts to help offset their cost of educating federally connected students, including children of members of the armed forces on active duty or who resided on federal property. The Legislature finds that federal funds received under the impact aid program cover only a small portion of the total cost of educating federally connected students in the public schools. The demands of educating these students places a particularly acute burden on the state's limited financial resources in light of the constitutionally mandated ceiling on state operating expenditures.

An attempt to recover a reasonable share of the state's cost of educating these children is, therefore, an effort to address an extremely serious fiscal problem which would adversely affect all students, regardless of whether they are federally connected.

Your Committee recognizes the contributions, both financial and social, from the presence of federally connected personnel in our community life. Your Committee finds that every child, including federally connected students, should be assured of uninterrupted access to a free public education. Your Committee also finds that it is the responsibility of the federal government to fund a reasonable share of the costs thus incurred by the state in providing that education.

Title 20, United States Code, section 241 provides that:

"(a) In the case of children who reside on Federal property--

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate state educational agency, that no local educational agency is able to provide suitable free public education for such children.

the Commissioner shall make such arrangements (other than arrangements with respect to the acquisition of land, the erection of facilities, interest, or debt service) as may be necessary to provide free public education for such children. Such arrangements to provide free public education may also be made for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable, the local educational agency, or the head of the Federal department or agency, with which any arrangement is made under this section, shall take such

action as may be necessary to ensure that the education provided pursuant to such arrangement is comparable to free public education provided for children in comparable communities in the State, . . ."

Your Committee has amended the bill to provide that the Board of Education shall present a bill and demand payment from the appropriate agency or entity of the federal government for educational fees relating to federally connected students. Your Committee has further amended the bill to provide that if the federal government fails to make such payment or arrangements for payment by a specified date, the state shall declare as policy that no tax revenues of the state may be expended for the free public education of federally connected school age children and that the federal government shall assume full responsibility for the education of these children under the provisions of 20 U.S.C. §241 on September 30 of the year in which the federal government fails to make payment. Your Committee has also amended the definition of "federally connected student" to conform to the criteria of 20 U.S.C. §241.

Your Committee considered a question raised about potential conflict between this bill and section 298-5(a), Hawaii Revised Statutes, which in dealing with school vandalism, prohibits assessments against pupils. Since this bill does not create any assessment against any pupil, your Committee finds and intends no conflict and therefore makes no provision in the bill relating to section 298-5(a).

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2346-82, 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. 2346-82, S.B. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Abercrombie and Kuroda
Managers on the part of the Senate

Representatives Kunimura, Toguchi, Hashimoto, Matsuura and Lacy
Managers on the part of the House

Conf. Com. Rep. No. 49-82 on H.B. No. 2331-82

The purpose of this bill is to establish pre-qualification requirements for persons seeking to bid in auctions of state agricultural or pasture leases:

Your Committee has amended the bill by deleting sub-section (1) on line 3 of page 2 of the bill. This amendment will delete mention of any residence requirement to eliminate any question as to constitutionality of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2331-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2331-82, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Sakamoto, G. Hagino, Okamura, Takamine and Narvaes
Managers on the part of the House

Conf. Com. Rep. No. 50-82 on H.B. No. 2332-82

The purpose of this bill is to establish a minimum base term for state lands leased for intensive agricultural and pasture uses.

As passed in H.D. 1, the bill specified that the minimum lease period would be 15 years. As passed by the Senate in the Senate draft, the figure was changed to 20 years.

Your Committee, after much discussion, has decided that 15 years minimum should be agreed to and has amended the bill to that extent.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2332-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2332-82, H.D. 1, S.D. 1, C.D. 1.

Senators Ajifu, Henderson and Yamasaki
Managers on the part of the Senate

Representatives Sakamoto, G. Hagino, Okamura, Takamine and Narvaes
Managers on the part of the House

Conf. Com. Rep. No. 51-82 on H.B. No. 2888-82

The purpose of this bill is to define the geographic areas where time sharing is allowed.

Specifically, the bill: (1) retains the legislative delegation of authority to county governments to enact appropriate zoning and land use restriction for the control of time share units, time share plans, and transient vacation rentals; (2) allows time sharing in hotels and projects wholly designated for time sharing in their declarations and bylaws, if they are in areas zoned for hotel, transient vacation rentals, or resort use; and (3) prohibits further time sharing in residential units projects, and buildings unless their bylaws and declarations specifically and explicitly so authorize and unless they are situated in areas appropriately zoned.

Section 514E-5 presently allows time sharing in hotels without reference to the zoning of their locations. This bill will allow time sharing in hotels only if they are located in areas appropriately zoned by the county government. Hotels not so located may otherwise cause time sharing intrusion into areas not appropriate for that use.

This bill also attempts to keep time sharing in mixed use buildings at its presents level by requiring that time share holdings in such buildings may subsequently be increased only upon the specific amendment of the declaration and bylaws of such buildings.

Your Committee agrees with the general intent of the bill to limit time sharing in areas in which it would be a non-conforming use pursuant to county zoning and has therefore amended the bill by adding language which specifically provides that counties must approve time sharing in a hotel which is presently operated as a non-conforming use, before such time sharing is permitted.

Your Committee notes that the substance of this bill, as amended, is to continue the original intent of time sharing regulation to refer the question of time sharing use, to the local law and processes of the respective counties for resolution. It is the intention of your Committee that before such a hotel presently existing as a permissible non-conforming use is allowed to be used for time sharing, the county in which such hotel is located must, in accordance with its local processes, explicitly confirm that the local law permits or does not prohibit this use as an existing permissible non-conforming use, or make this use a permissible one. It is not the intention of your Committee to have state law influence the resolution of these issues either for or against allowing time sharing, or to prescribe the processes by which each county makes these determinations.

Your Committee on Conference is in accord with the intent and purpose on H.B. No. 2888-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2888-82, H.D. 1, S.D. 1, C.D. 1.

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

Senator Kuroda did not sign the report.

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

Conf. Com. Rep. No. 52-82 on H.B. No. 3078-82

The purpose of this bill is to require sales agents and acquisition agents who solicit or encourage others to attend time share presentations to have a real estate salesman's or broker's license. It is also intended to require the director to adopt regulations governing the activities of sales and acquisition agents.

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

Section 1 of the bill provides an index which is intended to make the bill easier to read and understand. Section 2 of the bill prohibits sales agents or acquisition agents from soliciting or encouraging others to attend a time share presentation without a real estate license except as otherwise provided by rules and regulations adopted by the director. It goes on to provide that the director must adopt rules and regulations and specifies the parameters of some of those rules. Among other things, they must strictly regulate and discourage the use of telephone solicitation of guests in hotels. They must also permit

the use of acquisition agents not licensed under chapter 467 to man a booth for the purpose of inviting persons to attend a time share sales presentation or a related entertainment function. In most cases, these persons would be covered by a blanket bond posted by the acquisition agent or sales agent who employed them. The director may elect to adopt a simplified registration procedure for these acquisition agents.

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

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

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

Section 4 of the Act establishes the conditions under which the purchaser's funds may be released from escrow without a closing. It permits the escrow agent to disburse the buyers funds when a contract is cancelled or in the event of a default. Subsection (4) parallels section 514A-67 of the Horizontal Property Act which permits the disbursement of buyers funds to pay the costs of construction. A developer will not be permitted to use buyers funds for construction until he files a copy of the executed construction contract and a copy of the executed performance and labor and material payment bonds insuring that all amounts due under the construction contract, including change orders up to 10%, and all other costs of construction will be paid.

Section 5 provides conditions under which buyers funds may be disbursed upon closing. Subsections (a) and (b) establish that upon closing, the funds will be disbursed according to the requirements of the financial arrangements made by the developer to protect the buyers from foreclosure of mortgages existing at the time of the closing and later mortgages made by the developer. The following are examples of the problems your committee perceived and intended this bill to prevent.

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

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

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

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

Section 6 of the bill defines a number of terms which are necessary to clarify and establish a manner in which the bill works. Your committee did not define the term "closing" in the bill. Typically, in an ownership plan, closing occurs when the ownership interest is conveyed to the purchaser. In a time share use plan, closing would occur when a time share unit is conveyed to the trustee or the owner's association to accommodate the new member. If the developer retains title to the time share unit, closing would occur when all of the required conditions to closing had been satisfied and a time share unit is added to the program to accommodate the new members. If alternative arrangements for protecting buyers are established, your committee the director must use her discretion to pinpoint the acts which must occur and conditions which must be fulfilled at closing.

Section 7 of the bill contains the requirement that adequate arrangements be made to pay any existing or future mortgages or other blanket liens before the buyers funds can be given to the developer. There are undoubtedly a number of ways in which the buyers can be protected from foreclosure of mortgages. This bill permits three, and gives the director the discretion to accept alternative arrangements, particularly when the director is dealing with a time share plan which is operating in more than one state and has several sets of statutory or regulatory requirements to comply with. Your committee understands that California, Florida, and presumably other states which are regulating time sharing are also providing their departments of real estate the discretion to permit alternative buyer protections to be established.

One approach permitted by section 7 of the bill is the "non-disturbance agreement" approach. Where there is an existing mortgage, the lender already has rights to foreclose the property. Your committee did not think it would not be wise to pass a law changing those existing rights, even if it could be done constitutionally. A non-disturbance agreement does not change the lender's rights without its consent.

A non-disturbance agreement works as follows: The developer approaches the lender and asks him to sign a "non-disturbance agreement". That is a document in which the lender agrees that if the mortgage is foreclosed, the rights of the buyers of time share interests will not be disturbed. In other words, the lender can foreclose, but the buyers will continue to have the right to use the property just as though the lender had not foreclosed. This means that anyone who purchases the property at a foreclosure sale will take it subject to all the rights of the time share owners. The lender may, in return, require that the contracts with the time share buyers provide that if the lender forecloses, the buyers payments will be given to the lender in place of the developer. Section 8 of the bill specifically spells out the effect of recording a non-disturbance agreement.

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

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

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

Section 7 of the bill provides that the developer may establish a trust and deposit in the trust notes, agreements of sale or contracts which obligate the buyers to pay the balance of their purchase price. The requirements for the trust and the trustee's qualifications are spelled out in sections 11-14. Under section 12, all payments made by the purchasers would be paid to the trustee. The trustee would then use the money paid by the purchasers to pay the regular monthly payments due under the mortgage and to establish a sinking fund to pay off the balance of the mortgage when it becomes due.

To make this sort of approach work, it is necessary that the developer put in the trust notes, agreements of sale, or contracts which will produce enough money to pay the total amount due under the mortgage. In that regard, sections 12 and 13 of the bill restrict the developer from closing the sale of any time share interest until enough buyers have signed notes, agreements of sale, or contracts sufficient to total the amount necessary to pay the mortgage.

Because payment of the blanket liens under the trust approach depends on the buyers paying their monthly payments, your committee was concerned that such an arrangement might be construed as a risk capital security under Chapter 485. To avoid this, subsection (c) was included in section 7 of the bill.

Section 10 of the bill establishes general requirements for the trust instrument. Among other things, it requires that the time share owners association expressly be made a third-party beneficiary of the trust. This way the association may act on behalf of the owners in enforcing the provisions of the trust. It prohibits the trustee from further encumbering the time share unit; this will protect buyers from foreclosure of liens placed on the property after closing.

Section 11 of the bill establishes requirements for trustees. It specifically requires that the trustee be a bank, savings and loan association or trust company meeting the requirements of rules adopted by the director. Also, the trustee must post a fidelity bond and maintain errors and omissions insurance as required by rules adopted by the director. It should be noted that the trustee need not be a Hawaii entity. This is because some multi-state projects may use out-of-state trustees, such as the Bank of California, and so long as the trustee is financially sound and responsible, the director should be willing to approve it.

Your Committee notes that in some occasions, some developers may have difficulty in convincing a single trustee to handle both the title holding functions and the collection functions of a lien payment trust. Under such circumstances, your Committee would have no objection to the use of two trustees, one for title holding purposes and one to operate as a collection agent. Alternatively, a single title holding trustee could contract with another entity to handle collection work, and so long as the trustee is ultimately responsible for the collection agent's handling of the purchaser's funds, the arrangement would be satisfactory. Accordingly, occasionally in the bill references are made to the trustee and its collection agent. Finally, in the case of time share plans with units in several states, it may be necessary to have more than one title holding trustee if the law of such states requires the trustee to be a local trust company.

Section 12 establishes detailed requirements which must be met if the trust approach is to be used to pay existing mortgages or other blanket liens, as specified in greater detail. It requires the developer to deposit assets which equal or exceed 110 per cent of the money owed on the mortgages or other blanket liens. Also, it requires the trustee to retain in the trust a reserve fund in an amount at all times sufficient to pay three months successive monthly installments on the mortgages, and if installments are due less frequently than monthly, then enough to make the next six months installment. It also requires that the trustee establish a sinking fund to pay any balloon payments or any similar amounts due under any mortgage or other blanket lien. Also, it requires that the trustee pay all real property taxes, assessments, and insurance premiums. It permits the trustee to disburse funds from the trust and establishes that they may only be disbursed first to the payment of real property taxes and lease rent, second to current payments due on the blanket liens and any sinking fund established for them, next to the trustee and its collection agent, and finally to the developer and its sales agents.

Section 14 of the Act gives the developer the option to switch from a trust approach to a non-disturbance agreement or surety bond or letter of credit approach at future dates.

Section 15 authorizes the Director of Regulatory Agencies to approve alternative arrangements for purchaser protection in meeting the requirements of section 7. This is because many time share plans operate in more than one state and sometimes have properties in several countries. This makes it impossible, or at least impractical, for your Committee to address every conceivable problem which may crop up in multi-state or multi-national time share developments. Accordingly, the director should be given flexibility to accept alternative arrangements which adequately protect the buyers under the circumstances.

The use of alternative arrangements may prove worthwhile in numerous situations which do not necessarily involve multi-state developments. For example, suppose the owner of the hotel wishes to convert a portion of the hotel to time sharing purposes. In such circumstances, the hotel may have a large existing mortgage and it may not be practical to convey the hotel to a trust. Under those circumstances, the director might, for example, require that the hotel owner issue individual leases for rooms in the time share plan and either have those leases run in favor of a trustee, or convey the leasehold to the owner's association and record a notice of time share plan on the leasehold interest in the units. Then, the developer would have to make some arrangements with the existing lien holder either for the release of those units from the mortgage, or for subordination to the buyer's rights. Your Committee understands that a lender is not likely to agree to subordinate its rights to the rights of buyers easily, and it fully expects that in many circumstances, this will require the developer to pay a release price to the mortgagee in order to obtain the subordination and non-disturbance agreement or release from the blanket mortgage. Nevertheless, when it comes to weighing the protection of the purchaser's interest versus the interest of the developer in avoiding paying such amounts, the Committee has made the value judgment that protection of the buyer's interest is paramount.

Another circumstance in which an alternative arrangement may arise is that where a developer of a time share plan in condominium units wishes to establish a lien payment trust, but does not want to convey the units to a trustee before the time share interests are sold, for fear of triggering the due on sale clause under the existing mortgage. Under those circumstances, your Committee could easily envision an alternative arrangement which contemplated the recording of a notice of time share plan on the unit as well as the establishment of a lien payment trust without conveying title to trustee. Various other combinations of the protections provided in this bill, as well as numerous other alternative arrangements could be discussed in this committee report, but suffice it to say that your Committee will leave the matter to the discretion of the director. To be sure that the director has adequate resources to consider a proposed alternative arrangement, however, your Committee has added a section to the bill which permits the director to hire competent counsel to examine the proposed arrangements. Many attorneys in the state, especially those experienced in the condominium development and construction lending fields, would be capable of reviewing a proposed alternative structure. In some cases, the attorney may need the assistance of other professionals such as accountants or financial analysts to provide supporting information and opinions upon which the attorney's opinion will be based. Your Committee has made provision for this.

Section 16 of the bill establishes requirements for surety bonds and letters of credit posted as security for the payment of any blanket liens. Section 17 requires the establishment of an owners association for the protection of the time share owners. Section 18 defines the scope of the act as it applies to in-state and out-of-state sales.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3078-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3078-82, H.D. 1, S.D. 1, C.D. 1.

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

Senator Kuroda did not sign the report.

Representatives Blair, Baker, Dods, Shito and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 53-82 on S.B. No. 400

The purpose of this bill is to raise the allowable maximum rate of interest for certain transactions.

Presently, banks, savings and loans, and industrial loan companies are exempted from general interest and usury provisions and make loans at interest rates which substantially exceed those set by chapter 478, Hawaii Revised Statutes. Other transactions, such as retail installment contracts and credit card transactions are also exempted. Other businesses, however, are limited to twelve per cent interest on their written contracts. This provides an "incentive" for their customers to default on contracts, in effect financing purchases at an advantageous rate of interest. Besides creating cash flow problems for businesses, losses result because inventory and other expenses are often financed through lending institutions charging prevailing rates.

This bill amends section 478-8, Hawaii Revised Statutes, relating to interest and usury by raising present interest limits on transactions between merchants to eighteen per cent per annum.

This bill also amends section 478-1, Hawaii Revised Statutes, by raising the allowable interest rate for unwritten contracts from six per cent to ten per cent a year. This change is made in order to more accurately reflect the cost of money.

Further, this bill exempts purchase money junior mortgages and sub-agreements of sale from the general usury restriction in order to provide sellers and purchasers of real property more flexibility in financing arrangements.

Your Committee upon further consideration has amended the bill as follows:

- (1) The provisions relating to sub-agreements of sale, purchase money junior liens and merchant transactions were amended by adding a "drop dead" date of June 30, 1985.
- (2) Page 5, line 4, the word "between" after "transactions" was changed to "of" and page 5, lines 7 and 8, the words "and between merchants" was deleted. The purpose of these amendments is to allow transactions between merchants and consumers to fall under the provisions of this subsection and to not limit it to transactions between merchants.
- (3) A clause was added to subsection (h) to exclude regulated moneylenders.
- (4) A new section 3 was added, being section 3 of H.B. No. 2404-82, H.D. 1, S.D. 1. This amendment is for "housekeeping" purposes.
- (5) A new section 4 was added to exempt securities regulated by the Uniform Securities Act (Modified) from the provisions of chapter 478 and to limit the interest rate of such securities to eighteen per cent a year.
- (6) The effective date was amended to specifically prevent agreements made prior to the effective date of this bill from being affected by any provision of the bill.
- (7) Technical nonsubstantive amendments were made to conform this bill to recommended drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 400, 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. 400, S.D. 1, H.D. 1, C.D. 1.

Senators Cobb, Uwaine and Henderson
Managers on the part of the Senate

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

Conf. Com. Rep. No. 54-82 on S.B. No. 2388-82

The purpose of this bill is to amend the definition of "apartment" in chapter 514A.

Your Committee upon further consideration including extensive and careful consultation with condominium law practitioners, has amended the bill by reverting to Senate Draft 1 with certain changes thereto. The Senate Draft, as changed herein, revises chapter 514A as it relates to: amendment of the declaration; certain contents of the bylaws; charges, costs, and fees recoverable for violation of the declaration, bylaws, and other rules or in actions brought on association claims; inclusion of those charges, costs, and fees in the association's lien on the subject apartment; and the required consent for certain modifications to apartments and for changes in designation of parking stalls.

The changes, with references to item, page, and line designations as they appear in the Senate Draft, are:

- (1) On page 4, lines 22-24 the proposed language, "which shall include the requirement of approval by seventy-five per cent of the apartment owners", has been deleted.
- (2) On page 5, lines 21-22, the words, "Notwithstanding any provision of the declaration, apartment", have been bracketed for repeal, and the word, "Apartment", added to replace them.
- (3) On page 6, lines 16 and 22, the words, "or bylaws", have been inserted after the word, "declaration".

The proposed language beginning with the words, "If the declaration..." on page 6, line 22 and ending on page 7, line 2 with the word, "expenses.", has been deleted.
- (4) On pages 7 and 8, items 6 and 7 have been deleted.
- (5) On page 9, items 8 and 9 have been renumbered as 6 and 7 respectively and the following changes made:
 - (a) On line 4, the bracket before the word "No" has been removed.
 - (b) On line 5, the words "modification of or" have been bracketed.
 - (c) On line 5, the word "to" has been bracketed for repeal, and the word "of" added to replace it.
 - (d) On line 6, the words "to the declaration," and "amendment" have been bracketed.
 - (e) On line 7, the bracket after the word "recorded" has been removed.
- (6) On page 15, line 4, the proposed language, "available in Hawaii" has been deleted.
- (7) On page 16, item 10 has been deleted and item 11 has been renumbered to become item 8.
- (8) On page 17, items 12 and 13 have been renumbered to become items 9 and 10.
- (9) Also on page 17, the following changes have been made:
 - (a) The new language on line 11", as determined by the board of directors," has been deleted.
 - (b) On line 13, the words, "unanimous" and "all" have been bracketed, and the words "percentage of" have been inserted before the words, "other apartment".
 - (c) On line 14, the words "necessary to amend the declaration" have been inserted after the word "owners".
 - (d) On line 23, "(a)" has been inserted after "514A-90".
- (10) On page 19, subsection (b) has been deleted along with item 14, which ends on page 20, line 7.
- (11) On page 20, item 15 has been deleted and item 16 has been renumbered to become item 11.
- (12) On page 21, line 12 the words, "any person who is", have been deleted, a comma has been inserted before the word, "occupant", and the words, "or any" and "of an apartment", have been bracketed.
- (13) On page 21, line 19, the brackets around the words "costs and" have been removed.
- (14) On page 21, line 20 the brackets around the words "including reasonable attorney's" have been removed and the proposed language "legal costs, and attorneys'" has been deleted.
- (15) On page 22, a new SECTION 3 has been inserted to read as follows: "The substantive provisions of this Act shall amend any other conflicting Act enacted by the regular

session of 1982, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made by any other Act enacted by the regular session of 1982".

(16) On page 22, SECTIONS 3 and 4 have been renumbered to become SECTIONS 4 and 5.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2388-82, 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. 2388-82, S.D. 1, H.D. 1, C.D. 1.

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

Senator Yee did not sign the report.

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

Representative Kawakami did not sign the report.

Conf. Com. Rep. No. 55-82 on S.B. No. 2638-82

The purpose of this bill is to require any seller, lessor, broker or agent of real property located in flood hazard areas to timely notify prospective buyers, lessees or tenants that the property lies within the boundaries of a designated flood hazard area.

This bill would provide protection for prospective buyers, lessees and tenants prior to occupying or acquiring an interest in property located within the boundaries of special flood hazard areas as designated on FIA (Flood Insurance Administration) maps promulgated by the United States Department of Housing and Urban Development.

Your Committee upon further consideration has made the following amendments to S.B. No. 2638-82, S.D. 1, H.D. 1:

(1) On page 1, lines 14-16, added the words, "; provided that notification shall not be required in the case of a rental lease or rental agreement, the term of which is less than one year", after the word, "property".

(2) A new section 2 regarding failure to notify has been added to the bill and reads as follows:

"The failure of any seller, lessor, broker, or agent to notify prospective buyers, lessees, and tenants prior to any sale or lease of property cannot be used to invalidate an otherwise valid contract".

(3) A penalty section has also been added to the bill and reads as follows:

"Any person who violates this chapter shall be fined not less than \$100 nor more than \$500".

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2638-82, 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. 2638-82, S.D. 1, H.D. 1, C.D. 1.

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

Senator Kuroda did not sign the report.

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

Representative Shito did not sign the report.

Conf. Com. Rep. No. 56-82 on S.B. No. 65

The purposes of this bill are to define land trust ownership more clearly and to require a trustee to disclose the names of the beneficiaries of a trust in certain circumstances involving the real property held in trust.

The bill requires a trustee to disclose the names of present beneficiaries of a trust in response to the service of a complaint or similar court pleading. Disclosure by the trustee of the identity of every beneficiary is also required upon notice of violation of an ordinance, rule, regulation or law relating to the property held in trust. Your Committee amended this provision by specifying that the disclosure by the trustee shall be made to the governmental agency giving notice of the violation or responsible for enforcement of the regulation or law.

The bill also required the trustee to disclose the beneficiaries before the trustee enters into any contract with the state or county government, which involves the land trust property. Your Committee amended this provision by requiring that the disclosure be included as part of the contract rather than to require disclosure before the contract is made in order to avoid the potential for abuse arising from disclosure.

Disclosure of the beneficiaries is further necessary where an application is made to a governmental agency for a permit or license relating to the land which is the subject of the land trust.

Your Committee also amended the bill by deleting the provision which provides that the names of the beneficiaries shall be a matter of public record, from subsection (c) relating to notice of violation of the law; subsection (d) relating to a contract involving the land, with the state or county government; and subsection (e) relating to an application made to a governmental agency for a permit or license regarding the land. Your Committee feels that sufficient disclosure is made through the recorded conveyance document provided for in subsection (a).

Finally, the bill provides that trustees shall not be liable for disclosing the names of beneficiaries pursuant to statutory requirements.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 65, 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. 65, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Blair, Hirono, Taniguchi and Ikeda
Managers on the part of the House

Representative Hirono did not sign the report.

Conf. Com. Rep. No. 57-82 on S.B. No. 2147-82

The purpose of this bill is to amend the Hawaii Revised Statutes to provide for increased penalties for persons convicted of driving a vehicle while under the influence of intoxicating liquor.

The bill provided that a person convicted of a first offense or for an offense not preceded within two years of a previous conviction, of driving under the influence of intoxicating liquor shall be sentenced to an educational or counseling program and 72 hours of community service work. Your Committee amended the bill by providing that a person convicted of a first offense or for an offense not preceded within four years of a previous conviction shall be sentenced to a fourteen-hour minimum alcohol abuse rehabilitation program, and to two of the following three penalties: (1) 72 hours of community service; (2) thirty-day suspension of license; (3) 48 hours of imprisonment. Your Committee felt that the increased period from two to four years is consistent with the concept of a stricter penalty for drunk driving.

The bill provided that for an offense occurring within two years of a prior drunk driving conviction, the sentence imposed shall be a fine between \$250 and \$1,000, and ten days imprisonment or a ninety-day suspension of license. Your Committee amended this provision by providing that the sentence for an offense occurring within four years of a prior conviction shall include two of the following three penalties: (1) a fine between \$250 and \$1,000 or community service work for a period between 72 hours and 150 hours; (2) ninety-day suspension of license; (3) imprisonment for a period between two days and ten days. Your Committee decided that an imprisonment period from two to ten days would emphasize to the offender and the courts the seriousness of the offense and at the same time retains the discretion with the judge regarding the length of imprisonment to impose.

The bill also provided that the sentence imposed for an offense occurring within two years of two prior convictions shall be a fine between \$500 and \$1,000, imprisonment for a period between 30 days and 180 days, and revocation of the driver's license. Your Committee amended this provision to provide that the sentence imposed for an offense within four years of two prior convictions shall be set at: (1) a fine between \$500 and \$1,000; (2) revocation of license for a period between one year and five years; and (3) imprisonment for a period between ten days and 180 days.

Your Committee further amended the bill by including a provision that prohibits a person whose license has been revoked as a result of a drunk driving conviction, from applying for a new driver's license for the period of time specified by the court.

The bill further provides that for a person convicted of driving while his license is suspended or revoked, a fine between \$250 and \$1,000 or imprisonment for not more than one year shall be imposed.

Finally, your Committee amended the bill to provide that a person who improperly refuses to submit to a blood or breath test to determine alcohol content shall have his license revoked for a period of twelve months instead of the present law of six months.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2147-82, 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. 2147-82, S.D. 2, H.D. 1, C.D. 1.

Senators Carpenter, George and Uwaine
Managers on the part of the Senate

Representatives Nakamura, Blair, Hirono, Taniguchi and Liu
Managers on the part of the House

Conf. Com. Rep. No. 58-82 on S.B. No. 2467-82

The purpose of this bill is to regulate the ownership of firearms and ammunition.

The bill prohibits the ownership, possession, sale or transfer of certain types of ammunition, designed primarily to penetrate metal and protective armor or to explode upon impact.

Your Committee is aware that technological advancements have made available ammunition, commonly known as "KTW bullets," which are designed for its high penetration capabilities. These bullets have the capability of piercing through several slabs of metal while retaining its lethality. These bullets are also very susceptible to ricocheting or exiting a person and fatally wounding another. Your Committee is also concerned about the availability of bullets which are designed to explode upon impact. These types of bullets are also prohibited by this bill.

Your Committee amended the bill to provide that in addition to someone who is under indictment, no person who has waived indictment for or has been convicted of a felony shall own or have in his possession or under his control any firearm or ammunition. Your Committee feels that a person who waives a grand jury indictment and is charged by way of complaint has the same status as one who is charged by grand jury indictment.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2467-82, 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. 2467-82, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Nakamura, Chun, Kawakami, Waihee and Liu
Managers on the part of the House

Conf. Com. Rep. No. 59-82 on H.B. No. 2348-82

The purpose of this bill is to provide law enforcement agencies a reasonable opportunity to investigate and recover stolen precious or semi-precious metals and gems.

Your Committee is aware that secondhand jewelry and precious or semi-precious metals are particularly difficult to recover when stolen because they are easily altered or disassembled, such as through a melting process. The vagueness of the present statutory provisions

relating to secondhand dealers has hampered the investigation and recovery of stolen jewelry and property which may be sold to businesses engaged in buying and selling precious metals and gems.

This bill will require licensed dealers of precious or semi-precious metals or gems to maintain specific records regarding all articles received. It will also allow law enforcement agencies to inspect a dealer's records required to be kept for the purpose of identifying and recovering stolen property.

The bill also requires dealers of precious or semi-precious metals or gems to retain the articles for a ten day period. A violation of the proposed chapter is deemed to be a misdemeanor.

Your Committee agrees with the intent of the bill to provide law enforcement officials a tool with which to recover stolen material and has therefore amended the bill as follows:

- (1) The definitions of precious or semi-precious metals and gems have been amended to delete reference to secondhand or previously owned items.
- (2) Add the requirement that the price paid by a dealer for a certain item be retained by the dealer as a record of transaction.
- (3) Require that the metal or gem purchased by a dealer be retained in the county where purchased instead of at the dealer's place of business. The concern of your Committee is that the purchased items be kept in an area easily inspected by county law enforcement officials and at the same time adequately protect dealers.
- (4) The section on inspections permitted is amended to allow the county police departments to inspect the items purchased by the dealer as well as the records. Your Committee feels that this will aid law enforcement officials in a more substantial manner than the inspection of only dealers' records.

Your Committee has also made technical amendments to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2348-82, 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. 2348-82, H.D. 1, S.D. 2, C.D. 1.

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

Representatives Blair, Kawakami, Waihee and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 60-82 on H.B. No. 2377-82

The purpose of this bill is to protect the right to continue farming operations in the State of Hawaii by limiting the circumstances under which agricultural operations may be considered a nuisance.

This bill protects the right of legitimate farmers to continue farming despite urban encroachment in their areas by providing that a court or other official cannot declare a farming operation a nuisance if certain specific conditions are met by the farming operation.

Your Committee, upon further consideration, has made the following amendments to H.B. No. 2377-82, H.D. 1, S.D. 1;

- (1) The phrase "by county" has been inserted on page 2, line 7, after the word "zoned" to clarify the definition of a farming operation.
- (2) The definition of nuisance has been amended by deleting references to Chapter 342, Hawaii Revised Statutes, relating to environmental quality, and inserting "provided that nothing in this Chapter shall in any way restrict or impede the authority of the State to protect the public health, safety, and welfare."
- (3) On page 3, lines 11-12, deleted the phrase "Notwithstanding any other law to the contrary,".
- (4) On page 3, lines 11-12, deleted references to Chapter 342, Hawaii Revised Statutes.

(5) On page 4, lines 8-11, deleted the section on "public support".

(6) Other technical, non-substantive amendments.

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

Senators Carpenter, Ajifu, Cobb and Soares
Managers on the part of the Senate

Representatives Takamine, Honda, Kawakami, Waihee and Monahan
Managers on the part of the House

Conf. Com. Rep. No. 61-82 on H.B. No. 2606-82

The purpose of this bill is to direct the Department of Social Services and Housing to notify the county prosecutors and police chiefs whenever a prisoner is admitted to participate in a work furlough, conditional release or other similar program in writing thirty days prior to the commencement of the program. This bill further provides that moneys earned from employment under such programs be first used to satisfy a restitution order and then to reimburse the state. Any moneys remaining shall be held in trust for the committed person.

Your Committee has made the following amendments to this bill:

- (1) The requirement that moneys earned be first used to satisfy a restitution order before any other expenses is deleted.
- (2) The list of expenses for which the state is to be reimbursed is replaced by room and board.
- (3) Moneys remaining after expenses have been paid is to be held in an individual account for the committed person rather than in trust.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2606-82, 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. 2606-82, H.D. 2, S.D. 1, C.D. 1.

Senators Carpenter, Kuroda and Uwaine
Managers on the part of the Senate

Representatives Honda, Hashimoto, Kawakami, Shito and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 62-82 on S.B. No. 2454-82

The purpose of this bill is to prohibit discrimination in real property transactions because of age or parental status.

Presently, chapter 515, Hawaii Revised Statutes, prohibits discriminatory practices in real estate transactions because of race, sex, color, religion, marital status, ancestry, or physical handicap. This bill is intended to protect several other groups who are discriminated against because of age and parental status, particularly the elderly and parents of minor children.

Your Committee has amended the bill by adding language to section 515-3, Hawaii Revised Statutes, to make it a discriminatory practice for a property owner or any other person engaging in a real estate transaction to refuse to engage in such a transaction because of the potential tenancy of a minor child or children.

Your Committee feels that discrimination against families with children in real estate transactions is not uncommon. In fact, advertisements for housing which indicate "no children" can be seen on a daily basis in the classified section of the newspapers. Often, families with young children are only able to find sub-standard housing, causing physical hardship and mental stress.

Your Committee, however, wants to emphasize that in making this amendment, the Legislature has no intention of interfering with the owner's right to limit the number of occupants in the owner's dwelling unit.

Your Committee has further amended this bill by adding language to section 515-2, Hawaii Revised Statutes, to define parental status.

Your Committee has decided not to expand the discriminatory practices to include age at this time. The reference to age could have an adverse effect on housing projects currently established for the benefit of elderly persons.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2454-82, 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. 2454-82, S.D. 1, H.D. 1, C.D. 1.

Senators Young, Abercrombie and Holt
Managers on the part of the Senate

Representatives Nakamura, Blair, Hirono, Taniguchi and Ikeda
Managers on the part of the House

Representatives Nakamura and Ikeda did not sign the report.

Conf. Com. Rep. No. 63-82 on H.B. No. 2407-82

The purpose of this bill is to prohibit the issuance, renewal or transfer of a liquor license unless the applicant does not owe any federal taxes.

Under present law, applicants must present a certificate to the liquor commission issued by the Department of Taxation, certifying payment of all state taxes. This bill would extend that requirement to taxes owed to the federal government and for which a judgment exists.

Your Committee notes that the present provision has aided the Tax Department in the collection of taxes, and therefore feels that the same assistance can be provided to the Internal Revenue Service for the collection of federal taxes.

While in agreement with the intent of the bill to assist in the collection of delinquent taxes, your Committee has amended the bill by requiring that the certificate show that no delinquent taxes are owing rather than showing only that no judgments for delinquent taxes exist.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2407-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2407-82, H.D. 1, S.D. 1, C.D. 1.

Senators Yamasaki, Cobb and Henderson
Managers on the part of the Senate

Representatives Blair, Hirono, Taniguchi, Liu, Kunimura, Kiyabu, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong
Managers on the part of the House

Representatives Albano, Lacy and Narvaes did not sign the report.

Conf. Com. Rep. No. 64-82 on H.B. No. 2176-82

The purpose of this bill is to enable the Board of Land and Natural Resources to more effectively act against those who encroach upon public lands. The bill provides for penalties for encroachment, including a fine, the payment of administrative costs incurred in the enforcement of the law against those who encroach, and the payment of damages.

The bill also permits the board to set, charge and collect interest charges on delinquent leases, sales, or other accounts administered by the department.

The House draft of this bill provided for a mandatory imposition of the fines, administrative costs, and the payment of damages. The Senate draft changed the mandatory feature to a discretionary one.

Your Committee has amended this bill to make the imposition of the penalties mandatory.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2176-82, 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. 2176-82, H.D. 2, S.D. 1, C.D. 1.

Senators Henderson, Carpenter and Kuroda
Managers on the part of the Senate

Senator Kuroda did not sign the report

Representatives Sakamoto, Baker, Hirono, Okamura and Monahan
Managers on the part of the House

Representative Monahan did not sign the report.

Conf. Com. Rep. No: 65-82 on H.B. No. 3136-82

The purpose of this bill is to clarify existing legislation which authorizes the Aloha Tower Development Corporation to redevelop the Aloha Tower complex.

In addition to clarifying existing legislation, earlier drafts of this bill had authorized the state director of finance to make loans to the Aloha Tower Development Corporation to cover predevelopment costs. Senate draft 1 deleted the loan provision as being inappropriate.

Your Committee has amended the bill, adding a new Section 7, which appropriates \$500,000 to the Aloha Tower Corporation for predevelopment costs. This is done here to assure a direct relationship between the substance of the bill and the means to carry out its intent.

Your Committee has also changed the effective date of the bill to July 1, 1982. This is to clarify the intent that fiscal year 1982-1983 moneys are being appropriated.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3136-82, 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. 3136-82, H.D. 2, S.D. 1, C.D. 1.

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

Senator George did not sign the report.

Representatives Sakamoto, Fukunaga, Hashimoto, Kawakami and Monahan
Managers on the part of the House

Representative Monahan did not sign the report.

Conf. Com. Rep. No. 66-82 on H.B. No. 2318-82

The purpose of this bill is to mandate that the Intake Service (ISC) be the primary agency responsible for providing services to volunteer referrals and to admitted persons; correctional diagnostic and evaluation services for diversionary determinations; pre-sentence investigations and post-sentence correctional prescription program planning for Section 353-1.3 which established the Intake Service Center Board.

Under this bill, the Intake Service Center will be given the responsibilities that the Hawaii Correctional Master Plan had envisioned. Other criminal justice system agencies will also be responsible in furnishing pertinent information to the ISC to enable them to carry-out their duties.

Your Committee finds that coordination and cooperation among the agencies in the criminal justice system is mandatory for the system to be effective against crime. Numerous debates have transpired over the question of whether the ISC should remain with the Department of Social Services and Housing or be transferred to the Judiciary. This question remains unanswered.

Resolutions have been introduced in both the House and Senate addressing the need for a study on the re-organization of the Corrections Division and other related agencies. Specifically, these resolutions are H.R. 350 and S.R. 124.

Your Committee finds that the issue of the placement of the Intake Service Centers should be held in abeyance until studies called for by H.R. 350 and S.R. 124 have been completed.

Your Committee upon further consideration has deleted the amendments to the Intake Service Center and has retained the provision to repeal the Intake Service Center Board.

The repeal of the Intake Service Center Board was agreed upon due to the conflicts that have existed among the board members. These conflicts have prevented the board from exercising their duties to determine policies and to make decisions for the operations of the Intake Service Center. This situation has hampered the director of the Intake Service Center from developing positive directions for the centers. In addition, the Intake Service Center Board has suggested in the past to end its existence. On March 5, 1982, the board voted on this suggestion and among the nine members present, seven voted in favor, 1 opposed and 1 abstained. This was the first meeting where the board had a quorum.

Your Committee has further amended this bill by giving the State Executive Director of the Intake Service Center the responsibility to set the policies, directions, priorities, and procedures for the operation of the Intake Service Centers. These responsibilities are now held by the Intake Service Center Board, which is to be eliminated by this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2318-82, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2318-82, S.D. 1, C.D. 1.

Senators Carpenter, Uwaine, Anderson and Soares
Managers on the part of the Senate

Senator Anderson did not sign the report.

Representatives Honda, Hashimoto, Kawakami, Shito and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 67-82 on H.B. No. 2177-82

The purpose of this bill is to permit the state to recover administrative costs and damages in addition to a fine in cases where a person is found to be in violation of regulations regarding permitted use of lands in forest and water reserve zones.

In recent years, the state has been forced to expend large amounts of time and money to enforce its rules and regulations against alleged violators.

The House draft of this bill made the imposition of the penalties mandatory. The Senate draft made this feature discretionary.

Your Committee, upon further consideration, has amended the bill to make the imposition of the penalties mandatory.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2177-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2177-82, H.D. 1, S.D. 1, C.D. 1.

Senators Henderson, Saiki and Uwaine
Managers on the part of the Senate

Representatives Sakamoto, Baker, Hirono, Okamura and Monahan
Managers on the part of the House

Representative Monahan did not sign the report.

Conf. Com. Rep. No. 68-82 on H.B. No. 2230-82

The purpose of this bill is to establish that the rate payable by the public utility to the producer of non-fossil generated electricity shall be in conformance with the rules promulgated by the Public Utilities Commission (PUC) entitled "Standards for Small Power Production and Cogeneration."

Your Committee finds that the state remains inordinately dependent upon imported petroleum and must rely on this fuel to meet over ninety per cent of its energy needs. The energy security and economic stability of the state dictate that the state take action to further encourage the development and utilization of indigenous non-fossil fuels.

An important incentive necessary to promote and encourage the development and commercialization of sources capable of producing and supplying electricity generated from non-fossil fuels is an assurance that these suppliers are paid an equitable rate for their non-fossil fuel generated electricity. This bill would help provide such an assurance.

After careful consideration your Committee has amended H.B. No. 2230-82, H.D. 1, S.D. 1, by establishing that the rate for purchase of firm energy, as defined in Section 6-74-1 of the rules promulgated by the PUC entitled "Standards for Small Power Production and Cogeneration," in effect as of February 18, 1982, shall not be less than one hundred per cent of the estimated avoided costs as defined by Section 6-74-17, subject to Section 6-74-23, of the aforementioned rules.

Your Committee considered seriously the desire of the City and County of Honolulu for their requested minimum price of ninety per cent of avoided cost in order to better compute the returns on facilities such as HPOWER. Unfortunately, your Committee was unable to come to an agreement that would fully satisfy both the aims of the City and County of Honolulu and the intent of your Committee to provide an incentive to cogenerators of firm power generally. However, it is the strong belief of your Committee that the prospective HPOWER plan should be able to earn a return in excess of ninety per cent of avoided cost.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2230-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2230-82, H.D. 1, S.D. 1, C.D. 1.

Senators Soares, Anderson and Campbell
Managers on the part of the Senate

Representatives Baker, Blair, Kawakami, Takamine and Isbell
Managers on the part of the House

Conf. Com. Rep. No. 69-82 on H.B. No. 2092-82

The purpose of this bill is to amend Chapter 287, Hawaii Revised Statutes, to conform inconsistencies in the chapter and to clarify the applicability of section 287-20, Hawaii Revised Statutes.

Your Committee upon consideration has amended this bill to direct the fees collected for traffic abstract reports to the state general fund.

Your Committee made wording changes in Section 6, subsection (2) to read:

"(2) Conviction of adjudication under part V of chapter 571 by reason of any moving violation offense involving a motor vehicle [in motion] if the motor vehicle is in any manner involved in an accident in which any person is killed or injured, or in which damage to property results to an apparent extent in excess of \$300[.] and there are reasonable grounds for the administrator to believe that the defendant is at fault."

Your Committee has also amended Section 7, line 2 of the bill to add:

"within one year of the effective date of this Act,"

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2092-82, 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. 2092-82, H.D. 2, S.D. 1, C.D. 1.

Senators George, Cobb and Kobayashi
Managers on the part of the Senate

Representatives Blair, Albano, Andrews, Dods, Fukunaga, G. Hagino, Hashimoto, Hirono, Kiyabu, Kobayashi, Kunimura, Levin, Nakasato, Okamura, Taniguchi, Ikeda, Lacy and Marumoto

Managers on the part of the House

Conf. Com. Rep. No. 70-82 on S.B. No. 544

The purpose of this bill is to lower the general excise tax rate on producers engaged in the business of mariculture.

Your Committee finds that this bill, as received, does not adequately address the current inequities imposed by the general excise tax in this area. Under current law, industrial producers pay only a wholesale general excise tax rate on their raw materials whereas persons engaged in farming and aquaculture--the farming or ranching of aquatic or marine species--must pay the full retail general excise tax rate on most of their raw materials. The bill, as received, does not specify that sales of materials or equipment to the agricultural

and aquacultural industries shall be considered wholesale sales. Therefore, it is conceivable that members of the agricultural and aquacultural industries will have to pay the retail portion of the general excise tax instead of the wholesale portion of the tax in the purchase price of their materials or equipment.

Your Committee therefore has amended the bill as follows:

(1) By deleting the words "mariculture" and "maricultural" in lines 7 and 9, of section 1 of the bill, respectively, and inserting the word "aquaculture".

(2) By designating as Section 2 of the bill an amendment to section 237-4, Hawaii Revised Statutes, to specify that wholesale sales include sales of materials or commodities to a licensed agricultural or aquaculture producer or agricultural or aquacultural cooperative association which are to be incorporated by the producer or cooperative association into a finished or saleable product to be sold and not otherwise used by the producer or cooperative association, including materials or commodities essential to the planting, growth, nurturing, and production of agricultural or aquacultural commodities.

(3) By inserting as Section 3 of the bill a boilerplate provision stipulating that this bill shall supersede any other conflicting bills enacted by the regular session of 1982 only with respect to the substantive amendments of this bill.

(4) By renumbering the existing sections of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 544, 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. 544, S.D. 2, H.D. 1, C.D. 1.

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

Representatives Matsuura, Kunimura, Kawakami, Morioka, Okamura, Takamine,
Isbell and Monahan
Managers on the part of the House

Conf. Com. Rep. No. 71-82 on S.B. No. 1287

The purpose of this bill is to propose a number of amendments to Part II, chapter 88, Hawaii Revised Statutes, relating to the Employees' Retirement System. The amendments are the result of a directive from the System's Board of Trustees to review the statutes governing the System, and are intended to clarify the existing law as well as to fill certain gaps.

Your Committee upon further consideration has made the following amendments to S.B. No. 1287, S.D. 1, H.D. 1.

(1) Section 88-62 was amended by reinserting the word "accumulated" to modify the word "contributions" in each of the three instances where it was deleted, and reinserted the words "member did not withdraw his accumulated" where they were deleted.

(2) Section 88-96 was amended by reinserting the word "accumulated" to modify the word "contributions" in each of the three instances where it was deleted.

(3) The effective date of this Act was changed to July 1, 1982.

(4) Two typographical, nonsubstantive changes were made.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1287, 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. 1287, S.D. 1, H.D. 1, C.D. 1.

Senators Yamasaki, Uwaine and Young
Managers on the part of the Senate

Representatives Takitani, Kunimura, de Heer, Nakasato and Lacy
Managers on the part of the House

Conf. Com. Rep. No. 72-82 on S.B. No. 2269-82

The purpose of this bill is to make an appropriation from the general fund to the office of the Attorney General to finance personnel training programs of the state and county criminal justice agencies.

Your Committee finds that personnel engaged in combatting crime must be specially trained in order to develop the expertise and skills necessary to effectively combat and deter criminal activity.

Your Committee has amended the bill by requiring that \$30,000 of the \$300,000 appropriated for the criminal justice training fund shall be expended for the training of county prosecutors in skills required for the effective prosecution of persons charged with the offense of rape.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2269-82, 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. 2269-82, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Carpenter and Kawasaki
Managers on the part of the Senate

Representatives Kunimura, Nakamura, Andrews, Kawakami, Nakasato, Waihee, Liu
and Marumoto
Managers on the part of the House

Conf. Com. Rep. No. 73-82 on S.B. No. 2926-82

The purpose of this bill is to provide funding for the continued operation of nine substance abuse programs for the last quarter of fiscal year 1981-1982.

The Statewide Services Grant for community-based drug abuse treatment services which the state currently receives from the National Institute on Drug Abuse will terminate on March 31, 1982. This bill will help to minimize the severe impact of the loss of federal drug treatment funds to the state. The state has appropriated the matching share of this grant for the past four years, including approximately \$85,521 remaining for the period April 1, 1982 through June 30, 1982.

Your Committee upon further consideration has made the following amendments to S.B. No. 2926-82, S.D. 1, H.D. 2.

1. Deleted the phrase "for the purpose it was" after the word "funds" on page 2, line 6.
2. Changed the word "re-appropriate" on page 2, line 12 to "release" and changed the word "shall" to "may" on page 2, line 18.
3. Deleted the listing of each agency and the amounts appropriated for each.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2926-82, 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. 2926-82, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Segawa, Chun, Honda, Kobayashi and Wong
Managers on the part of the House

Conf. Com. Rep. No. 74-82 on S.B. No. 2955-82

Your Committee has amended S.B. No. 2955-82, S.D. 2, H.D. 2, to reflect the position that where feasible the counties should be responsible for providing emergency medical services. The feasibility is dependent on the population of a county because of the large fixed costs inherent in providing emergency medical service. Your Committee notes that the cost of an ambulance station on Maui is virtually the same as on Oahu. Yet the busiest station (Kahului) had only 1,201 emergency calls in 1980, whereas the busiest station on Oahu had 5,870 calls. Therefore, your Committee fixed responsibilities and funding on the basis of the ability of the respective counties to provide emergency medical services.

The bill would provide a payment of 100 per cent of direct costs in the first year and 80 per cent each year thereafter of operating emergency medical services to counties with a population of 200,000 or more. At the same time these counties would be able to collect fees for services and keep the resulting revenue. Counties with a population of less than 200,000 operating emergency medical services would receive a state payment of 100 per cent of direct costs and for indirect costs as defined in the bill. In such counties that do not operate emergency medical services the state may operate or contract out the operation of such services.

Your Committee has amended the bill as follows:

1. Changing the purpose clause to clarify that funding for emergency ambulance services is also included.
2. Clarifying that the reassigned function of emergency medical services is only for counties with a population of 200,000 or more.
3. Modifying the findings and purpose clause of part XVIII of chapter 321, Hawaii Revised Statutes, to eliminate the reference to "statewide" in describing the emergency medical services system.
4. Refining the definition of direct costs by excluding the costs of billing and collecting.
5. Changing the definition of "emergency medical services" by eliminating the word "perceived" in regard to need and adding "psychological" sickness as a condition that may need emergency medical services.
6. Refining the definition of "indirect costs".
7. More clearly establishing the functions and duties of the Department of Health in section 321-224, Hawaii Revised Statutes.
8. Eliminating the function of coordinating and allocating emergency medical resources in widespread emergencies such as natural disasters.
9. Deleting the reference to "statewide" and "state" in section 321-225, Hawaii Revised Statutes, when referring to the emergency medical services advisory committee and its functions and instead referring to "emergency medical services".
10. Clarifying that each of the consumer and allied health profession members of the advisory committee shall represent a separate county.
11. Deleting section 321-226, Hawaii Revised Statutes, "Emergency medical services and systems, standards".
12. Specifying in section 321-228, Hawaii Revised Statutes, that counties with a population of less than 200,000 may apply to operate emergency medical services or the state may operate or contract with a private agency to provide such services. Clarifying that only counties with a population of 200,000 or more shall implement emergency medical services or contract for the provision of such services. Specifically excluded training of personnel as a responsibility for such county.
13. Clarifying in section 321-232 that the state shall establish and collect reasonable fees for services rendered by the state as well as the counties or private agencies. Deleting the requirement of section 321-232, Hawaii Revised Statutes, which specified that all revenues collected by the Department of Health and the respective counties be deposited into the state general fund. Added in its place provisions which (1) place the responsibility on the Department of Health for collecting fees in counties with a population of less than 200,000 with the resulting revenues deposited in the state general fund and (2) place the responsibility for collecting fees on the respective counties with a population of 200,000 or more with the resulting revenues deposited into such counties' general fund.
14. Adding a provision to section 321-232, Hawaii Revised Statutes, which would allow the Department of Health to withhold funds if ambulance report forms are inadequately completed.
15. Emphasizing that ambulance services will not be denied to any person by removing the provision from section 321-232, Hawaii Revised Statutes, and creating a new section 321-233, Hawaii Revised Statutes, solely for that reason.

16. Deleting provisions in section 321-232, Hawaii Revised Statutes, related to actions to be taken on the non-payment of fees.

17. Revising the provisions regarding grants-in-aid to counties by changing the term "grant-in-aid" to "funding" and by providing counties with a population of 200,000 or more a payment of 100 per cent of direct costs in fiscal year 1983 and 80 per cent in each year thereafter. Counties with a population of less than 200,000 which operate an emergency medical services system shall receive a payment equal to 100 per cent of direct costs and for indirect costs as defined in section 321-222, Hawaii Revised Statutes.

18. Adding a new section 6 of the bill which would require that the City and County of Honolulu provide status reports in 1984 and 1985.

19. Nonsubstantive, technical amendments have also been made.

The Department of Health should submit a tentative negotiated cost and funding request to the legislature prior to each fiscal contract year.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2955-82, 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. 2955-82, S.D. 2, H.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 75-82 on H.B. No. 3092-82

The purpose of this bill is to ensure an equitable and fair election system in Hawaii by clarifying and confirming that a reapportionment commission shall, after being duly constituted, continue in existence until it has completed a reapportionment plan and an election is held thereunder.

Section 2, Article IV of the Hawaii Constitution provides in part that:

"Members of the commission shall hold office until each reapportionment plan becomes effective or until such time as may be provided by law".

Presently no statutory law provides for any other term of office for the commission members other than as provided in Section 2, Article IV, of the State Constitution, that the members shall hold office until the plan becomes effective. In considering and enacting H.B. No. 7 implementing Section 4, Article III, of the State Constitution (which has since been redesignated as Section 2, Article IV), and in particular Section 1 (which is now §25-1, Hawaii Revised Statutes), the Hawaii Legislature in 1969 noted as follows:

"No amendment was made to section 1 of the bill. This section provides for the appointment, certification, office and term of the members of the commission in the manner prescribed in section 4, Article III, of the State Constitution. The Constitution is precise and detailed in this respect, and your Committee believes it sufficient to set forth the manner of appointment, certification, etc., by reference without statutory elaboration thereof." (1969 House Journal at page 625)

Inasmuch as the legislature never intended to provide, by statute, any other term of office than as set forth in Section 2, Article IV, so much of Section 25-2(a), Hawaii Revised Statutes, which provides in part that "the final legislative reapportionment plan . . . shall, upon publication, become effective as of the date of filing" was never intended to be and cannot be, construed to define the constitutional intent of when a plan becomes effective. The plain meaning of a reapportionment plan which becomes effective under the constitution is one that is valid and capable of being legally implemented and operative. And, inherent in the use of the word "effective" under Section 25-2(a), Hawaii Revised Statutes, is that the plan is valid and capable of being legally implemented and operative. Thus, under existing constitutional and statutory provisions, the legislative intent has always been that a reapportionment commission is not discharged simply upon a reapportionment plan being filed and published if such a plan is found to be invalid and neither capable of being legally implemented nor operative for any election.

In order to clarify and confirm this intent the bill provides that members of the commission shall hold office until a general election is held under a reapportionment plan of the commission, commencing with the 1981 reapportionment year.

Your Committee has amended the bill to provide an additional alternative to allow a reapportionment commission to devise a reapportionment plan by providing that a new commission is constituted under Article IV, section 2 of the State Constitution, which provides for constituting a new reapportionment commission when reapportionment is required by court order.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3092-82, 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. 3092-82, H.D. 1, S.D. 1, C.D. 2.

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

Representatives Nakamura, Hirono, Kawakami, Waihee and Liu
Managers on the part of the House

Representative Liu did not sign the report.

Conf. Com. Rep. No. 76-82 on S.B. No. 2904-82

The purpose of this bill is to create a state water commission, and to establish guidelines for the commission to use in the formulation of a state water code.

Your Committee finds that the state, pursuant to Article XI, section 7 of the Constitution of the State of Hawaii, has an obligation to protect, control, and regulate the use of Hawaii's water resources for the benefit of its people by establishing conservation, quality, and use policies; defining beneficial and reasonable uses; protecting water resources and related environments; establishing criteria for water use priorities; safeguarding existing water uses; and establishing procedures for regulating all water uses. The formulation and enactment of a state water code is necessary to implement this constitutional provision. In order to accomplish this constitutional mandate, your Committee finds that a comprehensive review of the numerous issues relating to Hawaii's water resources should be conducted by a specially designated study group.

Your Committee upon further consideration has made the following amendments to S.B. No. 2904-82, S.D. 1, H.D. 2.

(1) The membership of the commission was changed by deleting as members the chairman of the Board of Agriculture, the dean of the College of Tropical Agriculture of the University of Hawaii, and three appointees by the governor, and by adding a provision that the president of the Senate and the speaker of the House of Representatives shall jointly appoint five members to the commission, which shall include two members of the general public, one each to represent major water users, the Hawaii Farm Bureau Federation, and major land owners.

(2) The commission is established within the Office of the Legislative Reference Bureau for administrative purposes.

(3) The Office of the Legislative Reference Bureau, instead of the Department of Land and Natural Resources, is designated as the expending agency.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2904-82, 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. 2904-82, S.D. 1, H.D. 2, C.D. 1.

Senators Yamasaki, Abercrombie, Ajifu and Henderson
Managers on the part of the Senate

Representatives Sakamoto, Kiyabu, Andrews, Fukunaga, Hashimoto, Kawakami, Morioka, Nakasato, Isbell and Marumoto
Managers on the part of the House

Representative Morioka did not sign the report.

Conf. Com. Rep. No. 77-82 on S.B. No. 2760-82

The purpose of this bill is to authorize the sale of special purpose revenue bonds to assist retail and wholesale businesses under the provisions of chapter 39A, part V, Hawaii Revised Statutes, relating to assistance to industrial enterprises.

Your Committee has determined that small business in this state has suffered heavily in recent years, and finds that it is appropriate and in the public interest that the power to issue special purpose revenue bonds be exercised to provide some relief to this important sector of our community.

Your Committee has amended this bill by changing the appropriated amount of \$20,000,000 to \$2,500,000, by specifically designating the recipient of the special purpose revenue bond proceeds as required by law, by deleting Section 2 and renumbering the remaining sections accordingly, by removing the reference to rules adopted under chapter 91 and by substituting the appropriate Hawaii Revised Statute citation in Section 3.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2760-82, 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. 2760-82, S.D. 2, H.D. 1, C.D. 1.

Senators Yamasaki, Kuroda and Henderson
Managers on the part of the Senate

Representatives Kunimura, Hirono, Kiyabu, Sakamoto and Wong
Managers on the part of the House

Conf. Com. Rep. No. 78-82 on S.B. No. 2955-82

Your Committee has amended S.B. No. 2955-82, S.D. 2, H.D. 2, C.D. 1, to make further technical corrections.

Because of the importance of this bill, your Committee wishes to reiterate the discussion presented in the prior conference committee report on this bill.

Your Committee has amended S.B. No. 2955-82, S.D. 2, H.D. 2, to reflect the position that where feasible the counties should be responsible for providing emergency medical services. The feasibility is dependent on the population of a county because of the large fixed costs inherent in providing emergency medical service. Your Committee notes that the cost of an ambulance station on Maui is virtually the same as on Oahu. Yet the busiest station (Kahului) had only 1,201 emergency calls in 1980, whereas the busiest station on Oahu had 5,870 calls. Therefore, your Committee fixed responsibilities and funding on the basis of the ability of the respective counties to provide emergency medical services.

The bill would provide a payment of 100 per cent of direct costs in the first year and 80 per cent each year thereafter of operating emergency medical services to counties with a population of 200,000 or more. At the same time these counties would be able to collect fees for services and keep the resulting revenue. Counties with a population of less than 200,000 operating emergency medical services would receive a state payment of 100 per cent of direct costs and for indirect costs as defined in the bill. In such counties that do not operate emergency medical services the state may operate or contract out the operation of such services.

Your Committee has amended the bill as follows:

1. Changing the purpose clause to clarify that funding for emergency ambulance services is also included.
2. Clarifying that the reassigned function of emergency medical services is only for counties with a population of 200,000 or more.
3. Modifying the findings and purpose clause of part XVIII of chapter 321, Hawaii Revised Statutes, to eliminate the reference to "statewide" in describing the emergency medical services system.
4. Refining the definition of direct costs by excluding the costs of billing and collecting.
5. Changing the definition of "emergency medical services" by eliminating the word "perceived" in regard to need and adding "psychological" sickness as a condition that may need emergency medical services.
6. Refining the definition of "indirect costs".
7. More clearly establishing the functions and duties of the Department of Health in section 321-224, Hawaii Revised Statutes.

8. Eliminating the function of coordinating and allocating emergency medical resources in widespread emergencies such as natural disasters.
9. Deleting the reference to "statewide" and "state" in section 321-225, Hawaii Revised Statutes, when referring to the emergency medical services advisory committee and its functions and instead referring to "emergency medical services".
10. Clarifying that each of the consumer and allied health profession members of the advisory committee shall represent a separate county.
11. Deleting section 321-226, Hawaii Revised Statutes, "Emergency medical services and systems, standards".
12. Specifying in section 321-228, Hawaii Revised Statutes, that counties with a population of less than 200,000 may apply to operate emergency medical services or the state may operate or contract with a private agency to provide such services. Clarifying that only counties with a population of 200,000 or more shall implement emergency medical services or contract for the provision of such services. Specifically excluded is training of personnel as a responsibility for such county.
13. Clarifying in section 321-232 that the state shall establish and collect reasonable fees for services rendered by the state as well as the counties or private agencies. Deleting the requirement of section 321-232, Hawaii Revised Statutes, which specified that all revenues collected by the Department of Health and the respective counties be deposited into the state general fund. Added in its place provisions which (1) place the responsibility on the Department of Health for collecting fees in counties with a population of less than 200,000 with the resulting revenues deposited in the state general fund and (2) place the responsibility for collecting fees on the respective counties with a population of 200,000 or more with the resulting revenues deposited into such counties' general fund.
14. Adding a provision to section 321-232, Hawaii Revised Statutes, which would allow the Department of Health to withhold funds if ambulance report forms are inadequately completed.
15. Emphasizing that ambulance services will not be denied to any person by removing the provision from section 321-232, Hawaii Revised Statutes, and creating a new section 321-233, Hawaii Revised Statutes, solely for that reason.
16. Deleting provisions in section 321-232, Hawaii Revised Statutes, related to actions to be taken on the non-payment of fees.
17. Revising the provisions regarding grants-in-aid to counties by changing the term "grant-in-aid" to "funding" and by providing counties with a population of 200,000 or more a payment of 100 per cent of direct costs in fiscal year 1983 and 80 per cent in each year thereafter. Counties with a population of less than 200,000 which operate an emergency medical services system shall receive a payment equal to 100 per cent of direct costs and for indirect costs as defined in section 321-222, Hawaii Revised Statutes.
18. Adding a new section 6 of the bill which would require that the City and County of Honolulu provide status reports in 1984 and 1985.
19. Nonsubstantive, technical amendments have also been made.

The Department of Health should submit a tentative negotiated cost and funding request to the Legislature prior to each fiscal contract year.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2955-82, 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. 2955-82, S.D. 2, H.D. 2, C.D. 2.

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

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

Conf. Com. Rep. No. 79-82 on S.B. No. 2434-82

The purpose of this bill is to establish and examine the agricultural and land use policies

of the state, and to develop an agricultural land classification system to be used to identify important agricultural lands pursuant to Article XI, section 3, of the Constitution of the State of Hawaii.

Under this bill, (1) the Board of Agriculture would have to adopt the Agricultural Lands of Importance to the State of Hawaii (ALISH) system; (2) all public agencies would have to use the ALISH system to identify important agricultural lands of the state and conduct public policy with that identification as a base; (3) the Board of Land and Natural Resources would be required to consider ALISH criteria prior to disposition of public lands; and (4) the Land Study Bureau Land Classification System would be replaced with the ALISH system in section 205-4.5, Hawaii Revised Statutes, relating to permissible uses within agricultural districts.

Your Committee upon further consideration has made the following amendments to S.B. No. 2434-82, S.D. 2, H.D. 2.

(1) Section 1 of the bill, which adds a new chapter to the Hawaii Revised Statutes, entitled "Agricultural Lands of Importance to the State of Hawaii", has been amended by replacing the proposed sections 2 and 3 of that new chapter with 6 new sections which would:

(A) Create an agricultural land study commission and provide for its membership and appointment;

(B) Provide for its purpose, which shall be to examine the agricultural and land use policies of the state and advise the legislature in the development of an agricultural land classification system which shall be used to identify important agricultural lands pursuant to Article XI, section 3, of the Constitution of the State of Hawaii;

(C) Provide for input from the general public;

(D) Provide that prior to the convening of the Regular Session of 1983, the commission shall submit a report, advising the legislature of its findings and recommendations, which report shall cover areas detailed in the section;

(E) Provide guidelines for the report referred to in (D) above; and

(F) Provide that prior to the convening of the Regular Session of 1984, that the commission shall submit another report, this time advising the legislature on its findings and recommendations with regards to further matters as detailed in the section.

The agricultural land study commission will be the mechanism used to identify the important agricultural lands of the state, as well as assess and propose the standards and criteria for their protection and preservation, and will fulfill the mandate contained in Article XI, Section 3, of the Constitution of the State of Hawaii.

It is the intent of your Committee that the proposed study commission take into account in its deliberations any adopted agriculture functional plan.

(2) Sections 2 and 3 of the bill, which would not be in consonance with the proposed agricultural land study commission outlined above have been deleted.

(3) Certain technical changes of a nonsubstantive nature have been made.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2434-82, 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. 2434-82, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Ajifu and Henderson
Managers on the part of the Senate

Representatives Sakamoto, Kiyabu, Albano, Fukunaga, G. Hagino, Hashimoto, Kawakami,
Takamine, Isbell and Monahan
Managers on the part of the House

Conf. Com. Rep. No. 80-82 on S.B. No. 2816-82

The purpose of this bill is to facilitate implementation of Act 207, Session Laws of Hawaii 1981, which established standards for the making or awarding of grants, subsidies, and purchases of service by the state.

Your Committee has amended the bill by deleting the section amending the definition of purchase of service as the amendment would have removed virtually all purchases of service from the requirements of Act 207.

Your Committee prefers to retain the existing statutory definition of purchase of service in Act 207 and has therefore also deleted from the definition the exclusion of professional health services and other personal services provided by an individual on an hourly or contractual basis.

Your Committee has also deleted the section of the bill which amended those qualifying standards, as it is unnecessary for the purposes of this bill since it contained no substantive amendments and renumbered the bill accordingly.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2816-82, 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. 2816-82, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Abercrombie and Kawasaki
Managers on the part of the Senate

Representatives Takitani, Kunimura, Kiyabu, Taniguchi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 81-82 on S.B. No. 2978-82

The purposes of this bill, as received, are to establish a Hawaii cancer fund, to be administered by the Hawaii Cancer Commission, for the purposes of receiving and expending funds for the acquisition and dispensing of the anti-viral agent interferon and to appropriate state general fund revenues to provide a grant-in-aid to the Hawaii Cancer Commission for fiscal year 1982-83 for establishing the fund.

The bill, as received, appropriates an unspecified amount of state general fund revenues for a grant-in-aid to the Hawaii Cancer Commission for the 1982-83 fiscal year. Upon further consideration, your Committee finds that a \$950,000 appropriation is appropriate for the purposes of the bill and therefore designates that such amount be appropriated by the bill.

Your Committee, upon further consideration, has further amended the bill as follows:

- (1) By specifying that the appropriation shall be lapsed on June 30, 1985.
- (2) By specifying in Section 2 of the bill that such funds shall also be used for the research and development of a clinical interferon-biological response modifier program.
- (3) By adding a provision requiring the commission to submit an annual report to the governor and the legislature twenty days prior to the convening of the 1983, 1984, and 1985 legislative sessions.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2978-82, 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. 2978-82, S.D. 1, H.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 82-82 on H.B. No. 3143-82

The purpose of this bill is to clarify certain provisions relating to the Hawaii Community Development Authority's (HCDA) powers and rules, and to provide HCDA with specific authorization for the implementation of the Kaka'ako Community Development District Plan and Rules.

Your Committee, upon further consideration, has amended the bill to:

- (1) Clarify the language of the bill with regard to provisions relating to the district-wide improvement program. The amended language was formulated in consultation with and under the advice of the state's bond counsel.

(2) Amend the expanded boundary provision of the bill to exclude part of the area makai of Ala Moana Boulevard.

(3) Clarify the provision which authorizes HCDA to perform necessary district-related infrastructure construction and relocation activities outside of the Kaka'ako Community Development District.

(4) Establish a Reserved Housing Loan Program to assist purchasers of the reserved housing units which are expected to be built in the Kaka'ako Community Development District.

Your Committee also made technical, nonsubstantive amendments to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3143-82, 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. 3143-82, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Abercrombie, Henderson and Young
Managers on the part of the Senate

Representatives Sakamoto, Albano, de Heer, Fukunaga, G. Hagino, Kawakami, Kiyabu, Morioka, Isbell and Wong
Managers on the part of the House

Conf. Com. Rep. No. 83-82 on H.B. No. 2312-82

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

Your Committee has assessed the Judiciary's operating request and has appropriated \$2,460,720 of general funds to support a broad range of judicial functions.

The increased cost of providing judicial support services is addressed with increased funding for legal fees, foster care placements and new alternative adult treatment services. Nine positions and \$198,931 are provided to implement the juvenile intake agency.

Thus far, the Judiciary has taken significant strides in the development of a competent security program. In part, this is due to the implementation of a comprehensive training component. While your Committee recognizes that the need for twenty security guard positions will be realized upon the completion of the circuit court complex in fiscal year 1983-84, it has included these positions with three month funding to allow for the training of new security guards. In addition, eight law enforcement officer positions have been funded to assume the prisoner transport function.

The addition of management analysis capabilities, your Committee feels will further promote the Judiciary's objective of maintaining an efficient and effective administration. Further, your Committee commends the Judiciary for taking the necessary steps to review, analyze, and improve the Judiciary's financial management system. Phase I of a 4-year project is nearing completion and includes the central accounting system, procurement procedures, records and other asset management aspects. Subsequent phases will address small estates and guardianships, budgeting, program evaluation, program analysis, and divisional fiscal procedures.

The costs of both the additional and new appropriations for capital improvement projects amount to \$15,776,000, as shown in Section 3 and Section 5 of this bill and will be funded by general obligation bonds.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2312-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2312-82, H.D. 1, S.D. 1, C.D. 1.

Senators Yamasaki, Anderson, Abercrombie, Ajifu, Campbell, Carpenter, Cayetano, Henderson, Kawasaki, Saiki, Yee and Young
Managers on the part of the Senate

Representatives Kunimura, Kiyabu, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong
Managers on the part of the House

Conf. Com. Rep. No. 84-82 on H.B. No. 2907-82

The purpose of this bill is to require the Department of Social Services and Housing to provide personal care services to eligible individuals.

This bill is to prevent the unnecessary institutionalization of individuals with physical or mental illnesses who are unable to adequately care for themselves, but who do not need the degree of care provided by nursing facilities. Some individuals with physical or mental illnesses cannot live in independent settings without custodial care assistance. These individuals are often placed in nursing facilities for lack of better alternatives. Personal care services will enable some of these individuals to remain in their homes by making available periodic custodial care services sufficient for their needs.

Your Committee has amended this bill by appropriating the sum of \$500,000 for the purposes of this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2907-82, 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. 2907-82, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Saiki and Uwaine
Managers on the part of the Senate

Representatives Kunimura, Chun, Ige, Kobayashi and Lacy
Managers on the part of the House

Conf. Com. Rep. No. 85-82 on H.B. No. 2113-82

The purpose of this bill as received is to provide for the development of an elderly rental housing project in cooperation with the nonprofit Ewa Housing Foundation by making an appropriation to the rental assistance fund created by Act III, Session Laws of Hawaii 1981.

Act III, Session Laws of Hawaii 1981, established a rental assistance fund to enable the Hawaii Housing Authority to assist owners of rental housing accommodations in maintaining their rental rates at levels appropriate for low- and moderate-income individuals and families.

The funds appropriated by this bill would be invested and the earnings used to make rental assistance payments to owners of eligible rental housing projects, thereby reducing the rents paid by eligible tenants. The principal amount of the rental assistance fund would be preserved.

Upon further consideration, your Committee has amended this bill to provide that "the sum appropriated by this Act shall be expended by the Hawaii Housing Authority for the purposes of the rental assistance fund."

Your Committee intends, however, that this appropriation be expended on the development of an elderly housing project in cooperation with the nonprofit Ewa Housing Foundation.

Your Committee has changed the effective date of the act to "upon its approval."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2113-82, 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. 2113-82, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Holt, Uwaine and Young
Managers on the part of the Senate

Representatives Shito, Kiyabu, Chun, Hashimoto, Honda, Ige, Kobayashi, Toguchi, Lacy and Liu
Managers on the part of the House

Conf. Com. Rep. No. 86-82 on H.B. No. 3078-82

The purpose of this bill is to require sales agents and acquisition agents who solicit or encourage others to attend time share presentations to have a real estate salesman's or broker's license. It is also intended to require the director to adopt regulations governing the activities of sales and acquisition agents.

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

Section 1 of the bill provides an index which is intended to make the bill easier to read and understand. Section 2 of the bill prohibits sales agents or acquisition agents from soliciting or encouraging others to attend a time share presentation without a real estate license except as otherwise provided by rules and regulations adopted by the director. It goes on to provide that the director must adopt rules and regulations and specifies the parameters of some of those rules. Among other things, they must strictly regulate and discourage the use of telephone solicitation of guests in hotels. They must also permit the use of acquisition agents not licensed under chapter 467 to man a booth for the purpose of inviting persons to attend a time share sales presentation or a related entertainment function. In most cases, these persons would be covered by a blanket bond posted by the acquisition agent or sales agent who employed them. The director may elect to adopt a simplified registration procedure for these acquisition agents.

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

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

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

Section 4 of the Act establishes the conditions under which the purchaser's funds may be released from escrow without a closing. It permits the escrow agent to disburse the buyer's funds when a contract is cancelled or in the event of a default. Subsection (4) parallels section 514A-67 of the Horizontal Property Act which permits the disbursement of buyers' funds to pay the costs of construction. A developer will not be permitted to use buyers' funds for construction until he files a copy of the executed construction contract and a copy of the executed performance and labor and material payment bonds insuring that all amounts due under the construction contract, including change orders up to 10%, and all other costs of construction will be paid.

Section 5 provides conditions under which buyers' funds may be disbursed upon closing. Subsections (a) and (b) establish that upon closing, the funds will be disbursed according to the requirements of the financial arrangements made by the developer to protect the buyers from foreclosure of mortgages existing at the time of the closing and later mortgages made by the developer. The following are examples of the problems your Committee perceived and intended this bill to prevent.

Suppose the buyer pays \$10,000 for the right to use a condominium apartment for the next 40 years. Suppose that the condominium apartment already has a mortgage loan

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

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

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

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

Section 6 of the bill defines a number of terms which are necessary to clarify and establish a manner in which the bill works. Your Committee did not define the term "closing" in the bill. Typically, in an ownership plan, closing occurs when the ownership interest is conveyed to the purchaser. In a time share use plan, closing would occur when a time share unit is conveyed to the trustee or the owner's association to accommodate the new member. If the developer retains title to the time share unit, closing would occur when all of the required conditions to closing had been satisfied and a time share unit is added to the program to accommodate the new members. If alternative arrangements for protecting buyers are established, the director must use her discretion to pinpoint the acts which must occur and conditions which must be fulfilled at closing.

Section 7 of the bill contains the requirement that adequate arrangements be made to pay any existing or future mortgages or other blanket liens before the buyer's funds can be given to the developer. There are undoubtedly a number of ways in which the buyers can be protected from foreclosure of mortgages. This bill permits three, and gives the director the discretion to accept alternative arrangements, particularly when the director is dealing with a time share plan which is operating in more than one state and has several sets of statutory or regulatory requirements to comply with. Your Committee understands that California, Florida, and presumably other states which are regulating time sharing are also providing their departments of real estate the discretion to permit alternative buyer protections to be established.

One approach permitted by section 7 of the bill is the "non-disturbance agreement" approach. Where there is an existing mortgage, the lender already has rights to foreclose the property. Your Committee did not think it would not be wise to pass a law changing those existing rights, even if it could be done constitutionally. A non-disturbance agreement does not change the lender's rights without its consent.

A non-disturbance agreement works as follows: The developer approaches the lender and asks him to sign a "non-disturbance agreement". That is a document in which the lender agrees that if the mortgage is foreclosed, the rights of the buyers of time share interests will not be disturbed. In other words, the lender can foreclose, but the buyers will continue to have the right to use the property just as though the lender had not foreclosed. This means that anyone who purchases the property at a foreclosure sale will take it subject to all the rights of the time share owners. The lender may, in return, require that the contracts with the time share buyers provide that if the lender forecloses, the buyers' payments will be given to the lender in place of the developer. Section 8 of the bill specifically spells out the effect of recording a non-disturbance agreement.

In some cases, a lender may not be willing to sign a non-disturbance agreement. If that happens, this proposed bill permits the developer to make other arrangements to insure the payment of the mortgage. The surety bond route requires that the developer post a bond in an amount equal to 110% of the money owed on the mortgage. As an alternative, the developer may post a letter of credit providing for payment of the amount due under

the blanket lien. Your Committee understands that surety bonds and letters of credit may be difficult for developers to obtain, so it is unlikely that developers will use these with great regularity. However, there may be some developers who are able to use these alternatives. In that case, the director should be empowered to accept such assurance of payment as satisfactory protection from existing mortgages.

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

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

Section 7 of the bill provides that the developer may establish a trust and deposit in the trust notes, agreements of sale or contracts which obligate the buyers to pay the balance of their purchase price. The requirements for the trust and the trustee's qualifications are spelled out in sections 11-14. Under section 12, all payments made by the purchasers would be paid to the trustee. The trustee would then use the money paid by the purchasers to pay the regular monthly payments due under the mortgage and to establish a sinking fund to pay off the balance of the mortgage when it becomes due.

To make this sort of approach work, it is necessary that the developer put in the trust notes, agreements of sale, or contracts which will produce enough money to pay the total amount due under the mortgage. In that regard, sections 12 and 13 of the bill restrict the developer from closing the sale of any time share interest until enough buyers have signed notes, agreements of sale, or contracts sufficient to total the amount necessary to pay the mortgage.

Because payment of the blanket liens under the trust approach depends on the buyers paying their monthly payments, your Committee was concerned that such an arrangement might be construed as a capital security under Chapter 485. To avoid this, subsection (c) was included in section 7 of the bill.

Section 10 of the bill establishes general requirements for the trust instrument. Among other things, it requires that the time share owners association expressly be made a third-party beneficiary of the trust. This way the association may act on behalf of the owners in enforcing the provisions of the trust. It prohibits the trustee from further encumbering the time share unit; this will protect buyers from foreclosure of liens placed on the property after closing.

Section 11 of the bill establishes requirements for trustees. It specifically requires that the trustee be a bank, savings and loan association or trust company meeting the requirements of rules adopted by the director. Also, the trustee must post a fidelity bond and maintain errors and omissions insurance as required by rules adopted by the director. It should be noted that the trustee need not be a Hawaii entity. This is because some multi-state projects may use out-of-state trustees, such as the Bank of California, and so long as the trustee is financially sound and responsible, the director should be willing to approve it.

Your Committee notes that in some instances, some developers may have difficulty in convincing a single trustee to handle both the title holding functions and the collection functions of a lien payment trust. Under such circumstances, your Committee would have no objection to the use of two trustees, one for title holding purposes and one to operate as a collection agent. Alternatively, a single title holding trustee could contract with another entity to handle collection work, and so long as the trustee is ultimately responsible for the collection agent's handling of the purchaser's funds, the arrangement would be satisfactory. Accordingly, occasionally in the bill references are made to the trustee and its collection agent. Finally, in the case of time share plans with units in several states, it may be necessary to have more than one title holding trustee if the law of such states requires the trustee to be a local trust company.

Section 12 establishes detailed requirements which must be met if the trust approach is to be used to pay existing mortgages or other blanket liens, as specified in greater detail. It requires the developer to deposit assets which equal or exceed 110% of the money owed on the mortgages or other blanket liens. Also, it requires the trustee to retain in the trust a reserve fund in an amount at all times sufficient to pay three months successive

monthly installments on the mortgages, and if installments are due less frequently than monthly, then enough to make the next six months installment. It also requires that the trustee establish a sinking fund to pay any balloon payments or any similar amounts due under any mortgages or other blanket lien. Also, it requires that the trustee pay all real property taxes, assessments, and insurance premiums. It permits the trustee to disburse funds from the trust and establishes that they may only be disbursed first to the payment of real property taxes and lease rent, second to current payments due on the blanket liens and any sinking fund established for them, next to the trustee and its collection agent, and finally to the developer and its sales agents.

Section 14 of the Act gives the developer the option to switch from a trust approach to a non-disturbance agreement or surety bond or letter of credit approach at future dates.

Section 15 authorizes the Director of Regulatory Agencies to approve alternative arrangements for purchaser protection in meeting the requirements of section 7. This is because many time share plans operate in more than one state and sometimes have properties in several countries. This makes it impossible, or at least impractical, for your Committee to address every conceivable problem which may crop up in multi-state or multi-national time share developments. Accordingly, the director should be given flexibility to accept alternative arrangements which adequately protect the buyers under the circumstances.

The use of alternative arrangements may prove worthwhile in numerous situations which do not necessarily involve multi-state developments. For example, suppose the owner of the hotel wishes to convert a portion of the hotel to time sharing purposes. In such circumstances, the hotel may have a large existing mortgage and it may not be practical to convey the hotel to a trust. Under those circumstances, the director might, for example, require that the hotel owner issue individual leases for rooms in the time share plan and either have those leases run in favor of a trustee, or convey the leasehold to the owner's association and record a notice of time share plan on the leasehold interest in the units. Then, the developer would have to make some arrangements with the existing lien holder either for the release of those units from the mortgage, or for subordination to the buyer's rights. Your Committee understands that a lender is not likely to agree to subordinate its rights to the rights of buyers easily, and it fully expects that in many circumstances, this will require the developer to pay a release price to the mortgagee in order to obtain the subordination and non-disturbance agreement or release from the blanket mortgage. Nevertheless, when it comes to weighing the protection of the purchaser's interest versus the interest of the developer in avoiding paying such amounts, your Committee has made the value judgment that protection of the buyer's interest is paramount.

Another circumstance in which an alternative arrangement may arise is that where a developer of a time share plan in condominium units wishes to establish a lien payment trust, but does not want to convey the units to a trustee before the time share interests are sold, for fear of triggering the due on sale clause under the existing mortgage. Under those circumstances, your Committee could easily envision an alternative arrangement which contemplated the recording of a notice of time share plan on the unit as well as the establishment of a lien payment trust without conveying title to the trustee. Various other combinations of the protections provided in this bill, as well as numerous other alternative arrangements could be discussed in this committee report, but suffice it to say that your Committee will leave the matter to the discretion of the director. To be sure that the director has adequate resources to consider a proposed alternative arrangement, however, your Committee has added a section to the bill which permits the director to hire competent counsel to examine the proposed arrangements. Many attorneys in the state, especially those experienced in the condominium development and construction lending fields, would be capable of reviewing a proposed alternative structure. In some cases, the attorney may need the assistance of other professionals such as accountants or financial analysts to provide supporting information and opinions upon which the attorney's opinion will be based. Your Committee has made provision for this.

Section 16 of the bill establishes requirements for surety bonds and letters of credit posted as security for the payment of any blanket liens. Section 17 requires the establishment of an owners association for the protection of the time share owners. Section 18 defines the scope of this act as it applies to in-state and out-of-state sales.

Your Committee has amended Section 13 of the bill to deal with the situation where the developer owns an entire hotel or condominium or cooperative project and has a single large blanket lien on the project as a whole. In such cases, the requirements under Section 12 that the developer fully fund the lien payment deposit with assets equal to 110 percent of the blanket lien before closing impose a *de facto* pre-sale requirement which may involve the sale of up to half of the time share interests in the whole project.

To avoid this, your Committee has added what is now subsection (c) to Section 13 of the bill. This subsection permits the developer of a time share plan such as that described above to pledge his equity in the buildings to the buyers as security for the performance by the developer of his obligations to the buyers under the time share plan. If, for example, the developer defaults in his obligation to pay the blanket liens, upon the sale of the building in foreclosure, the buyers would be entitled to receive any proceeds from the foreclosure sale remaining after the payment of the blanket liens.

As a condition to being permitted to use this approach, the developer must first establish that at least 25 percent of the appraised value of the building is free from encumbrances. In other words, any mortgages or other blanket liens on the timeshare units, when taken in the aggregate, may have a maximum loan to value ratio of 75 percent; the remaining 25 percent of the value is pledged to the buyers. In determining the appraised value of the building, the appraiser shall base his evaluation on the non-time share use to which the building was put before it was converted to time share use.

The developer must then sign and record a mortgage of the 25 percent of unencumbered value to the owner's association or a trustee. Alternatively, when the developer transfers the property to a trustee, a share of the beneficial interest in the trust representing the 25 percent of the value of the project would be held for the benefit of or transferred to the association on behalf of the owners. In either case, the developer's rights to the project and his equity in it must be subordinate to the rights of the owners.

The final condition to the use of this approach requires the developer to present to the director a statement of program of financing and cash flow analysis demonstrating to the satisfaction of the director that the developer will have enough money to make all payments on the blanket liens until the project is sold out. Obviously, the developer cannot rely solely on sales proceeds since income from sales will probably rise at a gradual pace.

If the developer satisfies the foregoing conditions, the amount of the lien payment deposit is reduced from 110 percent of the balance due under the blanket lien to a 110 percent of a pro-rata share of the balance due. The "pro-rata share" is computed by comparing the number of time share units for the use of which the sale of time share interest has closed to the total number of time share units in the project. For example, in a floating use time share plan with 100 time share units, before the developer closed the sale of the first 51 weeks, he would have to post purchase money contracts or other assets in the lien payment trust. The value of these assets would equal 1/100 of the blanket lien multiplied by 110 percent. When the next 51 weeks are sold, before closing, the trust assets would have to be increased to 2/100 of the blanket lien balance, multiplied by 110 percent. On the third unit, 3/100 would be required, multiplied by 110 percent, and so forth.

When the trust assets reach 110/100 (110 percent) of the lien balance, the developer may switch from the subsection (c) election to a subsection (b) approach, and thereupon, the mortgage on the 25 percent of the appraised value pledged to the buyers may be released.

Your Committee has also reduced the installment payment reserve requirement to a pro-rata share when the developer elects to go the subsection (c) route under Section 13.

Your Committee has changed the effective date of the Act to September 1, 1982, for programs registered on or after that date, and to January 1, 1983 for programs registered before September 1, 1982. Your Committee expects the director to have adopted rules and regulations as necessary to fully implement the provisions of this Act in time to handle filings made before September 1, 1982.

Finally, your Committee amended Section 15 of the bill to give the director the discretion to determine when to hire an attorney to review a developer's proposal for alternative arrangements. In some cases, alternative arrangement proposals may become fairly standardized so there would be no point in requiring a complete review of repeat proposals once they have been thoroughly reviewed and approved on the first use, unless experience dictates that an approved proposal is no longer satisfactory, or is subject to abuse or should otherwise be reconsidered.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3078-82, 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. 3078-82, H.D. 1, S.D. 1, C.D. 2.

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

Representatives Blair, Baker, Dods, Shito and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 87-82 on S.B. No. 2829-82

The purpose of this bill is to provide appropriations for specific capital improvement projects throughout the state.

Your Committee has amended this bill to include funds to be used by the various counties for water resource development projects.

Your Committee has further amended this bill by adding a new section which lapses partially or in entirety, capital improvement projects made by Act 214, SLH 1979 and Act 300, SLH 1980. These projects have been identified as low priority or have been deferred such that reductions will not have an adverse impact on the planned capital improvement program.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2829-82, H.D. 1, as amended herein, and recommends it pass Final Reading in the form attached hereto as S.B. No. 2829-82, H.D. 1, C.D. 1.

Senators Yamasaki, Anderson, Abercrombie, Campbell, Cayetano, Kawasaki, Young, Ajifu, Henderson, Saiki and Yee
Managers on the part of the Senate

Representatives Kunimura, Kiyabu, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong
Managers on the part of the House

Representative Okamura did not sign the report.

Conf. Com. Rep. No. 88-82 on S.B. No. 732

The purpose of this bill is to authorize the issuance of general obligation bonds to finance projects authorized in H.B. No. 2070-82, H.D. 1, S.D. 1, C.D. 1, Making Appropriations for the Fiscal Biennium July 1, 1981 to June 30, 1983, H.B. No. 2312-82, H.D. 1, S.D. 1, C.D. 1, Relating to the Judiciary Budget and S.B. No. 2829-82, H.D. 1, C.D. 1, Relating to Capital Improvement Projects and to finance the settlement authorized in H.B. No. 2559-82, H.D. 1, S.D. 1, C.D. 1, Making an Appropriation for Payment of Settlement between the State of Hawaii and Dillingham Corporation DBA Hawaiian Dredging and Construction Company.

The bill includes the declaration of findings required by the clause in Article VII, Section 13, of the State Constitution which states:

"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."

The effect of the foregoing constitutional requirement is that the legislature must take into account the debt service on all bonds that count against the debt limit, including outstanding bonds, authorized bonds which are yet to be issued, and bonds authorized in the Act, and demonstrate that the constitutional debt limit will not be exceeded at the time the bonds are issued.

The required declaration in Section 1 of the bill sequentially is as follows:

Paragraph 1 sets forth the basic constitutional provision governing state debt.

Paragraph 2 shows the actual debt limit applicable for fiscal year 1981-82 and estimates of the debt limit for fiscal year 1982-83 to fiscal year 1984-85.

Paragraph 3 shows the debt service requirements from fiscal year 1982-83 to fiscal year 1988-89 for outstanding general obligation bonds which must be counted against the debt limit.

Paragraph 4 states the amount of authorized but unissued general obligation bonds as of December 31, 1981 and the amount of general obligation bonds authorized by this bill.

Paragraph 5 shows the schedule for proposed general obligation bond issuance and states the assumptions concerning bond maturities.

Paragraph 6 states that the total amount of general obligation bonds which the state proposes to issue is an amount sufficient to meet the requirements of all authorized unissued bonds and the bonds authorized by this bill.

Paragraph 7 notes that certain reimbursable general obligation bonds can be excluded, and while the amount of such excluded bonds cannot be precisely determined for each issuance, the legislature makes the conservative estimate that 10 per cent of each issuance is excludable.

Paragraph 8 presents a display which compares the debt limit applicable at the time of each proposed bond issue with the greatest debt service amount resulting from each issue.

Paragraph 9 establishes the overall and concluding finding that the total amount of principal and interest estimated for the general obligation bonds authorized by this bill 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.

In making the declaration to support the authorization of bonds in this bill, your Committee has followed the cautionary guidelines expressed by the state's bond counsel who has advised:

"A court will not necessarily sustain findings of a legislative body which are merely a recitation of the requirements of a constitution or a statute. Consequently, we believe that the legislature must establish a reasonable basis for the finding that the estimated debt service...will not cause the debt limit to be exceeded at the time of issuance. We believe prudence requires the basis to be conservative in order to eliminate any allegation that the legislature first made the finding and worked back to assumptions which were consistent with such finding."

Your Committee understands that the declaration of findings in this bill fully follows the bond attorney's cautionary guidelines.

Your Committee has amended the declaration of findings in Section 1 to conform to the amount of general obligation bonds authorized by this bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 732, 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. 732, S.D. 1, H.D. 1, C.D. 1.

Senators Yamasaki, Abercrombie, Campbell, Cayetano, Kawasaki, Young, Ajifu, Anderson, Henderson, Saiki and Yee
Managers on the part of the Senate

Representatives Kunimura, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kiyabu, Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong
Managers on the part of the House

Representatives Levin, Lacy and Marumoto did not sign the report.

Conf. Com. Rep. No. 89-82 on H.B. No. 2400-82 (Majority)

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

Your Committee has amended this bill to increase the amount of exempt interest passing to the surviving spouse from the present \$100,000 to \$300,000 and lower the tax liability of direct line beneficiaries by increasing their exemption to \$150,000 from the present \$50,000. No changes are proposed for taxing the interests passing to other beneficiaries.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2400-82, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2400-82, S.D. 1, C.D. 1.

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

Representatives Kunimura, Kiyabu, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong
Managers on the part of the House

Representative Marumoto did not sign the report.

Representative Levin did not concur.

Conf. Com. Rep. No. 90-82 on H.B. No. 2070-82

The purpose of this bill is to appropriate or authorize, as the case may be, supplementary funds to various programs for the fiscal biennium 1981-83.

This bill amends the 1981 General Appropriations Act, and as amended by your Committee, it provides for additional general fund resources in the amount of \$21.2 million and special fund resources in the amount of \$8.7 million to meet the needs of operating programs.

Inasmuch as action on the 1982-83 capital improvements budget was deferred in the 1981 legislative session, the bill also provides for \$228.7 million in capital improvement appropriations for the next fiscal year. Of this total, \$73.3 million is in general obligation bond resources to be repaid directly by the general fund, \$16.8 million is in general obligation bond resources to be reimbursed by special funds, and \$1.7 million is in general fund cash.

While the state's financial health is in reasonably good condition, several compelling conditions require that the Legislature steer a prudent and conservative course in providing for additional outlays.

First, the state's tax revenue performance may not hold up to original estimates. The March 1982 general fund tax collections were down 12.6 percent from what they were a year ago, and on a cumulative basis through March, the total general fund tax revenues had increased by only five percent over the previous year's comparable period.

Second, with the federal 1983 budget still being deliberated upon by Congress and the fate of the President's proposals for a New Federalism still not known, the full effects of changes in national funding policies as they relate to state programs have not completely emerged. However, their potential effects loom large, and state resources must be safeguarded and conserved to meet the contingencies which are almost certain to occur.

Third, the national recession which is continuing has had its effects on the state's economy, and if it continues unabated for any prolonged period, the condition of jobs and income in Hawaii can be expected to worsen.

Fourth, inordinately high interest rates in the national money markets have disrupted the state's capital improvements financial plan. Even if the state is successful in re-entering the long term borrowing market, all signs indicate that borrowed funds will be harder to come by and that the state will be required to pay interest rates which are likely to increase debt service costs dramatically.

All of the foregoing conditions combine to present a persuasive reason why the Legislature must strike a delicate--though necessary--balance between providing resources to meet the more critical and urgent needs and safeguarding the state's financial condition. Your Committee believes that it has struck this balance in this bill and the other appropriation measures which have been recommended for passage. It is confident that at least over the short term, priority program needs will be met and the state's fiscal integrity will be protected.

In the remainder of this report, your Committee summarizes some of the important program appropriation recommendations which have been made in this supplemental appropriations bill.

ECONOMIC DEVELOPMENT

The prolonged national recession underscores the importance of strengthening the state's economic base. Hawaii, while not affected as severely as some other states, has experienced declines in the visitor industry and problems in the sugar and pineapple industry--industries which are the mainstay of our economy.

Aid to sugar and pineapple. As evidenced by our constitution, the people of our state are committed to the promotion of agriculture. Sugar and pineapple have long been the

backbone of Hawaii's agricultural economy, but have recently experienced major problems which threaten the life of these industries. The announced closing of Puna Sugar was unexpected, but it pointed out the fragile nature of our agricultural economy, which is affected by numerous and complex factors beyond our control. To aid the sugar industry, \$3 million for sugar research and development and \$2 million in loans for independent sugar growers have been appropriated in separate bills.

In this bill, \$200,000 in state funds is provided for the promotion of fresh pineapples in the western United States and western Canada. These funds, which are to be matched dollar for dollar by the pineapple industry, will be used for a media campaign aimed at increasing consumption of fresh Hawaiian pineapple. Your Committee agrees that a fresh Hawaiian pineapple advertising and promotion program represents the best means of increasing the viability of Hawaii's pineapple industry which is faced with tremendous world competition and a glut of canned pineapple on the market.

The dairy and pineapple industries. Other agricultural industries have been adversely affected very recently--the dairy industry due to the recent heptachlor crisis, and the papaya industry over California's restriction on crops treated with EDB. In a separate bill, a total of \$6 million is appropriated to meet these crises by way of loans to farmers who have experienced financial setbacks.

Diversified agriculture. The state is committed to the continued growth and development of diversified agriculture. Monies have been provided for the promotion of locally grown crops both here and on the mainland. Local consumption of truck crops such as lettuce, tomatoes and celery have the potential of being increased; also, there appears to be great potential for mainland markets for nursery crops such as dendrobiums. Funds are also provided for finding solutions to the marketing problems experienced by papaya and anthuriums.

Plant pest control. Hawaii's climate, while advantageous to the growing of many crops, also provides an ideal environment for many plant pests. Fruit flies have long plagued many farmers. Recently, the papaya industry was thrown into a crisis when California refused to accept crops treated with EDB, a chemical pesticide used to control fruit flies. Recognizing the problems that pests present to the success of agriculture, funds have been provided for fruit fly research and for upgrading of the Department of Agriculture's biological control research facilities. It is intended that fruit fly research include the purchase and dissemination of a chemical, currently approved by the Food and Drug Administration, which baits and kills male fruit flies without endangering other insects or plants. Other chemical pest control methods, however, pose ecological and environmental disadvantages, making biological control of pests imperative. To this end, funds have been provided to enable the Department of Agriculture to upgrade and expand its green house facilities and insectary to allow for the expansion of the biological control program.

Puna Sugar alternatives. The announced closing of Puna Sugar Company has caused concern about the impact it would have upon the sugar workers, their families and the community. Your Committee has therefore provided funds for a study of the possibilities of alternative crops being grown in Puna, and also of non-agricultural uses of the Puna Sugar lands. Another study will be aimed at assisting displaced sugar workers in finding other employment.

The fishing industry. Aquatic activities are important to Hawaii and present great economic potential. Funds are therefore provided for a study of the feasibility of having a fishing fleet support facility on Midway, and for the development of a procedure for testing fish for toxicity.

Tourism. Although the number of tourists have declined over the past two years, the visitor industry continues to be of primary importance to the economic welfare of our state. Although it is too early to know the full effect of the Hawaii '82 promotion program, advertising is known to be a necessity for attracting visitors to our islands. One million dollars has been appropriated for the promotion of tourism in many parts of the world, such as Korea, Singapore, Taiwan, Hong Kong and the continental United States. This amount supplements an appropriation made last year for the promotion in Japan of Hawaii as a visitor destination.

EMPLOYMENT

Your Committee recognizes that the slowing economy already has and will continue to have a significant impact on employment in Hawaii. It has provided for a long-range approach to dealing with the tightening job market by continuing the job statistics collection program and the career resource centers which are available to high school students,

thereby assisting these eventual job-seekers to make meaningful career decisions. Your Committee has also provided funds for the continuation of Quick Kokua, a program that creates a model which assists students in planning for post-secondary education or entering the job market.

TRANSPORTATION

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

HEALTH

Salary increase for nurses. Your Committee is concerned with the critical shortage of registered professional nurses and has provided funds for a salary increase to act as an inducement for the recruitment and retention of these professionals.

Response to federal cutbacks. The loss of federal funding has had a serious impact on such health programs as family planning, health care services, mental health, support for mental retardation and child development programs. Your Committee has provided funds to maintain services which would otherwise be eliminated due to the decrease in federal support.

Emergency Medical Services. Funds have been provided to continue the responsibility of the City and County of Honolulu for the operation of the Emergency Medical Service (EMS) system. The Department of Health will continue to monitor and coordinate the statewide system. The City and County of Honolulu also retains the responsibility of operating the Honolulu billing and collection system under which receipts will accrue to the county general fund. Your Committee has also provided funds for the upgrading of the MEDICOM communications system on Oahu; to subsidize the FY 1982-83 anticipated ambulance service contract shortfalls for the counties of Hawaii, Kauai and Maui; for other current expenses attributed to unanticipated increases in ambulance quarters lease agreements at Lihue, Hanalei and Molokai; contracted data processing; and insurance for state-owned ambulances.

SOCIAL SERVICES

Funds have been provided to the Department of Social Services and Housing to expand the small group homes program to the neighbor islands with the intent to prevent premature and unnecessary institutionalization. Your Committee has also provided funds for a feasibility study by the Department of Social Services and Housing on the nursing home without walls program due to a need for a community based alternative to the institutionalization of the functionally disabled and those elderly who are frail. The nursing home without walls program is intended to provide home health services, personal care services, homemaker services, chore services, and other appropriate services to eligible recipients in order to help maintain them in noninstitutional settings.

LOWER EDUCATION

Early intervention for school success. Funds are included for an early intervention program which is designed to prevent school failure through early identification of each child's developmental skills and learning style and more timely remediation of learning difficulties. More specifically, it entails having entering kindergarteners and first graders with learning problems to undergo five days of screening to determine their levels of skill in terms of language, motor development and auditory and visual perception; providing professional training for teachers so that they may acquire skills and competence to effectively deal with all children, including the talented and the learning disabled, and assigning a hundred master teachers on the basis of one teacher per kindergarten class for one entire school day per week to give direct services to the students. Through early identification and remediation of learning disabilities, children with such handicaps should be discovered and helped at an early stage and their opportunity to achieve school success should be vastly improved.

School Priority Fund. Reaffirming its belief that each individual school, as a unique entity, is best able to determine its own needs and program priorities, your Committee has included an appropriation for the establishment of the School Priority Fund. It is intended to promote the equitable distribution of educational resources to supplement the regular instructional program on a statewide basis; to strengthen the scope of decision-making and increase flexibility in resource allocation at the school level; and to provide a systematic method of conforming resource allocation to the unique needs of individual

schools and to ever-changing school priorities. The special needs appropriation for FY 1982-83 has been assigned to this fund, as are portions of the superintendent's reserve, the Hawaii English Program and the Leeward Reading Program appropriations for FY 1982-83. To ensure that schools receive approximately \$25 per student, \$1,692,375 of new monies has been provided.

Five hundred twenty-seven teacher positions from the Instructional Resource Augmentation/3-on-2 program have also been included in the School Priority Fund. Beginning in September 1983, these resources are to be reallocated to schools on the basis of student enrollment. A two-year time frame has been allowed to minimize disruption to ongoing programs during the period of transition.

Artists-in-the-schools. A total art education program requires two dimensions: the acquisition of skills in and knowledge of the various art forms and participation in experiences representative of those art forms. Funds are provided for the Artists-in-the-Schools program which will afford students the opportunity to observe and interact with professional artists and performers in learning situations. Specifically, a visiting artist who acquaints students with an art form on a one-time basis is provided for each of the 55 secondary schools, and a resident artist who works with students for a more extended period in a classroom situation is provided for each of the seven school districts for both the elementary and secondary level schools.

ROTC. Funds have been appropriated for the expansion of the Junior ROTC program. Presently, five schools, i.e., Farrington, Leilehua, McKinley, Roosevelt and Waianae, have one Army unit each. Because negotiations with the federal authorities have been successfully completed, beginning in September, 1982, Kailua and Radford High Schools will have an Air Force and Navy JROTC unit, respectively.

Impact Aid Funds. Having received confirmation that the remaining entitlement of federal Impact Aid Funds will not be forthcoming until September 1982, your Committee has made the necessary adjustments to ensure that teacher salary costs for the basic instructional program will be met. The adjustments include additional general funds for salaries (\$5,060,057) for FY 1981-82 and a reduction in the FY 1981-82 federal appropriation for salaries and fringe benefits (\$6,093,827). Fringe benefit costs have been assigned to other program areas.

Career Opportunities Program. An appropriation of \$197,000 is provided to continue the Career Opportunities Program as administered by the University of Hawaii Community Colleges Employment Training Office. The Employment Training Office provides a job oriented career opportunities program for secondary school students who need and are seeking alternatives to traditional curriculum offerings. The program provides job skills such as body and fender work, auto mechanics, clerical skills and food preparation to those students in the Oahu District who desire to learn those vocational skills taught in the Employment Training Program.

HIGHER EDUCATION

Your Committee has included \$2,551,205 in general fund resources and 23.15 FTE new positions to meet higher education needs. These funds are provided to meet various emergency needs, especially the deficit of funds to pay for electricity costs and the reduction in federal fund support.

The \$3,178,596 appropriated for FY 1981-82 will meet the existing electricity deficit, and \$988,444 is provided in 1982-83 FY to meet anticipated deficits. While your Committee is encouraged by the actions taken by the University to conserve electricity, it believes that a more thorough analysis of the billing system can lead to further savings.

Because higher education has not been immune to the drastic cutback of funds at the federal level, your Committee has provided additional funds to offset the loss of federal support in the School of Medicine, the College of Tropical Agriculture and Human Resources, the Water Resources Research Center, and the Vocational Education Program.

To address the critical nursing shortage on the neighbor islands, your Committee has provided funds for ICU/CCU critical care nursing and for summer clinical care training. In addition, personnel is provided to coordinate the nursing program at Maui Community College.

Your Committee is also concerned about the need to provide more equity of instruction and educational services among college campuses in the statewide system. Therefore, seven position counts and general funds are provided to the UH-Hilo campus to boost

its general education program, the developing agriculture farm laboratory at Panaewa and the continuing education program.

Finally, while your Committee is supportive of higher education, it is also deeply concerned about the growing size of the University's systemwide support service. Adjusting existing resources in this program area, your Committee has deleted ten unspecified position counts and \$204,000 from academic and institutional support services. The intent of this adjustment is to encourage the University to internally reallocate its support service resources to handle its priority needs.

PUBLIC SAFETY

Your Committee has continued funding of Misdemeanant Pilot and Community Service Restitution Programs which provide a service to the community by preventing the unnecessary incarceration of certain individuals. In other decisions to promote public safety, your Committee has: (1) strengthened the planning office in the Corrections Division of the Department of Social Services and Housing by transferring funds and positions to form a statewide coordination of all correctional facilities; (2) recognized the importance of PROMIS (Prosecutors Management Information System) in the Intake Service Center as being necessary to ensure available, updated information on individuals within the judicial system; and (3) allocated funds for 67 additional adult correctional officers to help alleviate the problem of insufficient staffing in correctional facilities.

GOVERNMENT-WIDE SUPPORT

Aid to counties for coastal zone management. The coastal zone management program is another victim of the massive cutbacks in federal funds. However, your Committee agrees that the program should be continued, at least at its current level, to assure orderly and thoughtful development of the state's coastal areas. Since the counties play an indispensable role in the management of these coastal areas, your Committee has provided state support to the counties to carry out the special management area permit function mandated by the coastal zone management law.

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

Statewide accounting system. Funds have been provided for the installation and implementation of the Hawaii/FAMIS project -- an effort to shift the central accounting system from a manual system to a computer-based system. This system will increase the reporting capabilities of the central accounting system, and provide for timely and accurate data on revenues and expenditures. These capabilities are essential in effectively managing the state's financial affairs and are important in attaining and retaining a favorable bond rating.

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

GRANTS-IN-AID

Your Committee has provided a total of \$7.957 million in fiscal year 198283 for grants-in-aid to private agencies. Your Committee believes that the services provided by these agencies serve a useful public purpose and in many instances, perform a service which the state would be required to provide if private providers did not exist.

However, your Committee is seriously concerned about the appropriateness of the Legal Aid Society's involvement in environmental class action suits such as H3 and Kahoolawe. It is your Committee's belief that the Society should concentrate its efforts on providing legal services to those individuals who are unable to afford such services rather than involving themselves in "championing" causes such as environmental issues. In light of this concern, the Society's funding has been reduced by the prorata share of funds spent on environmental class action suits.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2070-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2070-82, H.D. 1, S.D. 1, C.D. 1.

Senators Yamasaki, Anderson, Abercrombie, Ajifu, Campbell, Cayetano, Henderson, Kawasaki, Saiki, Yee and Young
Managers on the part of the Senate

Representatives Kunimura, Kiyabu, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong
Managers on the part of the House

Representative Marumoto did not sign the report.

Conf. Com. Rep. No. 91-82 on S.B. No. 2759-82

The purposes of this bill are to (1) increase the salaries or maximum salaries of certain executive branch officers, justices, judges, and certain judicial officers, and certain officers of legislative service agencies; (2) prohibit the state and counties from providing salary adjustments or increases to certain state and county officers or employees where the adjustment or increase constitutes a mandatory or automatic adjustment or increase which is, directly or indirectly, dependent upon and related to negotiated salary increases received by civil service or noncivil service employees covered by collective bargaining; and (3) create an advisory public officers and employees compensation review commission to review the compensation or salaries of certain specified categories of noncivil service state and county employees and recommend a compensation schedule for such employees.

Your Committee has made the following amendments to this bill:

(1) Salaries of justices, judges, officers of legislative service agencies, and executive branch officers, with certain exceptions, who are covered by this bill have been increased by eight, instead of ten, per cent effective July 1, 1982. The salary increase of ten per cent retroactive to July 1, 1981 for these officers in the bill, as received, has been retained. The increases in the bill, as amended, represent a compromise between the positions of both Houses, and are fair and equitable to the officers involved and affordable by the state.

(2) The salaries of the chairmen of the Public Utilities Commission, Hawaii Public Employment Relations Board, and Labor and Industrial Relations Appeals Board, chief negotiator, and stadium manager have been increased to the same level as the salary of a first deputy to a department head effective July 1, 1982. The increase of ten per cent retroactive to July 1, 1981 of the salaries of these officers has been retained. If the salaries of these officers were to be increased by ten per cent on July 1, 1982, the salaries would be the same as the salary of a department head. Although these officers have important responsibilities, your Committee does not feel that the responsibilities are as great as those of a department head. Thus, your Committee has increased the salaries to the same amount as the salary of a first deputy to a department head. This amendment reflects a perception of the level of responsibilities of these officers as compared to the level of responsibilities of a department head.

(3) The salaries of members other than the chairmen of the Public Utilities Commission, Hawaii Public Employment Relations Board, and Labor and Industrial Relations Appeals Board have been increased by ten per cent retroactive to July 1, 1982. The salaries of these officers have been increased to the same level as the salary of a second deputy to a department head effective July 1, 1982. The salary of the deputy stadium manager has also been increased to the same level as the salary of a second deputy effective July 1, 1982, but the increase of ten per cent retroactive to July 1, 1981 has been retained. The reasons for the change are similar to those specified in (2).

(4) The salary of the executive director of the Hawaii Housing Authority has been increased by ten per cent retroactive to July 1, 1981 and by eight per cent effective July 1, 1982. Under the bill, as received, the executive director would have received the same increases as a department head. The change has been made in the bill, as amended, because your Committee does not feel that the responsibilities of the executive director are equivalent to those of a department head.

(5) The salaries of the administrative director of the courts and deputy administrative director have been increased to the same levels as the salaries of an executive department head and first deputy, respectively, for both fiscal years. The linkage between the salary of the administrative director and the salary of the deputy administrative director of

the courts has been deleted. These judicial officers have responsibilities equal to the responsibilities of an executive department head and first deputy. The amendments reflect this relationship.

(6) The date by which the Public Officers and Employees Compensation Review Commission is to report its recommendations has been changed from June 30, 1984 to June 30, 1983. The termination date of the commission has also been similarly changed. The provision authorizing the expenditure of the commission's appropriation during the fiscal year 1983-1984 has been deleted as no longer necessary. No change, however, has been made to the amount appropriated to the commission. Your Committee feels that one year is sufficient time for the commission to perform its work.

(7) New provisions have been added concerning the salaries of the executive director of the Office of Children and Youth and special assistant to the governor for agriculture. The salary of the executive director has been increased to the same amount as the salary of the executive director of the Office on Aging. The salary of the special assistant for agriculture has been increased by ten per cent retroactive to July 1, 1981 and by eight per cent effective July 1, 1982.

(8) The repeal of the provisions concerning the salary of the administrative director for the governor in the bill, as received, has been changed. Instead, the provisions have been retained, but the bill, as amended, provides that the salary shall be set statutorily and increases the salary by ten per cent retroactive to 1981 and by eight per cent effective July 1, 1982.

(9) The repeal of the provisions concerning the salary of the federal programs coordinator in the bill, as received, has been changed. Instead, the provisions have been retained, but the bill, as amended, provides that the salary shall be set statutorily and increases the salary by ten per cent retroactive to July 1, 1981 and by eight per cent effective July 1, 1982.

(10) The increases in the salaries of the first deputies or assistants to heads of legislative service agencies in the bill, as received, have been changed. The bill, as amended, now provides that the salaries of these officers shall be the same as first deputy directors of department heads retroactive to July 1, 1981 and effective July 1, 1982.

(11) A new provision has been added which places a freeze on the salaries of county officers of the executive branch who are elected officers, department heads, first deputies to department heads and certain officers in the mayors' offices. The purpose section to the new provision adequately explains the reasons for making the change.

The provision in the bill, as received, which prohibits the automatic or mandatory adjustment of salaries of exempt state and county officers based on salary adjustments under collective bargaining agreements of subordinate employees has been retained.

A new provision has also been added which reduces the amount of the grant-in-aid to any county which increases the salaries of the county officers described above by an amount equal to the increase of salaries.

These provisions are complementary, do not interfere with each other, and are severable. Your Committee feels that these three provisions are required if any one is challenged and found unconstitutional.

In addition, your Committee has made technical, nonsubstantive amendments to correct clerical errors.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2759-82, 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. 2759-82, S.D. 1, H.D. 2, C.D. 1.

Senators Yamasaki, Carpenter, Uwaine, Young and Ajifu
Managers on the part of the Senate

Senator Young did not sign the report.

Representatives Takitani, Kunimura, Kiyabu, Say and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 92-82 on S.B. No. 732

Your Committee has amended S.B. No. 732, S.D. 1, H.D. 2, C.D. 1 by making further technical amendments.

Because of the importance of this bill, your Committee wishes to reiterate the discussion presented in the prior committee report on this bill.

The purpose of this bill is to authorize the issuance of general obligation bonds to finance projects authorized in H.B. No. 2070-82, H.D. 1, S.D. 1, C.D. 1, Making Appropriations for the Fiscal Biennium July 1, 1981 to June 30, 1983, H.B. No. 2312-82, H.D. 1, S.D. 1, C.D. 1, Relating to the Judiciary Budget and S.B. No. 2829-82, H.D. 1, C.D. 1, Relating to Capital Improvement Projects and to finance the settlement authorized in H.B. No. 2559-82, H.D. 1, S.D. 1, C.D. 1, Making an Appropriation for Payment of Settlement between the State of Hawaii and Dillingham Corporation DBA Hawaiian Dredging and Construction Company.

The bill includes the declaration of findings required by the clause in Article VII, Section 13, of the State Constitution which states:

"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."

The effect of the foregoing constitutional requirement is that the legislature must take into account the debt service on all bonds that count against the debt limit, including outstanding bonds, authorized bonds which are yet to be issued, and bonds authorized in the Act, and demonstrate that the constitutional debt limit will not be exceeded at the time the bonds are issued.

The required declaration in Section 1 of the bill sequentially is as follows:

Paragraph 1 sets forth the basic constitutional provision governing state debt.

Paragraph 2 shows the actual debt limit applicable for fiscal year 1981-82 and estimates of the debt limit for fiscal year 1982-83 to fiscal year 1984-85.

Paragraph 3 shows the debt service requirements from fiscal year 1982-83 to fiscal year 1988-89 for outstanding general obligation bonds which must be counted against the debt limit.

Paragraph 4 states the amount of authorized but unissued general obligation bonds as of December 31, 1981 and the amount of general obligation bonds authorized by this bill.

Paragraph 5 shows the schedule for proposed general obligation bond issuance and states the assumptions concerning bond maturities.

Paragraph 6 states that the total amount of general obligation bonds which the state proposes to issue is an amount sufficient to meet the requirements of all authorized unissued bonds and the bonds authorized by this bill.

Paragraph 7 notes that certain reimbursable general obligation bonds can be excluded, and while the amount of such excluded bonds cannot be precisely determined for each issuance, the legislature makes the conservative estimate that 10 per cent of each issuance is excludable.

Paragraph 8 presents a display which compares the debt limit applicable at the time of each proposed bond issue with the greatest debt service amount resulting from each issue.

Paragraph 9 establishes the overall and concluding finding that the total amount of principal and interest estimated for the general obligation bonds authorized by this bill 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.

In making the declaration to support the authorization of bonds in this bill, your Committee has followed the cautionary guidelines expressed by the state's bond counsel who has advised:

"A court will not necessarily sustain findings of a legislative body which are merely a recitation of the requirements of a constitution or a statute. Consequently, we believe that the legislature must establish a reasonable basis for the finding that the estimated debt service . . . will not cause the debt limit to be exceeded at the time of issuance. We believe prudence requires the basis to be conservative in order to eliminate any allegation that the legislature first made the finding and worked back to assumptions which were consistent with such finding."

Your Committee understands that the declaration of findings in this bill fully follows the bond attorney's cautionary guidelines.

Your Committee has amended the declaration of findings in Section 1 to conform to the amount of general obligation bonds authorized by this bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 732, 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. 732, S.D. 1, H.D. 1, C.D. 2.

Senators Yamasaki, Abercrombie, Campbell, Cayetano, Kawasaki, Young, Ajifu,
Anderson, Henderson, Saiki and Yee
Managers on the part of the Senate

Senator Campbell did not sign the report.

Representatives Kunimura, Albano, Andrews, Fukunaga, G. Hagino, Hashimoto, Kiyabu,
Kobayashi, Levin, Morioka, Nakasato, Okamura, Lacy, Marumoto, Narvaes and Wong
Managers on the part of the House

Representative Narvaes did not sign the report.

STANDING COMMITTEE REPORTS

SCRep. 1-82 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. 2-82 Legislative Management

Informing the Senate that S.R. No. 3 and Special Committee Report No. 1 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 3-82 Legislative Management

Informing the Senate that S.R. No. 4 has been printed and is ready for distribution.

Signed by all members of the Committee.

SCRep. 4-82 Legislative Management

Informing the Senate that S.C.R. Nos. 1 and 2, S.R. Nos. 5 to 7 and S.B. Nos. 2132-82 to 2166-82 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 5-82 Ways and Means on H.B. No. 2011-82

The purpose of this bill is to authorize funds for the expenses of the Legislature up to June 30, 1983, and also for the expenses of the legislative support agencies during the fiscal year 1982-83.

Your Committee has provided the following specific appropriations:

SENATE AND HOUSE OF REPRESENTATIVES

The amount appropriated for the Senate is \$2,103,249 and the amount appropriated for the House of Representatives is \$2,730,412. Your Committee finds that the increase is necessary to meet operating costs of the legislature covering such items as equipment, supplies, staff services, and other fundamental expenses.

LEGISLATIVE AUDITOR

Your Committee approves the appropriation of \$1,296,140 to meet the basic operating budget of the Office of the Legislative Auditor. The total includes \$75,000 to continue a program of budget review and analysis. \$150,000 is also included in the total 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

Your Committee approves the appropriation of \$149,562 to the State Ethics Commission.

LEGISLATIVE REFERENCE BUREAU

Your Committee approves the appropriation of \$1,265,851 for the Legislative Reference Bureau. The sum appropriated for information systems technical staff costs may be utilized for the hiring of analysts and programmers, equipment, supplies, and other purposes directly related to the efficient operation of the information systems of the Legislative Reference Bureau.

OMBUDSMAN

Your Committee approves the appropriation of \$337,850 for the Office of the Ombudsman.

LAPSE OF FUNDS

Appropriations under this bill are subject to lapse as of June 30, 1983.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2011-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie and Yee.

SCRep. 6-82 Legislative Management

Informing the Senate that S.B. Nos. 2167-82 to 2182-82 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 7-82 Legislative Management

Informing the Senate that S.B. Nos. 2183-82 to 2268-82 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 8-82 Legislative Management

Informing the Senate that Gov. Msg. Nos. 71 and 72, S.C.R. Nos. 3 to 14, S.R. Nos. 8 and 9 and S.B. Nos. 2269-82 to 2313-82 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 9-82 Legislative Management

Informing the Senate that S.C.R. Nos. 3 to 14, S.R. Nos. 8 and 9 and S.B. Nos. 2314-82 to 2341-82 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator Cobb.

SCRep. 10-82 Legislative Management

Informing the Senate that S.C.R. No. 15, S.R. Nos. 10 to 14 and S.B. Nos. 2342-82 to 2360-82 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator Cobb.

SCRep. 11-82 Legislative Management

Informing the Senate that S.B. Nos. 2361-82 to 2375-82 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator Cobb.

SCRep. 12-82 Ecology, Environment and Recreation on S.B. No. 1561

The purpose of this bill is to reduce the amount of litter caused by beverage containers.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1561, as amended herein, and recommends it pass First Reading in the form attached hereto as S.B. No. 1561, S.D.1, and be recommitted to the Committee on Ecology, Environment and Recreation for further consideration.

Signed by all members of the Committee except Senator Cobb.

SCRep. 13-82 Legislative Management

Informing the Senate that S.C.R. No. 16, S.R. Nos. 15 to 17 and S.B. Nos. 2376-82 to 2428-82 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator Cobb.

SCRep. 14-82 Legislative Management

Informing the Senate that S.R. No. 18 and S.B. Nos. 2429-82 to 2473-82 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator Cobb.

SCRep. 15-82 Higher Education on S.B. No. 906

The purpose of this bill is to establish a library revolving fund for the University of Hawaii system's libraries.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 906, as amended herein, and recommends it pass First Reading in the form attached hereto as S.B. No. 906, S.D. 1, and be recommitted to the Committee on Higher Education for further consideration.

Signed by all members of the Committee except Senators Cobb and Ushijima.

SCRep. 16-82 Legislative Management

Informing the Senate that S.R. Nos. 19 to 21, Stand. Com. Rep. No. 15-12 and S.B. Nos. 2474-82 to 2531-82 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator Cobb.

SCRep. 17-82 Legislative Management

Informing the Senate that S.R. Nos. 22 and 23 and S.B. Nos. 2532-82 to 2762-82 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator Cobb.

SCRep. 18-82 Judiciary on Gov. Msg. No. 46

Recommending that the Senate consent to the nomination of FRANK D. PADGETT to the Hawaii State Supreme Court as Associate Justice, for a term of ten years, in accordance with Article VI, Section 3, of the Constitution of the State of Hawaii.

Signed by all members of the Committee except Senators Cobb and O'Connor.

SCRep. 19-82 Judiciary on Gov. Msg. No. 51

Recommending that the Senate consent to the nomination of PAUL M. DE SILVA to the Circuit Court of the Third Circuit as Judge, for a term of ten years, in accordance with Article VI, Section 3, of the Constitution of the State of Hawaii.

Signed by all members of the Committee except Senators Cobb and O'Connor.

SCRep. 20-82 Judiciary on Gov. Msg. No. 71

Recommending that the Senate consent to the nomination of YOSHIMI HAYASHI to the Hawaii State Supreme Court as Associate Justice, for a term of ten years, in accordance with Article VI, Section 3, of the Constitution of the State of Hawaii.

Signed by all members of the Committee except Senators Cobb and O'Connor.

SCRep. 21-82 Judiciary on Gov. Msg. No. 72

Recommending that the Senate consent to the nomination of RONALD T.Y. MOON to the Circuit Court of the First Circuit as Judge, for a term of ten years, in accordance with Article VI, Section 3, of the Constitution of the State of Hawaii.

Signed by all members of the Committee except Senators Cobb and O'Connor.

SCRep. 22-82 Government Operations and Intergovernmental Relations on Gov. Msg. No. 87

Recommending that the Senate advise and consent to the nomination of BRIGADIER GENERAL ARTHUR U. ISHIMOTO to the post of Adjutant General, for a term ending December 6, 1982.

Signed by all members of the Committee except Senator Soares.

SCRep. 23-82 Legislative Management

Informing the Senate that S.C.R. No. 17, S.R. Nos. 24 to 28, Stand. Com. Rep. Nos. 18-82 to 22-82 and S.B. Nos. 2763-82 to 2994-82 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator Cobb.

SCRep. 24-82 Legislative Management

Informing the Senate that S.C.R. Nos. 18 and 19 and S.R. Nos. 29 to 31 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator Cobb.

SCRep. 25-82 Ecology, Environment and Recreation on S.B. No. 1893

The purpose of this bill is to provide for the establishment of cultural live-in parks.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1893, as amended herein, and recommends it pass Second Reading in the form attached hereto as S.B. No. 1893, S.D. 1, and be recommitted to the Committee on Ecology, Environment and Recreation for further consideration.

Signed by all members of the Committee except Senator Cobb.

SCRep. 26-82 Legislative Management

Informing the Senate that Stand. Com. Rep. No. 25-82 has been printed and is ready for distribution.

Signed by all members of the Committee.

SCRep. 27-82 Ways and Means on S.B. No. 2197-82

The purpose of this bill is to authorize the implementation of the 1981-83 collective bargaining agreement with the fire fighters bargaining unit. The cost items were mandated by an arbitration panel's decision, received on August 31, 1981, which is final and binding on both the union and the state, subject to approval of the Legislature.

This bill covers the cost (entirely from special funds) for 155 fire fighters assigned to the State Department of Transportation's Airports Division, and 27 City and County of Honolulu fire fighters assigned to fire boat operations in Honolulu Harbor.

The first pay raise for the contract period is scheduled for March 1, 1982, therefore this bill is recommended by the Governor for immediate passage pursuant to Section 9 of Article VII of the Constitution of the State of Hawaii.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2197-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 28-82 Legislative Management

Informing the Senate that S.C.R. Nos. 20 and 21, S.R. Nos. 32 to 34 and Stand. Com. Rep. No. 27-82 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 29-82 Government Operations and Intergovernmental Relations on S.B. No. 2408-82

The purpose of this bill is to compensate the counties for their efforts in enforcing traffic and animal violations.

Currently, all fines collected for traffic and animal control violations go into the state general fund. It is the counties, however, that bear the administrative and financial burdens relative to:

- (1) Employing police and other enforcement personnel to issue citations for all traffic and animal control violations;
- (2) Constructing and maintaining multi-deck parking facilities; and
- (3) Installing and maintaining parking meters.

S.B. No. 2408-82 would allow each county to receive from the state general fund fifty per cent of all traffic and animal control violation revenues collected by the district courts in that county. Your Committee finds that this would be an equitable method of compensating the counties for their efforts in enforcing traffic and animal control violations.

Your Committee has amended the bill to conform section 291C-111, Hawaii Revised Statutes, to the intent of this bill by deleting the last period in section 291C-111(a), Hawaii Revised Statutes, and adding the following:

"; provided that each county shall receive from the state general fund fifty percent of all revenues collected from traffic violations during the preceding fiscal year by any district court in that county.

The director of finance shall before the 16th day of September of each year pay the amount as prescribed above to the respective directors of finance of each county for the general fund of each county."

Your Committee has also amended the bill by making changes relating to recommended drafting style which have no substantive effect,

Your Committee on Government Operations and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2408-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2408-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 30-82 Tourism on S.B. No. 2392-82

The purpose of this bill is to appropriate \$750,000 in supplemental funds to the Department of Planning and Economic Development for Hawaii Visitors Bureau advertising aimed at both trade and consumer markets.

Your Committee finds that such additional funding would enhance efforts to promote Hawaii as a desirable vacation destination.

Your Committee adopted the recommendation of the Department of Planning and Economic Development and the Hawaii Visitors Bureau by amending section 2 of the bill by deleting "of which \$500,000 shall be utilized" and "The remaining \$250,000 shall be used" from page 2.

The purpose of the amendment is to allow the Department of Planning and Economic Development and the Hawaii Visitors Bureau greater flexibility in the allocation of the funds among the various uses specified in the bill.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 2392-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2392-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 31-82 Agriculture on S.B. No. 2169-82

The purpose of this bill is to repeal the existing acts relating to independent sugar growers and allow the remaining appropriated balance from these acts to lapse, and to replace these acts with a new one with an appropriation of \$2,000,000 for loans to independent sugar growers, with an effective date upon approval.

Your Committee received generally favorable testimony from a number of interested agencies and groups. The Department of Agriculture, the Hawaii county sugar steering committee, and ARESKO (an agricultural consultant firm) all supported the purpose of

the bill. The Office of Hawaiian Affairs opposed the bill on the basis that the appropriation could be better "applied unilaterally toward the enhancement of all agricultural activities via the Hawaii Revised Statutes paragraphs 155-8 and 155-9", rather than just the independent sugar producers.

Your Committee finds that the independent sugar growers are deserving of support, as found in testimony received as well as various other reports, including the proposed Agriculture Functional Plan. Furthermore, your Committee finds that the history of the special loan program to the independent sugar growers, tracing to Act 19 of the 1977 Special Session, has conclusively shown the program to be a successful one deserving of continued support.

Your Committee adopted the recommendation of the Department of Agriculture by amending subsection (c) of the proposed new section to be added to Chapter 155 by clarifying that the rules to be adopted by the department for the special independent sugar growers loan program are to be separate from the rules adopted under Chapter 155 as a whole.

The purpose of this amendment is to enable the Department of Agriculture to complete its current recodification of the Chapter 155 rules without having to delay this process by the inclusion of new independent sugar growers loan program rules. The amendment would also permit the existing rules under Act 19 to remain in effect, pending amendment or repeal by the Department of Agriculture under Chapter 91.

Your Committee also made minor technical amendments to the bill.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2169-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 2169-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Holt.

SCRep. 32-82 (Majority) Health on S.B. No. 2978-82

The purpose of this bill is to create a temporary Hawaii Cancer Commission under the Department of Health, for the purposes of administering the Hawaii Cancer Fund.

Cancer is one of the leading causes of death in Hawaii, accounting for approximately one thousand deaths annually. In many cases, standard treatments have been ineffective and patients and their families have suffered extreme hardship.

Your Committee finds that new developments in cancer research, particularly the anti-cancer agent, known as interferon, although still experimental, offers cancer victims a viable and potentially effective treatment. However, the costs of interferon treatment is extremely high.

This bill appropriates \$2,000,000 to the Hawaii Cancer Fund, from the state general revenues, for continued research, acquisition and dispensing of interferon.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2978-82 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Saiki did not concur.

SCRep. 33-82 Housing and Hawaiian Homes on S.B. No. 2201-82

The purpose of this bill is to eliminate the \$6,000 per year compensation ceiling for agricultural and aquacultural experts.

The Department of Hawaiian Home Lands testified that the ceiling was set at the time the Hawaiian Homes Commission Act was enacted in 1921. It was never adjusted to account for the increased cost of living and other salary adjustment factors over the past sixty years. Elimination of the compensation ceiling will enable the department to recruit and retain the services of qualified experts for the purposes of the program.

Your Committee has made minor technical amendments which have no substantive effect.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2201-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2201-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 34-82 Housing and Hawaiian Homes on S.B. No. 2429-82

The purposes of this bill are to increase the ceiling on the Department of Hawaiian Home Lands' farm loans to lessees and to expand the purposes for which farm loans can be made.

Testimony from the Department of Hawaiian Home Lands indicated that the present ceiling of \$35,000 is inadequate for the development and operation of a viable ranch or farm operation under current conditions of rising costs for equipment and supplies. Furthermore, homestead farmers have experienced losses due to natural disasters and unforeseen economic conditions.

The bill increases the loan ceiling from \$35,000 to \$50,000 and allows loan proceeds to be used for refinancing of farm debts, operating expenses, installation of soil and water conservation measures, and relief and rehabilitation from natural disasters and depressed economic conditions.

Your Committee has amended the bill to make technical amendments which have no substantive effect.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2429-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2429-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 35-82 Housing and Hawaiian Homes on S.B. No. 2486-82

The purpose of this bill is to appropriate funds to the Hawaii Housing Authority to conduct a study of the extent of and amount of land needed to meet Hawaii's housing needs. This study would provide current data on whether there is sufficient land zoned for residential development to produce an adequate supply of affordable housing for Hawaii's residents.

The Hawaii Housing Authority submitted testimony suggesting a more resourceful use of state funds would be the development and maintenance of a housing information system which could be used, among other things, to determine current housing needs. The Authority is required under existing law to establish such a system, but funds have not yet been appropriated for its implementation.

Further, the proposed state Housing Functional Plan implementing action A(3) (d) proposes a "...statewide study of housing information system which would coordinate the housing information needs of public and private agencies engaged in housing provision within the State."

Your Committee adopted the recommendation of the Hawaii Housing Authority to amend section 2 of the bill by adding the following phrase:

"...through the establishment of a housing information system which will provide decision-making data in a useable and updateable format."

The purpose of the amendment is to expand the original intent of the bill to encompass the development of an updateable information system in the process of carrying out a housing need study.

Further, section 2 is amended by stipulating the sum of \$172,000 for the implementation of the information system and housing need study.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2486-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2486-82, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 36-82 Housing and Hawaiian Homes on S.B. No. 2492-82

The purpose of this bill is to require the buyer or transferee of any real property in the state to withhold a percentage of all consideration paid to the seller or transferor of such real property to be forwarded to the director of taxation in payment of the tax on such sale or transfer.

Your Committee notes that the state each year loses tax revenues which could not be collected due to the failure of the taxpayer to comply with the income tax laws. This is particularly true of sales involving out-of-state purchasers. Enactment of this bill will enhance the ability of the Department of Taxation to enforce the income tax laws on these out-of-state residents dealing in real property transactions in the state.

Upon the recommendation of the Department of Taxation, your Committee has amended the withholding provisions in this bill to match the present withholding provisions of the income tax law. This amendment will enable the department to more easily administer the bill and is less cumbersome for the taxpayer. The refund and overpayment procedures have been deleted since the other refund provisions of the income tax law will apply and they are sufficient for the purposes of this bill.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2492-82, as amended herein, and recommends it pass Second Reading in the form attached hereto as S.B. No. 2492-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 37-82 Housing and Hawaiian Homes on S.B. No. 2495-82

The purposes of this bill are to provide a 100% mortgage loan guarantee on shell homes in programs carried out by nonprofit organizations for participating homeowners who qualify for Hawaii Housing Authority assistance and to appropriate \$500,000 for the state mortgage guarantee fund to initiate the program.

Your Committee received testimonies in support of shell houses, (that is, unfinished but habitable houses which owners can complete and expand as their resources, skills, and time permit), which are an attractive alternative in the housing market. They offer home ownership opportunities and future expansion possibilities to those who might otherwise be unable to afford a conventional home under present market conditions.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2495-82, 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. 38-82 Housing and Hawaiian Homes on S.B. No. 2498-82

The purpose of this bill is to appropriate monies to county central coordinating agencies to examine and document the cost and evaluate the cost-effectiveness of land development regulations within their jurisdiction.

According to testimony submitted by the City and County of Honolulu, Department of Land Utilization, "The proliferation of land use laws in recent years has been a matter of legislative concern and was, in 1977, the impetus for directing each county to establish a Central Coordinating Agency (Act 24/77). Although many of the laws and related rules and regulations have worthy objectives, the cost of governmental requirements has been estimated to be as high as 25 percent of development costs and is recognized as one of the contributing factors in increased housing prices and reduced housing inventories."

Your Committee adopted the recommendation of the Department of Land Utilization by appropriating the sum of \$50,000 for the study. The purpose of the amendment is to enable the county central coordinating agencies to carry out the intent of the bill.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2498-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2498-82, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 39-82 Housing and Hawaiian Homes on S.B. No. 2648-82

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$2,353,693, or so much thereof as may be necessary to be expended by the Office of Hawaiian Affairs for its administration and programs in fiscal year 1982-1983.

Your Committee has amended the bill by making technical changes and by changing the effective date to July 1, 1982.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2648-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2648-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 40-82 Housing and Hawaiian Homes on S.B. No. 2649-82

The purpose of this bill is to require the Office of Hawaiian Affairs to submit a budget request to the Legislature only in odd-numbered years and to permit budget submissions in even-numbered years, if necessary.

The present law requires an annual budget submission from the Office of Hawaiian Affairs to the Legislature.

The Office of Hawaiian Affairs testified that the present statute impedes its efforts to conduct the long-range fiscal planning that is necessary to provide stability and continuity to OHA's administration and programs. Further, your Committee finds that the proposed amendment will bring OHA's fiscal planning process in line with other state agencies and the Legislature's biennium system.

Your Committee has amended the bill to make minor 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. 2649-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2649-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 41-82 (Majority) Housing and Hawaiian Homes on S.B. No. 2652-82

The purpose of this bill is to provide an annual salary of \$17,500 for the trustees of the Office of Hawaiian Affairs.

Presently trustees do not receive salaries but are allowed compensation at the rate of \$50 a day for each day's attendance at meetings. The Office of Hawaiian Affairs testified that during the past year, the workload of the trustees involved an average of 3.5 board meetings per month and an average of 2.8 committee meetings per month, in addition to participation in community forums and public-speaking appearances at the request of various community groups and organizations. The office anticipates the workload and time demands of the trustees to increase in FY 1982-1983 as a direct outgrowth of OHA's program expansion and increased public awareness of OHA activities. Therefore, an annual salary would be a more fair standard of compensation than a per diem compensation.

Your Committee has amended the bill by including the last paragraph of section 10-9 which existed prior to the enactment of Act 148, Session Laws of Hawaii 1981, and which was inadvertently omitted from the section by Act 148.

Your Committee has also made technical changes to clarify its intent and purpose.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2652-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2652-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Holt.
Senator Abercrombie did not concur.

SCRep. 42-82 Housing and Hawaiian Homes on S.B. No. 2982-82

The purpose of this bill is to provide for the establishment by the Office of Hawaiian Affairs of a Hawaiian language school, separate from the public school system but not considered to be a private school.

Testimony presented by the Office of Hawaiian Affairs (OHA) indicated that the speaking and instruction of the Hawaiian language is one of that agency's primary concerns. Although OHA's main focus in this regard is the implementation of Article X, Section 4, of the State Constitution, which mandates the state to provide for a Hawaiian education program consisting of language, culture, and history in the public schools, it considers this bill as providing another means of promoting the study of the Hawaiian language.

Your Committee has amended section 2 of the bill by inserting the sum of \$30,000 as the amount appropriated for FY 1982-1983 for the establishment and operation of the Hawaiian language school.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2982-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 2982-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 43-82 Agriculture on S.B. No. 2168-82

The purpose of this bill is to lower the general excise tax rate on the sale of agricultural raw materials to the same rate currently applied to the sale of industrial raw materials.

Your Committee received favorable testimony from a large number of interested agencies and groups. In addition, the director of taxation is not opposed to this measure.

Your Committee adopted the recommendation of the Pineapple Growers Association of Hawaii that the description of the wholesale agricultural transactions which are covered by this bill include the phrase "those materials expended as essential to the planting, growth, nurturing and production of agricultural crops".

The purpose of this amendment is to clarify the bill's intent of reducing the general excise tax liability for agricultural producers.

Your Committee also adopted the recommendation of the Department of Land and Natural Resources that the bill be amended to apply to wholesale purchases of aquaculturists and mariculturists. This amendment was accomplished by expanding the definition of "producer" in section 237-5 to include mariculturists and by adding a new section which defines the term "agriculture" to include aquaculture.

Your Committee has attempted to ascertain the effects of this bill in terms of lost revenue to the state. However, the calculation of tax losses is difficult because statistics are not readily available with respect to the total amount of wholesale transactions presently covered by the four per cent tax levy which would be subject to the one-half per cent rate under this bill.

Nevertheless, your Committee estimates that the impact of this bill in terms of lost revenue to the state will be as follows:

(a) Loss on fertilizer sales to producers:	\$ 1,750,000.
(b) Loss on pesticide sales to producers:	550,000.
(c) Loss on other raw material sales to producers:	500,000.
Total tax revenue loss:	\$ 2,800,000. annually.

Your Committee also made minor technical amendments to the bill.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. 2168-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 2168-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 44-82 Agriculture on S.B. No. 2187-82

The purpose of this bill is to amend §142-41 by deleting reference to the \$1.00 fee for application for registration of a livestock brand, and to allow the Department of Agriculture to establish the fee rate by rule adopted pursuant to chapter 91.

Your Committee heard favorable testimony on this bill. The bill would allow the Department of Agriculture to set the fee for registering for livestock brands by rules adopted pursuant to chapter 91 (administrative procedures act) rather than being fixed by a statute which would have to be amended from time to time through the lengthy and expensive legislative process.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2187-82 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. 45-82 Agriculture on S.B. No. 2942-82

The purpose of this bill to appropriate necessary funds to provide for an aquaculture feeds production program.

Your Committee received favorable testimony on this bill and finds that an aquaculture feeds program would have a broad and positive impact upon the state.

Your Committee amended Section 2 of the bill by changing the appropriation "from fiscal year 1982-1983" to "fiscal years 1982-1984".

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2942-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2942-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 46-82 Agriculture on S.B. No. 2356-82

The purpose of this bill is to amend the law regarding land use within agricultural districts to provide that major storage tanks not ancillary to agricultural practices may be built within certain agricultural areas.

Your Committee heard testimony which indicated that the the present wording of the bill would permit gas and oil storage tanks, as well as other non-agricultural storage tanks within important agricultural lands.

Your Committee has therefore amended the bill to permit only major water storage tanks ancillary to agricultural practices to be built within certain agricultural districts.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2356-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2356-82, S.D. 1, and be referred to the Committee on Economic Development.

Signed by all members of the Committee.

SCRep. 47-82 Agriculture on S.B. No. 2449-82

The purpose of this bill is to protect the right to continue farming operations in the State of Hawaii.

Your Committee heard favorable testimony on this bill from the Department of Agriculture and the Hawaii Farm Bureau Federation. From this testimony as well as extensive research on the matter, your Committee finds that there are four general types of laws which protect the right of legitimate farmers to continue farming despite urban encroachment in their areas. Of the 31 states which have any one of these types of laws, 23 chose the form which S.B. No. 2449-82 provides. Essentially, this type of law provides that a court cannot declare a farming operation a nuisance to a newly-built adjoining urban areas (or other similar complainants) if the court finds the following:

- (1) That the farming operation did not constitute a nuisance at the time it began operations;
- (2) That the only basis for the nuisance claim is that conditions have changed in the locality where the farming operation is located;
- (3) That the farming operation had been in operation for at least one year prior to the nuisance complaint;
- (4) That the alleged nuisance did not result from negligent conduct or improper operation of the farming operation; and
- (5) That the alleged nuisance does not involve water pollution or flooding.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2449-82 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 48-82 Transportation on S.B. No. 2295-82

The purpose of this bill is to increase the fine levied in support of the driver education and training fund and to enable the fund to be augmented by appropriations, in addition to fines, as appropriate and as needed.

Your Committee heard supporting testimony from the Office of the Administrative Director of the Courts that the present revenue source is insufficient to cover the program's operating costs and the fund will be exhausted during fiscal year 1983-1984. Thereafter, there will be a deficit unless the present fine of \$1.00 is increased or other funding is provided.

Your Committee has amended the bill to fix the amount of the fine levied at \$2.00.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2295-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2295-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 49-82 Transportation on S.B. No. 2637-82

The purpose of this bill is to increase the contribution to the boating special fund made by trailer boaters through the establishment of a boat launching facility fee.

Your Committee heard testimony from the Department of Transportation that presently over fifty per cent of revenues deposited in the boating special fund come from owners of wet stored boats through mooring fees and other harbor fees. The direct contribution by the trailer boaters is through a registration fee that presently barely covers the administrative costs of the vessel registration system itself, so that their activities are subsidized to a considerable extent by the boaters who lease space for wet storage.

Your Committee adopted the recommendation of the Department of Transportation to delete Section 2 as unnecessary since this section applies to commercial harbors.

Your Committee on Transportation is in accord with the intent and purpose of S.B. 2637-82, as amended herein, and recommends that it pass second reading in the form attached hereto as S.B. 2637-82, S.D. 1 and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 50-82 Transportation on S.B. No. 2681-82

The purpose of this bill is to require use of a child passenger restraint system for any child under four years of age or weighing less than forty pounds when being transported in a motor vehicle other than an emergency, commercial, for-hire, or mass transit vehicle or in a school bus. The amount of \$29,838 is appropriated to the Department of Health to develop an educational program to promote the use of such restraint systems.

Your Committee heard testimony from the Department of Transportation, the Department of Health, the Honolulu Police Department, the Keiki Auto Restraint Project (KAR), the insurance industry, the medical profession represented by five individual pediatricians, and numerous members of the public. The testimony unanimously supported the enactment of a mandatory restraint law coupled with the continuation of an educational program. Motor vehicle accidents are a leading cause of death in children between one and four in Hawaii. Based on police records, approximately 350 children in this age group incur mild to severe injuries yearly as motor vehicle passengers in Hawaii. With the use of a proper restraint, statistics show a 90 per cent reduction in death rate and an 80 per cent reduction in serious injuries.

Your Committee adopted the recommendation of the Honolulu Police Department that the penalty should more properly be placed in Section 291C-161 because of the provision for progressive fines for multiple convictions. The bill is further amended to provide that the first time a driver is cited the court will not impose a fine upon receipt of proof of acquisition of a restraint system. Your Committee also amended the bill by deleting reference to restraints meeting state standards as the state is preempted by federal standards.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2681-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2681-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 51-82 Economic Development on S.B. No. 2716-82

The purpose of this bill is to establish an economic incentive program based upon the general theory of enterprise zones in order to encourage new and existing businesses to expand their employment bases and to increase their marketing territories, and in so doing to relieve unemployment now and in the future by providing jobs for Hawaii's people. Economic vitalization and revitalization will be achieved through tax incentives, bonds, and other appropriate measures.

The bill as received is a short form bill. Your Committee has amended the bill by adding in the substantive provisions.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2716-82, as amended herein, and recommends it pass First Reading in the form attached hereto as S.B. No. 2716-82, S.D. 1, and be recommitted to the Committee on Economic Development for further consideration.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 52-82 Transportation on S.B. No. 2325-82

The purpose of this bill is to authorize counties to charge an administrative fee for registration of vehicles with out-of-state license plates and to permit the county's legislative body to effect subsequent changes to such a fee. The bill also corrects an inconsistency with the placement requirement of the certificate of registration.

Your Committee heard supporting testimony from the Department of Finance and the Honolulu City Council that the fee is needed to defray the administrative costs incurred by the county. They testified that after further consideration, their original \$2 request would be inadequate and asked that the bill be amended to provide a \$5 fee.

Your Committee has amended the bill to increase the amount of the registration fee more modestly, from \$2 to \$4.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2325-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2325-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 53-82 Transportation on S.B. No. 2851-82

The purpose of this bill is to give each county the option of adding to each vehicle registration a fee not to exceed 50 cents for the purpose of highway beautification

and the disposition of abandoned vehicles.

Your Committee heard testimony in support of the bill from the Honolulu City Council and the Department of Public Works of the City and County of Honolulu. The Hawaiian Sugar Planters' Association questioned the reinstatement of a program which was previously repealed. Your Committee finds, however, that the deletion of the provision by Act 237, SLH 1976, was inadvertent and agrees with the City and County of Honolulu that it should be reinstated.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2851-82 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 54-82 (Majority) Transportation on S.B. No. 2571-82

The purpose of this bill is to change "conviction of manslaughter" to "conviction of negligent homicide" for the mandatory revocation of driver's license, and to mandate driver's license revocation upon conviction of any felony.

Your Committee heard testimony from the Department of Transportation, the Honolulu Police Department, and the Office of the Administrative Director of the Courts regarding this bill. Both departments and the courts testified in opposition to mandating driver's license revocation upon conviction of any felony. The courts testified that if such a provision were enacted it would substantially hamper probation treatment programs which frequently require probationers to be employed in order to remove inducements to further criminal activity.

Your Committee has also been informed by the Honolulu Police Department that, in its present form, S.B. 2571-82 omits "conviction of manslaughter" entirely from the sanction of this bill. This was not the actual intent of the framers of the bill who sought to include "conviction of negligent homicide" along with "conviction of manslaughter" rather than to omit "conviction of manslaughter" entirely.

Your Committee has amended the bill by deleting the mandatory revocation of driver's license upon conviction of any felony and by adding "conviction of manslaughter" to the bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. 2571-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2571-82, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.
Senator Toyofuku did not concur.

SCRep. 55-82 Transportation on S.B. No. 2403-82

The purpose of this bill is to appropriate from the Airport Special Fund the sum of \$105,923.40 to complete construction of the Civil Air Patrol Headquarters Facility, and to purchase office furniture and equipment for CAP use.

Your Committee heard testimony from Civil Air Patrol officers that while more than \$400,000 has been spent on construction of the facility, additional electrical, air-conditioning and plumbing work must be completed before the City and County of Honolulu will issue a "Certificate of Occupancy". It is the feeling of your Committee that the additional sum should be spent on the facility in order that it can be used by the Civil Air Patrol as well as by other community organizations whose programs would be compatible with the CAP mission.

Your Committee has amended the bill to reduce the amount of the appropriation to \$96,310.40 which will cover only those items necessary to receive the "Certificate of Occupancy". It is the feeling of the Committee that the Civil Air Patrol should engage in fund-raising activities within the community to pay for such non-capital items as office furniture and equipment.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2403-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2403-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Toyofuku.

SCRep. 56-82 Transportation on S.B. No. 2471-82

The purpose of this bill is to make changes in the license suspension provisions of the Motor Vehicle Safety Responsibility Act.

Your Committee heard no testimony on the bill and feels the subject matter belongs in the purview of your Committee on Judiciary.

Your Committee has made nonsubstantive, technical amendments to this bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2471-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 2471-82, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 57-82 Transportation on S.B. No. 2848-82

The purpose of this bill is to register all off-road vehicles in the state with the exception of U.S. military, construction, demolition and farming vehicles.

Your Committee on Transportation heard testimony from the Hawaii State Association of Counties, the Honolulu City Council and the Honolulu Police Department in support of the bill which will make it possible for the Police Department to obtain information on stolen and found off-road vehicles. The law requiring registration of bicycles has been valuable in reducing thefts and returning stolen bicycles to their owners. Since off-road vehicles such as dirt motorcycles, dune buggies and racing vehicles are just as susceptible to theft, registration of these vehicles will assist the police in the same manner.

The Hawaii Sugar Planters' Association supported the bill but asked that the language excepting farming vehicles be clarified to assure that those vehicles which do not use the public highways are included in the exception. Your Committee accepted the recommendation of the Police Department, working with H.S.P.A., and amended the bill to make clear that even though such a vehicle may be designed for use on the public highways, registration is not required if that vehicle is not used on the public highways.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2848-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2848-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 58-82 Housing and Hawaiian Homes on S.B. No. 2981-82

The purpose of this bill is to establish five advisory councils, one on each of the islands of Hawaii, Maui, Molokai, Kauai, and Oahu, to function as liaisons between the Office of Hawaiian Affairs and the represented communities.

Although it felt that it did not presently have the resources to sustain island advisory councils, the Office of Hawaiian Affairs testified that it supported the need for such bodies. The OHA trustees have had numerous discussions on the need to have community-based advisory input because it relates directly to their policy of encouraging Hawaiian participation in their decision-making.

Section 2 of this bill is amended to appropriate the sum of \$1,500 for FY 1982-1983 for the operation of the advisory councils through the Office of Hawaiian Affairs. A technical amendment to section 1 of this bill on page 3, lines 11-12 was also made.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2981-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2981-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 59-82 Economic Development on S.B. No. 1388

The purpose of this bill is to provide an income tax credit equal to 10 per cent of the

cost of alternate energy systems, installed and placed in use after December 31, 1980 but before December 31, 1990, for the taxable year for which the income tax return is being filed.

Additionally, the bill provides that tax credits exceeding the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. It also allows the taxpayer to claim credit for the installation and placement in service for more than one alternative energy system during any taxable year.

In conformance to Section 235-12 of the Hawaii Revised Statutes, your Committee has amended the bill by changing the date of installation and placement of service from December 31, 1990 to December 31, 1985.

Your Committee has also made minor technical amendments to this bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1388, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1388, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 60-82 Economic Development on S.B. No. 474

The purpose of this bill is to remove the state as guarantor when its interests in lands are subjected to a security interest or mortgage and to clarify the statutory requirements of dispositions by negotiation.

Your Committee received testimony from the Department of Land and Natural Resources supporting the removal of the state as a guarantor or investor to any security interest holder. The Department of Land and Natural Resources emphasized that the holder should be made to bear the same risks that it bears relative to the private sector.

Accordingly, S.B. No. 474 would also correct an ambiguity in respect to the required publication of notices found in Section 171-59, Hawaii Revised Statutes, covering disposition by negotiation.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 474 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 61-82 Economic Development on S.B. No. 1395

The purpose of this bill is to amend Hawaii Revised Statutes Section 244-4 by providing a permanent exemption from the liquor tax of all wines by deleting the adjective "fruit". Additionally, the bill proposes to exempt wines indefinitely by removing the time limitation.

Your Committee is in agreement with respect to the permanent tax exemption that this bill would grant all wines manufactured in this state.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1395 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 62-82 Economic Development on S.B. No. 505

The purpose of this bill is to amend Section 171-36(5)(E) of the Hawaii Revised Statutes to allow the Board of Land and Natural Resources to revise the rent, if necessary, based upon the assignment and transfer consideration paid by the transferee.

Your Committee finds that providing the Board of Land and Natural Resources the right to review and approve the consideration paid by the assignee and, if necessary, revise the rent of the demised premises, based upon the consideration paid by the assignee, provided that the rent may not be revised downward, is in the public interest.

Your Committee in accord with the Department of Land and Natural Resources feels that the state, as a landowner, should be able to raise the rent and share in the profit made in the transfer of a lease.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 505 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. 63-82 Economic Development on S.B. No. 974

The purpose of this bill is to establish an exemption of construction of an alternate energy facility from the state general excise tax law.

Testimony submitted by the Hawaiian Sugar Planters' Association indicated that in dealing with alternate energy sources, one is more inclined to run into temporary interruptions, lack of wind, minor equipment failures, a shortage of bagasse, etc. Without the ability to burn oil as a backup fuel, power plants relying on alternate sources would not be able to satisfy system demands for firm power, or supply their own internal needs for power or steam. It is important to note that the use of oil is for standby and backup power only.

Your Committee adopted the recommendation of the Hawaiian Sugar Planters' Association by amending Section 3 of the bill by adding the phrase "more than 25 per cent" after the word "use" and before the word "fossil" on page 2, line 3, of the bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 974, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 974, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 64-82 Legislative Management

Informing the Senate that Stand. Com. Rep. Nos. 29-82 to 63-82 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 65-82 Economic Development on S.B. No. 2760-82

The purpose of this bill is to authorize the sale of special purpose revenue bonds to assist retail businesses under the provisions of chapter 39A, part V, Hawaii Revised Statutes, relating to assistance to industrial enterprises.

Your Committee has received testimony from the business community describing the hardships caused by current high interest rates for business loans, and finds that it is appropriate and in the public interest that the power to issue special purpose revenue bonds be exercised to provide some relief to this important sector of our community.

Your Committee has amended the bill by specifying that bonds in the amount of \$10,000,000 may be issued, and that the proceeds are to be expended in accordance with the provisions of S.B. No. 2309-82, as amended, which establishes an industrial enterprise multi-project loan program.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2760-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as S.B. No. 2760-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 66-82 Economic Development on S.B. No. 2904-82

The purpose of this bill is to establish a water commission and the guidelines by which the commission will formulate a state water code.

Your Committee recognizes the need to implement Article XI, section 7 of the Constitution of the State of Hawaii. Existing conditions in Hawaii and the general welfare of the citizenry

require that the water resources of the state be properly managed. Hawaii's water law ought to be reviewed, updated, and codified to ensure that Hawaii's water resources are developed, allocated, and conserved in the most judicious, efficient, and equitable manner possible. There is a need to enunciate basic policy regarding Hawaii's water resources which can serve as a state water code.

Your Committee further recognizes the magnitude and seriousness of the matter, and, in order to implement the constitutional mandate in a responsible manner, has established a water commission which will provide the Legislature with a proposed state water code utilizing the guidelines contained in this bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2904-82 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. 67-82 Economic Development on S.B. No. 2309-82

The purpose of this bill is to clarify that retailing is an industrial enterprise for the purpose of the enabling legislation for industrial enterprise special purpose revenue bonds.

Your Committee has amended the bill to broaden the definition to include both retailing and wholesaling activities, and has specifically provided that special purpose revenue bonds may be used to establish programs to provide operating loans to qualified industrial enterprises.

Your Committee has further amended the bill by adding a new section which establishes an industrial enterprise multi-project loan program to provide operating or capital loans of up to \$500,000 to qualified industrial enterprises. This loan program is designed to provide needed funds in a timely manner with minimum administrative cost and maximum protection of bond holders at no risk to the state.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2309-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as S.B. No. 2309-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 68-82 Economic Development on S.B. No. 2224-82

The purpose of this bill is to amend Section 201-4, Hawaii Revised Statutes, to allow the Department of Planning and Economic Development to adopt administrative rules governing industry and product promotion activities.

The bill provides the Department of Planning and Economic Development the authority to revise rules for eligibility, preferences, priorities, and conditions in which industry and product promotion may be undertaken.

According to testimony received from the Department of Planning and Economic Development, the state comptroller has advised the department that the phrase, "and such data as the state comptroller may require" be retained.

Your Committee has adopted the recommendation of the state comptroller to amend this portion of the bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2224-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2224-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 69-82 Economic Development on S.B. No. 2411-82

The purpose of this bill is to make an appropriation for the continuing research and development of the ELISA (enzyme-linked-immunosorbent assay) procedure for the detection of ciguatoxin in toxic fish.

Your Committee recognizes the value of the research being conducted at the University of Hawaii to find the causes for ciguatera fish poisoning. Your Committee feels that this ongoing research is valuable to the health of the people of Hawaii and will serve as an encouragement to the fishing industry in Hawaii.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2411-82 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. 70-82 Economic Development on S.B. No. 1054

The purpose of this bill is to permit loans to be made to local development corporations under Section 503 of the Federal Small Business Investment Act of 1958, as amended.

Currently, Section 210-F, Hawaii Revised Statutes, authorizes the state, through the Department of Planning and Economic Development, to "make loans to local development corporations" only under Section 502 of the small business investment act.

Your Committee was informed through testimony submitted by the Department of Planning and Economic Development that Section 503 provides a different funding mechanism to the small business administration, in that the small business administration guarantees loans from financing obtained from the federal financing bank.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1054 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. 71-82 Economic Development on S.B. No. 507

The purpose of this bill is to amend Section 171-19 of the Hawaii Revised Statutes by eliminating the special land and development fund and vesting the functions thereof in the public land trust fund.

According to testimony submitted by the Department of Land and Natural Resources, the legislative auditor pointed out in his audit of the department that the revenues derived from the sale, lease and other disposition of public lands are not being deposited into the correct fund accounts. Revenues from leases, licenses and permits, both ceded and non-ceded, are being deposited into the trust fund and revenues from the sale of lands, both ceded and non-ceded, are being deposited into the special land and development fund.

Your Committee finds that in view of the inability to clearly distinguish between ceded and non-ceded lands and the fact that the great majority of income producing land falls within the ceded category, legislation should be enacted to eliminate the special land and development fund.

Your Committee is in accord with the intent and purpose of S.B. No. 507 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. 72-82 Economic Development on S.B. No. 553

The purpose of this bill is to amend Section 235-12, Hawaii Revised Statutes, to include, under the credit provided for solar energy devices, "wind energy devices" and "heat pumps." It provides that the credit shall apply to such devices and heat pumps which are erected and placed in service after December 31, 1979 but before December 31, 1985.

The bill also provides that the credit claimed on such devices and heat pumps may not exceed \$2,500 or ten per cent of the total cost, whichever is less.

Your Committee has amended the bill to enable businesses to participate in the tax credits for such devices and heat pumps. Current statutes provide tax credits for home use only.

Your Committee has further amended the bill by deleting the sections in the bill which have been incorporated into the Hawaii Revised Statutes.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 553, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 553, S.D. 1, and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 73-82 Economic Development on S.B. No. 2909-82

The purpose of this bill is to provide funding for Phase II-A of the Hawaii Deep Water Electrical Transmission Cable Demonstration Program.

Your Committee finds that there are extensive geothermal resources on the island of Hawaii. In order to derive the greatest benefit from the electricity generated from such resources, an undersea transmission cable between Hawaii and Oahu is imperative. The cable will further fulfill the state's goals toward energy self-sufficiency.

Furthermore, your Committee agrees with the Governor's Advisory Commission on Alternative Energy that the deep water electric cable is the highest priority project in Hawaii's alternate energy program and therefore should be adequately funded.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2909-82 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. 74-82 Economic Development on S.B. No. 2709-82

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

Your Committee finds that the stimulation and growth of small businesses will aid in the expansion of the state's economy. Current statutes authorize the Department of Planning and Economic Development to extend loans to local development companies only under section 502 of the Small Business Investment Act. Your Committee believes that to broaden the scope of current law to include loans to development companies under both section 502 and 503 of the Small Business Investment Act would be beneficial both to the state and local development companies concerned.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2709-82 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. 75-82 Economic Development on S.B. No. 2948-82

The purposes of this bill are: 1) to clarify existing legislation which authorizes the Aloha Tower Development Corporation to redevelop the Aloha Tower Complex; 2) to authorize the corporation to borrow from the general fund; and, 3) to correct typographical errors and inconsistent terms.

Your Committee has taken the recommendation of State Bond Counsel, who through the director of finance, has recommended to the Aloha Tower Development Corporation Board of Directors that Chapter 206J (Act 236, SLH 1981) be amended and clarified to remove any doubts as to the corporation's authority to issue revenue bonds. Among changes suggested are clarifying the definition of the term "project" in Section 206J-2 (5) to indicate that it is a "public undertaking, improvement or system" for which revenue bonds may be issued as provided by the State Constitution; amending Section 206J-5 to clearly state that the corporation's authority to impose and collect fees and charges is unconditional and without limitation in order for the bonds to be excluded from the state debt limit; and amending Section 206J-12 to clearly set forth the corporation's obligation to the Harbor Special Fund.

Several typographical errors and inconsistent terms were also corrected by this bill. Your Committee has adopted such technical changes.

After due consideration, however, your Committee has amended the bill to delete sections which would authorize the corporation to borrow from the general fund. Substantial

testimony had been received last year from both public and private sources which denied the need for any monies from the general fund. In fact, this was one of the major selling points relied on by proponents of the project. Similarly, this arose as a point of contention by legislators who had questioned the economic feasibility of the entire project. Your Committee is expecting the proponents of the project to abide by their initial proposal which went so far as to deny an offer of general fund appropriations. The actions of your Committee should not be interpreted as a withdrawal of support for the project or the corporation. On the contrary, the project remains a high priority item in the context of the state's economic development. The conditions of the project were set last session with the unequivocal condition that general fund monies were not to be used. The proposal in the bill forsakes the conditions upon which the project received initial legislative support.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2948-82 as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 2948-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 76-82 Government Operations and Intergovernmental Relations on S.B. No. 2409-82

The purpose of this bill is to allow liquor license fees collected by county liquor commissions to be used for educational programs relating to liquor violations and alcohol use.

Under the current law liquor license fees may only be used for those expenses directly related to the operational and administrative costs incurred by a liquor commission. This bill would allow fees collected by a liquor commission to be used for educational programs relating to liquor violations and alcohol. It is the intent of your Committee that this bill authorize use of liquor license fees to support existing educational programs as well as future programs.

Since the use of liquor license fees is directly tied to the operation and administration of the liquor commissions, the bill designates the responsibility and authority for educational programs to the respective county liquor commissions.

Your Committee amended the bill to make minor technical changes which do not affect the substance of the bill.

Your Committee on Government Operations and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2409-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2409-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kuroda and Ushijima.

SCRep. 77-82 Economic Development on S.B. No. 151

The purpose of this bill is to add a new section to Hawaii Revised Statutes Chapter 235 providing an investment tax credit for the purchase of "section 38" energy property.

This measure would establish an investment tax credit of an unspecified percentage of the cost of the qualified energy saving property.

Your Committee has adopted the recommendation of the Hawaiian Sugar Planters' Association by amending the bill to allow for a 10% refundable tax credit for agricultural producers as defined in section 147-1, Hawaii Revised Statutes.

Your Committee finds that the current adverse economic condition of agriculture makes the refund imperative for agricultural businesses to construct, purchase and/or install equipment or facilities which would ultimately contribute to energy conservation.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 151, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 151, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 78-82 Consumer Protection and Commerce on S.B. No. 2362-82

The purpose of this bill is to authorize the Department of Regulatory Agencies to establish a special consumer complaints resolution fund.

Under the provisions of this bill the special consumer complaints resolution fund would be funded by assessments on registration and renewal fees charged by the various boards and commissions placed within the Department of Regulatory Agencies for administrative purposes. Moneys in the fund would be utilized by the department for the purpose of providing prompt and timely responses to consumer complaints.

The bill also authorizes the use of surpluses in existing departmental funds or board or commission special funds to provide initial startup moneys for the fund until proceeds from the assessments on registration and renewal fees are realized for deposit into the fund.

Your Committee has amended the bill to mandate, rather than allow, the Department of Regulatory Agencies to establish the fund. The bill has been further amended to clarify the intent of the measure and for reasons of drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2362-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2362-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 79-82 Consumer Protection and Commerce on S.B. No. 2137-82

The purpose of this bill is to limit "free" no-fault automobile insurance coverages for public assistance recipients to vehicles owned solely by those respective individuals.

Testimony, given by the insurance industry and the directors of the Department of Regulatory Agencies and the Department of Social Services and Housing, indicated that enactment of this bill would eliminate abuses of the present public assistance motor vehicle insurance program and help reduce costs. Individuals not eligible for public assistance have been receiving benefits from this program by assigning partial ownership of their vehicles to an eligible recipient.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2137-82 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 80-82 Consumer Protection and Commerce on S.B. No. 2396-82

The purpose of this bill is to permit a person who submits an application for registration of securities or an exemption to request that the review of the application be performed by a private consultant at the applicant's expense.

At present the securities examiner of the Department of Regulatory Agencies, Business Registration Division, is severely over-burdened, causing a backlog of approximately four to six weeks to process simpler applications and two to three months for complex applications. Timing is critical in most capital formation ventures and delays in processing applications increase economic risks to applicants and may cause withdrawals of applications.

Your Committee is in agreement with the testimony of the Department of Regulatory Agencies, that this bill will ease the burden on the securities examiner, expedite the registration of securities, and eliminate the need to use state funds to hire private consultants.

Upon consideration of this measure, your Committee has amended the bill by substituting the words "review of the application be performed" for the words "registration be prepared" in line 9, page 1 of the bill as introduced and substituting the word "the" for the word "such" in line 11, page 1. These amendments respectively clarify the intent of the bill and conform to recommended drafting style and have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2396-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2396-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 81-82 Consumer Protection and Commerce on S.B. No. 2430-82

The purpose of this bill is to create special handling fees for the review of corporation documents by the Department of Regulatory Agencies. A special handling fees fund will be created to house the fees collected.

Currently the expediting of documents can be done only on a limited basis due to work overload. Testimony submitted by the Department of Regulatory Agencies indicated that this bill was proposed by the Business Registration Division in order to facilitate a necessary service to those persons requiring expeditious processing of documents filed with the division. The fees created by this bill will allow staff flexibility. The fund will have a limited life of two years at which time its effectiveness will be evaluated.

Your Committee on Consumer Protection and Commerce is in accord with the intent of S.B. No. 2430-82 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. 82-82 Government Operations and Intergovernmental Relations on S.B. No. 2967-82

The purpose of this bill is to regulate retainage in public contracts as it relates to subcontractors.

Current general practice by contractors is to withhold ten per cent of the total job amount from subcontractors so that subcontractors in effect are financing contractors' retainage obligations.

This bill would limit the amounts contractors may withhold from subcontractors as retainage to the same maximum percentage which the contracting agencies may withhold from contractors.

The bill also provides that within seven days from the contractor's receipt of sums withheld as retainage by the contracting agency, the contractor shall pay the subcontractor the total sum due under the contract.

Your Committee has amended the bill to clarify the purpose of this bill and to make technical, non-substantive corrections.

Your Committee on Government Operations and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2967-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2967-82, S.D. 1, and be referred to the Committee on ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 83-82 Public Utilities on S.B. No. 2513-82

The purpose of this bill is to require every person who operates an electric light or power business as a public utility regardless of whether or not the utility's franchise provides for a payment of a tax to the county in which it operates, to file a statement with the director of finance in the county in which the utility operates. Said statement will reflect all gross receipts received by the utility from all electric light or power furnished to consumers during the preceeding calendar year. The utility must pay to the director 2-1/2 per cent of said gross receipts. This bill would provide for uniform franchise tax rate of 2-1/2 per cent for every county throughout the State of Hawaii.

The purpose of a utility's franchise is to benefit utility customers by granting utilities the right to use public easements for their services to utility customers without having to apply for separate rights of way whenever a need arises for such right. In order to allow for uniform treatment of the franchise by all counties to all utility consumers in Hawaii, the passage of this bill is imperative.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. No. 2513-82, 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. 84-82 (Majority) Public Utilities on S.B. No. 2611-82

The purpose of this bill is to amend section 383-30, Hawaii Revised Statutes, to disqualify striking employees of public utilities from receiving unemployment compensation benefits during labor disputes.

Under present law, the Department of Labor must find that a "stoppage of work" exists before unemployment insurance benefits can be denied to a striking employee. Since public utilities generally attempt to continue operation during a strike, in many instances using supervisory personnel during a labor dispute in order to avoid a complete shutdown, striking employees are therefore eligible to receive unemployment benefits. This bill would require the Department of Labor to disqualify striking employees of public utilities from unemployment insurance benefits regardless of whether a "stoppage of work" has occurred.

Public utilities perform a vital service for the state and it is a compelling governmental interest that the utilities continue to operate during a labor dispute. A shutdown by a utility would be catastrophic to the State of Hawaii. By passage of this measure, it is not this Committee's intent to generally oppose unemployment benefits. However, it is our belief that the purpose of the unemployment insurance provisions are misapplied where striking employees who have voluntarily left their jobs are awarded benefits.

The Committee received favorable testimony from the public utilities and other organizations. Those testifying in opposition to the bill included the International Brotherhood of Electrical Workers, Local 1260, International Brotherhood of Electrical Workers, Local 1357 and ILWU, Local 142.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. No. 2611-82, and recommends that it pass Second Reading and be referred to the Committee on Human Resources.

Signed by all members of the Committee.
Senator Yamasaki did not concur.

SCRep. 85-82 Public Utilities on S.B. No. 2616-82

The purpose of this bill is to make an appropriation to fund an outside consultant to study and recommend changes to chapter 269 Hawaii Revised Statutes, Public Utilities Commission. The study is to be completed within one year and reported to the Legislature twenty days before the next legislative session.

Chapter 269 has now been the law of the State of Hawaii for approximately six years. Certain sections of the statute need in depth amendments. In order to fully analyze and restructure this chapter a report by an outside independent consultant is imperative before legislative action reforming the statute is initiated.

Your Committee received testimony in favor of the bill from the chairperson of the Public Utilities Commission and executive director of the Public Utilities Division.

There was no testimony offered against the passage of the bill.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. 2616-82 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. 86-82 Public Utilities on S.B. No. 2617-82

The purpose of this bill is to amend chapter 708-826 and 708-830 to permit the prosecution to introduce evidence which shall be considered as prima facie evidence that the defendant who has reaped the benefits of tampered electrical devices is the person responsible for the tampering activities. In State of Hawaii v. Brighter, 61 H. 99 (1979), the Hawaii Supreme Court stated that the phrase "prima facie evidence" as defined in Hawaii Revised Statutes, section 701-117, constitutes a "permissive inference", thus permitting, but not compelling, the inference of guilt.

Pursuant to this bill, to be found guilty of violating this statute a trier of fact can, but is not required to find the element of intent. As the statute presently stands it is extremely difficult, if not impossible, to prosecute a defendant because the prosecution must satisfy the element of intent. The proposed amendment allows the prosecutor to introduce

into evidence tampered equipment of a utility as evidence of diversion of a utility service to establish the inference that the defendant did intend to tamper or divert a utility product.

The Committee received favorable testimony in support of the bill from Hawaiian Telephone Company, Gasco, Inc. and the Public Utilities Division.

In order for this bill to address a theft from any utility, your Committee has inserted additional language to the bill to be certain to include all of the utilities. The Committee has inserted the words "gas pipe", "Billing or collection equipment" and "or bypassed" to the bill.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. 2617-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 2617-82, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 87-82 Health on S.B. No. 2382-82

The purpose of this bill is to provide protection to a patient from unnecessary exposure to X-rays.

Presently dentists are not required to protect a patient from unnecessary exposure to X-rays. This bill requires dentists to use a lead apron. Furthermore, it allows the Board of Dental Examiners to establish minimum specifications concerning the use of the lead apron.

Your Committee adopted the recommendation of the director of health by deleting the word "all" on line 5, and adding the words, "containing vital and reproductive organs," on line 6. This amendment clarifies the areas to be covered by a lead apron.

Your Committee also amended the bill by making technical changes which do not affect the substance of the bill.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2382-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2382-82, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 88-82 Health on S.B. No. 2919-82

The purpose of this bill is to allow system wide financing of special purpose revenue bonds issued to health care facilities.

The present language is unclear as to the ability of a Hawaii health care facility to participate in system wide financing, and may prohibit the subsequent issuance of additional bonds.

Your Committee finds that system wide financing provides enhanced security for the bonds and should result in lower interest rates.

Your Committee has amended the bill by correcting a typographical error on line 9, page 1 and by making technical changes which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2919-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2919-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 89-82 Health on S.B. No. 2950-82

The purpose of this bill is to provide an appropriation for ambulance service contracts for Maui County, Kauai County, Hawaii County, and the City and County of Honolulu, for fiscal year 1982 shortfalls.

Your Committee is not surprised by the existence of shortfalls but is nonetheless distressed by the fact that these shortfalls reflect the ever-increasing costs of emergency medical services.

The deficiency appropriation brings fiscal year 1982 estimated expenditures to \$9.2 million for ambulance contracts alone and represents a twenty-three and one-half per cent increase over fiscal year 1981 expenditures. An increase of this magnitude cannot be explained by inflation or increased service costs, but is attributed to full-reimbursement contracts which provide little incentive for cost savings. Budgeted funding for the fiscal year 1982 ambulance contracts was based on an inflationary increase of fourteen per cent from fiscal year 1981 to fiscal year 1982. Contractors however, insisted on an additional reimbursement for administrative overhead and salary and fringe benefits increases.

Your Committee finds that the problem resulting from demands for increased reimbursement is compounded by the state's poor bargaining position under current contracting practices, and by the fact that only one private provider was the sole bidder for ambulance contracts for Maui and Kauai counties.

Although the appropriation request is being recommended, your Committee feels it would be remiss if we did not point out the very serious flaws in the present system of contracting.

Your Committee amended the bill by changing the lapsing date of the appropriation from June 30, 1983 to June 30, 1982. Since the appropriation is to cover fiscal year 1982 shortfalls, it would be inappropriate for the funds to be carried over into fiscal year 1983.

Your Committee on Health is in accord with the intent and purpose for S.B. No. 2950-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2950-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 90-82 Health on S.B. No. 2926-82

The purpose of this bill is to release the state matching funds allocated to nine private agencies providing services for drug abuse treatment.

For the past four years federal grants have been received from the National Institute on Drug Abuse (NIDA) to fund the nine agencies named in the bill. These grants required forty per cent matching funds from the state. In the summer of 1981, Congress abolished this form of NIDA funding and consolidated all such funding into a block grant allocated to the states, and eliminated the provision for state matching funds.

Act 1, Session Laws of Hawaii First Special Session 1981, appropriated matching funds for NIDA funding to the nine agencies. However, it is the opinion of the Department of Budget and Finance that because the funds allocated for the last quarter of fiscal year 1981-1982 were matching funds and matching funds are no longer required, the agencies are not legally entitled to these funds.

Your Committee is aware that lack of funding for these nine agencies will critically affect essential services provided by these agencies. This bill provides for the release of state matching funds to the agencies for the last quarter of fiscal year 1981-1982 despite the absence of a matching requirement in the federal block grant.

Your Committee has amended the bill to correctly identify Act 1 as being passed during the First Special Session of 1981.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2926-82, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2926-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 91-82 Health on S.B. No. 2205-82

The purpose of this bill is to enable the county/ state hospitals to deposit patients' personal funds outside of the state treasury.

Currently, federal regulations impose certain standards for the protection of personal funds of patients that participate in Medicare or Medicaid programs. Some of these standards are: (1) a written financial record for each patient; (2) quarterly accounting of financial transactions; (3) patient access to funds; and (4) deposit of funds in excess of \$150 in an interest bearing account.

Your Committee finds that these standards protect patient funds from misuse and assure accountability. Further, this bill will reduce recordkeeping requirements imposed on health facilities by federal regulations.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2205-82 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. 92-82 Health on S.B. No. 2144-82

The purpose of this bill is to require that all prescription drugs have an expiration date of potency printed on the label.

Your Committee finds that expired drugs have the potential to be harmful or toxic. This bill would assist the consumer in determining whether a drug would be ineffective or dangerous.

Your Committee has amended the bill by adding a provision that the label also bear a notation to the effect that if the container is opened potency will probably be less than the expiration date. The amendment is intended to more fully inform consumers as exposure to air and moisture affect the potency of drugs.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2144-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2144-82, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 93-82 Health on S.B. No. 2761-82

The purpose of this bill is to issue special purpose revenue bonds to not-for-profit health care facilities that provide services to the general public.

Your Committee is aware that the State Health Planning and Development Agency has issued a certificate of need for Queen's Medical Center and this bill authorizes the issuance of such bonds in the amount of \$20,000,000 to assist in the financing or refinancing of its health care facilities.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2761-82 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. 94-82 Health on S.B. No. 2470-82

The purpose of this bill is to authorize the Department of Health to provide services to Vietnam veterans who have possibly been exposed to the chemical defoliant known as "Agent Orange".

Your Committee has heard testimony on the debilitating effects of Agent Orange on Vietnam era veterans who were exposed to the herbicide. There is no question as to the toxicity of Agent Orange, although no substantive studies have been done to confirm a cause-and-effect relationship between Agent Orange and the effects reported. The crucial question is whether the company who produced the herbicide is responsible or the federal government who commissioned its use. Neither one wishes to take responsibility. In fact, the federal government is no longer providing fat tissue biopsies designed to determine whether veterans do in fact have positive residues of the herbicide Agent Orange.

Your Committee is acutely aware that legal and moral responsibility for the effect of Agent Orange on Vietnam era veterans clearly lies with the federal government. Your Committee is also aware that the state is fast approaching a time of fiscal constraints. However, we cannot sit idly by while the federal government continues to ignore the very real and human tragedy surrounding these veterans. They are not asking for compensation by the state. All that is asked is testing for confirmation of exposure to herbicide poisoning, genetic counseling and screening, and epidemiological studies.

The bill provides that should the federal government accept its clear responsibility, the state program may be discontinued.

Your Committee made several amendments to the bill, to allow any resident of the state who served in Vietnam, Cambodia, or Laos to be eligible for the program, under the definition of "veteran", to contain the costs of the program by limiting it to the funds made available, and by requiring epidemiological studies only if appropriate.

The bill is further amended by eliminating the requirement that the Department of Health refer veterans to appropriate agencies to file claims. Your Committee believes that the Department of Health is not the appropriate agency to provide such services. The Veteran's Administration, is not only already set up to provide such services, it is the least that agency can do because it is their legal and moral responsibility.

These amendments clarify the intent of the bill.

Your Committee added an appropriation section and notes that its major reservation regarding this bill is its potentially large costs. For example, discussions with Texas Department of Health officials indicate that more than minor surgery is required to obtain the fat tissue needed for each biopsy. Moreover, each biopsy is expected to cost about \$1,000. The problem is complicated further by the fact that no one in Texas is able to do the biopsy.

Despite the problems as exemplified by Texas' experience, your Committee believes that the state must take action to assist these veterans as a positive gesture of support and concern. Thus, your Committee has included an appropriation of \$150,000 for the program. Your Committee believes that this compares favorably with the \$200,000 recently appropriated by the State of Texas.

Your Committee also notes that to date, 125 veterans have applied to the local Veteran's Administration Office for Agent Orange testing. Those who will initially use the services provided for in this bill are likely to come from this group.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2470-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2470-82, S.D. 1 and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 95-82 Health on S.B. No. 2590-82

The purpose of this bill is to appropriate the sum of \$10,000 for the purchase of a mini-computer for the Investigation and Narcotics Control Section (INCS).

Your Committee finds that the INCS is involved in civil and criminal investigations that require the gathering and recording of evidence. Further, INCS must verify the validity of about 100,000 prescriptions and register over 2,700 persons who handle controlled substances. Currently, all information is processed manually.

Your Committee further finds that a mini-computer would expedite retrieval of information, allowing personnel to devote more time to actual investigations in such cases as forged prescriptions and Medicaid fraud, and would alleviate a severe workload problem in the INCS.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2590-82 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. 96-82 Ecology, Environment and Recreation on S.B. No. 2373-82

The purpose of this bill is to establish a state park life-saving services program and to provide for the hiring, training and deployment of life-saving personnel to service appropriate state park areas.

The combination of good weather and easy accessibility to the ocean for the majority of the population make water sports one of the most popular pastime activities in the state. Activities such as surfing, sailing, diving, swimming, and fishing are not only sources of relaxation, exercise and enjoyment, but also serve as potential sources of drowning, near-drowning, or water-related incidents.

According to information provided to your Committee, 29 people died in drowning incidents at Oahu beaches during 1981. Of these 29, 22 were residents and 7 were visitors. Of the 3 other counties, Maui county, according to Department of Health reports, has consistently had the highest drowning rate for the years 1976-1980, with the exception of 1977 when it ranked second to Hawaii county. There were a reported 32 deaths in Maui county during the years 1976-1980.

From 1974-1979, DOH reported that there was a total of 11 drownings for Kauai county. This figure is based the World Health Organization (WHO) code 910 series - accidental death and submersion - and does not include deaths in the water caused by high or low pressure, suicides, drowning preceded by heart attack, underwater industrial deaths, or persons missing at sea. Hawaii county, through the years 1976-1980, has had a total of 28 code 910 deaths.

Your Committee is very concerned with the lack of lifeguards on a number of state beaches which are heavily used by both the resident and tourist population in Hawaii and believes that the number of drowning accidents as well as water activity-related incidents may be reduced with appropriate supervisions and life-saving measures.

The City and County of Honolulu is currently providing lifeguard services on three state beaches - Magic Island, Sans Souci and Waikiki - and has instituted an excellent lifeguard training program in its parks and recreation department. While only the county of Hawaii was represented at the hearing regarding this bill, it is believed that all county governments provide some sort of lifeguard services on their beaches.

Your Committee received testimony from the Department of Land and Natural Resources and joint testimony from the Hawaii Medical Association-Emergency Medical Services Program and the Hawaii Chapter of the Committee on Accident and Poison Prevention of the American Academy of Pediatrics. Both testimonies supported the purpose and intent of this bill, however, the Department of Land and Natural Resources appeared to have some reservations regarding the functional responsibilities of providing lifeguard services. In further conversations with the department, the Committee was advised that this department would prefer that the counties be given jurisdiction by the state to provide lifeguard services at state beach parks, much in the same manner that the counties provide police and fire services to the community.

Also present at the hearing, but not providing written testimony, were Sam Carl, deputy director of the city's Department of Parks and Recreation; Ralph Goto, division head of the Water Safety Program for the city; and Milton Hakoda, director of the county of Hawaii's Department of Parks and Recreation. Your Committee was assured by these representatives that administration of a program to train and deploy life-saving personnel in state parks can be undertaken by the counties, and would provide such services on a contract basis.

Your Committee has amended this bill by amending Chapter 46 of the Hawaii Revised Statutes to include a section which gives the counties responsibility in providing life-saving services to appropriate state park areas. Such determination will be made by each county, based on need. The Department of Land and Natural Resources will serve as the state expending agency, and funding to the counties will be provided under the department's LNR-806 program as a grant.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. 2373-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 2373-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 97-82 Ecology, Environment and Recreation on S.B. No. 2167-82

The purpose of this bill is to terminate the Environmental Quality Commission and transfer the commission's functions to the Office of Environmental Quality Control. The bill also transfers the Office of Environmental Quality Control from the Department of Health to the Department of Budget and Finance, statutorily establishes the salary of the director of the Office of Environmental Quality Control, and amends the membership composition of the environmental council.

Under current law, the Environmental Quality Commission, which is a part-time body composed of private citizens, serves as a liaison between public agencies and private applicants who are responsible for preparing environmental assessments and environmental impact statements and the general public. The increased complexities of environmental

issues, however, now require the full-time attention of a public agency with expertise in environmental protection and ecology. This bill implements the necessary change by transferring the Environmental Quality Commission's functions to the Office of Environmental Quality Control, which is a full-time, independent public agency. Your Committee feels that this bill will strengthen the environmental impact statement law.

Your Committee has made the following amendments to the bill. The amendments do not intrude significantly upon the main purpose of the bill, as described above. The amendments are:

(1) The governor is required to set the salary of the director of the Office of Environmental Quality Control subject to legislative appropriation. The original bill established the salary statutorily. This amendment is made to provide flexibility in determining the salary of the director yet retain legislative oversight under the normal budgetary process.

(2) The Office of Environmental Quality Control is left under the Department of Health for administrative purposes. The transfer of the office to the Department of Budget and Finance was intended to enhance the independence of the office. Your Committee feels, however, that the nonsubstantive modification of present statutory language in the bill sufficiently highlights the independence of the office. Thus, your Committee feels that the cosmetic transfer proposed in the original bill is not necessary.

(3) The provision of the bill which would have altered the classes from which members are appointed to the environmental council has been deleted. The present composition is satisfactory to your Committee.

(4) Two new amendments have been made concerning the environmental council. First, the director of the Office of Environmental Quality Control is to be an ex officio, nonvoting member. Second, the chairperson of the council is to be elected by the members. Presently, the director of the office is a voting member of the council and serves as chairperson. Since the council is intended to provide advice reflecting the attitudes of private citizens to the director, the amendments are intended to lessen the influence of the director on the council.

(4) A new provision amending the title of chapter 343, Hawaii Revised Statutes, has been added. The present title includes reference to the Environmental Quality Commission. That reference must be deleted to reflect the termination of the commission.

(5) Section 8 of the bill has been amended to delete references to the Department of Budget and Finance. This amendment is necessary because the Office of Environmental Quality Control is not transferred to the Department of Budget and Finance under the Senate Draft 1.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2167-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2167-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 98-82 Ecology, Environment and Recreation on S.B. No. 2204-82

The purpose of this bill is for the State of Hawaii to enter into the Northwest Interstate Compact on Low-Level Radioactive Waste Management.

Your Committee received testimony from the state Department of Health, Department of Public Works of the City and County of Honolulu, and the Environmental Center at the University of Hawaii. All testimonies supported the passage of this legislation.

The Low-Level Radioactive Waste Policy Act was enacted by the U.S. Congress in December, 1980, which established a federal policy that each state is responsible for the disposal of low-level radioactive waste generated within its borders by placing it in a secure facility either within or outside the state. To carry out this policy, the states may enter into regional compacts to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

While the policy allows for restriction of utilization of regional disposal facilities to waste generated within its region after January 1, 1986, the Northwest Interstate Compact has set July 1, 1983, as its restriction date. Members of your Committee and the aforementioned testifiers are conscious of the problem which may develop in Hawaii if the state does not become a member of the compact by the July 1, 1983, date.

According to the City and County of Honolulu, close to 80 facilities (including hospitals, the University of Hawaii, industry, individual researchers, and state and county agencies) in Hawaii will be affected should the state fail to meet the July 1, 1983, deadline. The geologic conditions of the state will not allow for the safe disposal of low-level radioactive waste although the hazards of such disposal has been judged to be minimal elsewhere. The scarcity of land is another drawback to establishing a low-level radioactive waste disposal site in Hawaii.

With passage of this legislation, the out-of-state shipment and storage of the state's low-level radioactive waste will continue. Presently, according to information provided to the Committee, radioactive waste generated by the state is being shipped to Hanford, Washington, for disposal.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2204-82 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. 99-82 Housing and Hawaiian Homes on S.B. No. 2644-82

The purpose of this bill is to raise the ceiling on Hawaii Housing Authority bonds from eight to ten per cent a year.

Presently, the Hawaii Housing Authority is allowed to issue bonds at rates not exceeding eight per cent. However, because of high interest rates established on the open market, the Authority finds it extremely difficult to market its notes.

In early January 1982, the Authority advertised and received bids on project notes totalling \$51 million. However, it was unable to sell its notes as all bids received were at interest rates higher than eight per cent. In February, the Authority issued project notes totaling \$53 million and received one late bid which exceeded eight per cent.

The Construction Industry Legislative Organization, Inc. testified, and the Hawaii Housing Authority concurred, that the most attractive alternative was to lift the ceiling on interest rates completely. With interest rates so volatile, the proposed 10 per cent limit is potentially unrealistic. No interest ceiling would provide the Hawaii Housing Authority the maximum flexibility in marketing its project notes.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2644-82 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. 100-82 Housing and Hawaiian Homes on S.B. No. 2457-82

The purpose of this bill is to provide tax incentives for first-time home buyers to set aside funds for the down payment of a home.

This bill provides a tax benefit to individuals who save for a down payment toward the purchase of their first home, in much the same way that individual retirement accounts (IRAs) provide tax benefits to persons who save for their retirement years. An individual may contribute as much as \$5,000 to the account each year and is allowed to accumulate up to \$25,000. If the individual fails to use the funds toward the purchase of a first principal residence within 10 years, uses or encumbers those funds for any other purpose, or transfers the first principal residence within three years of purchase, the funds would be taxed as income and penalties would be assessed.

In addition to assisting individuals in saving for down payments, the bill would also increase the amount of monies available for home building from financial institutions participating in the program.

While the proposed tax incentives would be provided solely at the state level, federal tax benefits would also be necessary to fully effectuate the intent of the bill. Your Committee received testimonies supporting this measure as a positive first step and an effective means of assisting first-time home buyers.

Your Committee has amended the bill by redrafting the definition of "first principal residence" for purposes of clarity and grammatical correctness. Minor technical changes with no substantive effect were also made.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2457-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2457-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 101-82 Housing and Hawaiian Homes on S.B. No. 2487-82

The purpose of this bill is to provide more general excise tax exemptions for persons developing low- and moderate-income housing by granting exemptions for developers and mortgage lenders who develop or finance multi-unit low- and moderate-income residential dwellings.

Under present law only nonprofit corporations or associations, contractors and landlords are granted exemptions from the excise tax. This bill would grant exemptions to developers and mortgage lenders.

The Council of Presidents submitted testimony that this bill would encourage and abet the private sector in developing and planning housing for low- and moderate-income families. The state Department of Social Services and Housing and the City and County of Honolulu Department of Housing and Community Development also testified in support of this bill.

Your Committee amended this bill by making technical corrections which do not affect the substance of the bill.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2487-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2487-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 102-82 Housing and Hawaiian Homes on S.B. No. 2610-82

The purpose of this bill is to make an appropriation to fund the Rental Assistance Program, which was established by the 1981 legislature (Act III) to assist low- and moderate-income individuals and families in obtaining affordable rental housing accommodations.

The Rental Assistance Fund would enable the Hawaii Housing Authority to assist owners of rental housing accommodations in maintaining rentals at levels affordable by families and individuals of low- and moderate-income.

Your Committee amended the bill by specifying the sum of \$12,000,000 to be appropriated out of the general revenues of the State of Hawaii to the rental assistance fund. Your Committee also deleted the word "housing" from line 11, page 1 of the bill and substituted the word "program" for "fund" on line 5, page 2 of the bill to correct references to the Rental Assistance Program.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2610-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2610-82, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 103-82 Housing and Hawaiian Homes on S.B. No. 2339-82

The purpose of this bill is to require apartment building owners intending to sell their apartment buildings to first offer the building for sale to the tenants of the building.

Presently, tenants in a building undergoing conversion to a condominium have the first right of refusal to purchase the apartment they occupy, but there is no provision for tenants to form an association to purchase an entire building when the owner intends to sell the building.

This bill provides a mechanism that would allow tenants, government agencies, and non-profit corporations the opportunity to purchase an apartment building before the building is sold on the open market.

Your Committee adopted the recommendations of the Department of Taxation by deleting subsections (e) and (f) of the new section proposed by the bill as introduced and redesignating the remaining subsections accordingly.

Your Committee also amended section 2 of this bill by appropriating the sum of \$2,000,000 for fiscal year 1982-1983 to establish a tenant purchase revolving fund. Minor technical amendments have also been made to clarify the purpose of the bill.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. 2339-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2339-82, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 104-82 Housing and Hawaiian Homes on S.B. No. 2497-82

The purpose of this bill is to appropriate \$2 million to the Hawaii Housing Authority for a demonstration rental project for the elderly.

Testimony submitted by the nonprofit Ewa Housing Foundation, which has been working toward the development of an elderly rental project, indicates that Ewa town may serve as a possible demonstration project.

Your Committee has amended the bill by changing the effective date of the measure to July 1, 1982.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2497-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2497-82, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 105-82 Housing and Hawaiian Homes on S.B. No. 2549-82

The purposes of this bill are to establish a relocation assistance program to assist displaced persons with special needs and to require landlords to furnish tenants with a written notice of the relocation assistance program upon terminating a tenancy.

The Housing Consensus Alliance testified that many special needs groups, including the elderly, handicapped, disabled, families with minor children, and low/moderate income families, are physically, mentally, or emotionally unable to go through the necessary steps to find and compete for alternative housing.

Your Committee finds that relocation assistance has been minimal and that a relocation assistance program is urgently needed. Further, your Committee intends this program to assist rather than provide payments for relocation.

Your Committee has amended the bill by redefining "special needs person" to include totally or partially handicapped or disabled persons; and parents, guardians, or custodians of a minor who is totally or partially handicapped or disabled.

The bill has also been amended by appropriating the sum of \$100,000 to be used for the purpose of funding a relocation assistance program, and by making minor technical changes to clarify the purpose of the bill.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2549-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2549-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 106-82 Housing and Hawaiian Homes on S.B. No. 2688-82

The purpose of this bill is to clarify, with regard to persons registered to vote for election of members of the board of trustees of the Office of Hawaiian Affairs (OHA), the provisions for removing a person's name from the register of voters upon failure to vote.

Prior to 1981, the registration of voters for OHA elections was a separate process from the registration of voters for other elections. This led to confusion among some voters registered for only OHA elections who thought that registration for OHA elections also operated as registration for all other elections.

Consequently, in 1981 the Legislature passed Act 195 which amended section 11-15, Hawaii Revised Statutes, to make registration for OHA elections operate as registration to vote in all other elections. The Act also amended section 11-17, Hawaii Revised Statutes, to provide for removal from the register of "the name of any voter registered to vote in the special election for election of members of the board of trustees of the Office of Hawaiian Affairs who fails to vote at the special election if the voter also failed to vote in both the general election held in conjunction with the special election and the preceding primary election." The intent of the quoted language was to remove from the register the names of persons who failed to vote at all in an election year, i.e., did not vote in the primary election, did not vote in the general election, and did not vote in the OHA election.

However, the present statutory language which allows removal from the register if the person did not vote in the OHA election and "in both" the general and preceding primary election can be construed to mean (1) that the person must vote in at least one of the two elections, or (2) that the person must vote in the general and preceding primary election in order to avoid being removed from the register if that person also failed to vote in the OHA election. The amendments to section 1117 proposed by this bill clarify that the voter who did not vote in the OHA election need only vote in at least one of the two elections (either the general or preceding primary) in order to avoid removal from the register.

Another ambiguity in the present statute is the use of the term "failed to vote" as the standard for removing a person's name from the register. It has been suggested that the term implies that the person must have been eligible to vote, i.e., was registered to vote, but did not vote in all three elections before the person's name can be removed from the register.

Persons who registered to vote only for the OHA election prior to the 1980 elections and persons who register after the cut-off date for registration for the primary election are not eligible to vote in all three elections - OHA, primary and general. Therefore, if the term "failed to vote" is interpreted to mean that the person must have been eligible to vote and did not vote, the names of such persons could not be removed from the register even if they did not vote at all because they have not "failed to vote" in all three elections.

This bill substitutes the term "did not vote" for the term "failed to vote" to clarify the legislative intent that a person who is registered for only the OHA election or the OHA and general election and who does not vote at all during an election year may be removed from the register.

Your Committee has amended the bill by making numerous technical changes which do not affect the substance of the measure.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2688-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2688-82, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 107-82

Housing and Hawaiian Homes on S.B. No. 2755-82

The purpose of this bill is to appropriate funds for a study to determine the feasibility of constructing multi-family housing units on Hawaiian home lands.

The Department of Hawaiian Home Lands submitted testimony recommending development of multi-unit dwellings as one answer to meeting the needs of the nearly 6,500 applicants on the existing Waiting List for Residential Lot Leases. These applicants would require over \$510 million to finance infrastructure and construction costs of conventional homes. The use of multi-family units could lower residential home loan fund requirements and provide more affordable homes to applicants.

Your Committee adopted the recommendation of the Department of Hawaiian Home Lands by amending section 2 of the bill to specify the sum of \$25,000 as the appropriation for the performance of the feasibility study.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2755-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2755-82, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 108-82 Housing and Hawaiian Homes on S.B. No. 2202-82

The purpose of this bill is to correct an inconsistency between the Hawaiian Homes Commission Act, 1920, as amended, and section 26-17, Hawaii Revised Statutes.

Presently, section 202(a) of the Hawaii Homes Commission Act, 1920, provides that the Hawaiian Homes Commission shall be composed of eight members. Section 26-17, Hawaii Revised Statutes, however, provides that the commission shall consist of seven members.

Your Committee finds that section 26-17, Hawaii Revised Statutes, should be amended to conform to section 202(a) of the Hawaiian Homes Commission Act, 1920.

Your Committee has amended the bill by making a technical change only on page 1, line 5.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2202-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2202-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 109-82 Housing and Hawaiian Homes on S.B. No. 2808-82

The purpose of this bill is to enable the counties to engage in mortgage loan programs and to issue bonds to support such programs.

Your Committee was concerned that the county program might be a duplication of the state's Hula Mae program. The Department of Housing and Community Development, City and County of Honolulu, assured the Committee that the intent of the bill is not to duplicate successful state programs. They are hoping to reach families in the housing need group not currently served by Hula Mae.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2808-82, 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. 110-82 Housing and Hawaiian Homes on S.B. No. 2340-82

The purpose of this bill is to provide an additional source of revenue for county housing programs through an increase in the real estate conveyance tax.

The bill proposes an increase in the conveyance tax from 5 cents per \$100 to 15 cents per \$100. Further, a surtax of \$1.00 per \$100 will be assessed on properties conveyed at least once within the previous twelve-month period. Under this measure, one-third of all conveyance taxes collected would be credited to the county trust funds for the express purpose of providing housing assistance to low- and moderate-income families.

The City and County of Honolulu, Department of Housing and Community Development, testified that this bill will enable the public sector to recapture a portion of the increased values resulting from the purchase and resale of real property. Increasing the overall conveyance tax by 10 cents per 100 dollars, or one-tenth of one percent, is an equitable and relatively inexpensive means of taxing all sellers of real estate to provide special funds for housing. The additional surtax would place a relatively larger burden upon investor-owners, who buy and sell at a higher rate of frequency than owner-occupants, and thus would be a direct method of taxing land speculation to provide assistance to residents.

Your Committee has redrafted the new section 247-7(b) proposed by this bill to clarify the procedures for implementing the purpose of this bill. Your Committee also amended the bill by inserting an effective date of July 1, 1982 and making minor technical amendments which have no substantive effect.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2340-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2340-82, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 111-82 Housing and Hawaiian Homes on S.B. No. 2861-82

The purpose of this bill is to allow the Hawaii Housing Authority (HHA) to increase the income limits for Hula Mae applicants.

Present statutory provisions require the HHA to set income limits at 125% of the median income figures most recently published by the U.S. Department of Health, Education, and Welfare, superseded since then by the U.S. Department of Health and Human Services (HHS).

This bill would allow the HHA to increase this percentage to 150% of the relevant median income data published by HHS.

The Hawaii Housing Authority submitted testimony indicating problems of outdated median income schedules and high interest rates. These problems have severely limited the number of families able to qualify for Hula Mae mortgage loans. The most recent median income schedule released by HHS, was published in December 1980. The Authority believes that unless the income limits are raised immediately, many families in need of assistance will not be able to participate in the Hula Mae program. Outdated income limits may also prevent the issuance of Hula Mae bonds in the future, thereby jeopardizing the viability of the entire program.

Your Committee has amended the bill by inserting the word "annual" on line 5, page 1 to conform the bill to the existing language of the statute.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2861-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2861-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 112-82 Ecology, Environment and Recreation on S.B. No. 2469-82

The purpose of this bill is to make an appropriation for the study of beach erosion and changes on the neighbor islands through the use of aerial photographs.

A similar study of beach erosion and accretion on Oahu, entitled "Beach Changes on Oahu as Revealed by Aerial Photography", was completed and distributed to federal, state and city agencies, as well as private concerns, in 1981.

Michael M. McElroy, director of land utilization, City and County of Honolulu, in a letter to the Committee, advised members that the Oahu study by Dennis Hwang has been "very useful in our review of projects within the Special Management Area and the Shoreline Setback area." It has become a valuable resource for state, federal and city governments in apprising land developers and technical agencies of possible erosion problems in specific areas on Oahu.

Because the neighbor islands still have a great deal of undeveloped coastal property, it is believed that the use of aerial photographs to study beach erosion and accretion patterns on Maui, Molokai, Lanai, Kauai, and Hawaii will provide for better land management and planning in the future. It is believed that such a study might help government planners and developers to make more prudent decisions regarding potential erosion problems and development along the coastline.

While the Legislature has appropriated large sums of money for the repair, upkeep, improvement, and maintenance of existing devices to prevent erosion on developed beach property, these devices (i.e., groins, sandgrabbers, seawalls, surge-breakers) are temporary structures and are a constant and consistent drain on public funds. In conducting a photographic analysis of proposed development areas, many of the problems dealing with unexpected beach changes would be avoided, and monies which would have been appropriated for repair of preventive erosion devices may be appropriated for other state programs.

Your Committee is very much aware of funding cutbacks faced not only by the state but by the counties. While your Committee would like to see participation, at least financially, by the counties in regard to this bill, it realizes that monies may not be available at the county level for this study of beach erosion on the neighbor islands to proceed at the earliest possible date. In view of this development, this bill has been amended so that county participation is encouraged but the appropriation for this study would not be withheld should county funding not be available during this fiscal year.

Also, in testimony before the Committee, the Department of Land and Natural Resources had recommended that the Department of Planning and Economic Development be authorized to act as the expending agency for this bill. With the concurrence of the Department of Planning and Economic Development, which coordinates the state Coastal Zone Management Program and implemented the Oahu shoreline area study referred to previously in this report, your Committee has made the appropriate changes.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2469-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 2469-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 113-82 Ecology, Environment and Recreation on S.B. No. 2155-82

The purpose of this bill is to provide for the repair and restoration of the war memorial at King and Punchbowl Streets in Honolulu.

Your Committee received testimony from the Department of Accounting and General Services supporting this appropriation. Also, testimony was received from veterans' groups who criticized the present condition of the memorial and strongly supported the appropriation for its repair.

The war memorial is a temporary structure which was constructed over twenty years ago to honor Hawaii's young men who died fighting for the United States during the second world war. While it has been suggested that this memorial be permanently erected at another location, it has been the overwhelming position of the veterans' groups that the memorial remain in its present location to serve as a lasting reminder of and tribute to the efforts and deeds of Hawaii's war dead.

This bill has been amended by your Committee to include the participation of the Department of Land and Natural Resources in the planning of the memorial's restoration as recommended by the Department of Accounting and General Services. The Department of Land and Natural Resources has jurisdiction over the Pacific War Memorial System as contained in Section 6E-51.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2155-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2155-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 114-82 Higher Education on S.B. No. 906

The purpose of this bill is to create a revolving fund for libraries administered by the University of Hawaii. Revenues for this fund will be derived from fines and fees for lost, overdue, or damaged books, serials, and periodicals and such other sources as coin-operated photocopy machines and reprography and educational media services provided by the libraries. Allowable expenditures from this fund shall include such items as repair or replacement of lost, damaged, stolen, or outdated books and periodicals, and to support other direct library services and activities.

Your Committee finds that losses experienced by the various University system's libraries through lost, damaged, or stolen books and periodicals have not been properly addressed. The current approach to this problem is based on a deterrence theory as represented by traditional fines and fees, and symbolized more recently by electronic detection devices. There is no question as to the effectiveness of the present deterrence program but it does not, however, provide for repair or replacement costs.

Your Committee has received information from the University which indicates that approximately \$40,000 annually is collected by the University of Hawaii libraries through assessments

of fines and fees and deposited into the state treasury. Although the proposed revolving fund will not completely resolve the problem, your Committee believes that it will provide a viable alternative for meeting an important part of the operational needs of the libraries. In addition, it will provide an incentive for the libraries to review their fee and fine structure and be more aggressive in their collection process.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 906, 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 except Senator Ushijima.

SCRep. 115-82 Higher Education on S.B. No. 2347-82

The purpose of this bill is to amend Chapter 304, Hawaii Revised Statutes, by adding a new section which would provide for the Board of Regents to waive all tuition fees for veterans who are Hawaii residents, currently enrolled as undergraduate students working towards a degree on any campus of the University of Hawaii, and who are no longer receiving educational benefits under the federal "GI Bill".

The proposed tuition waivers shall be for the academic year only, excluding summer session and courses offered by the college of continuing education and community service which are not directly supported by an appropriation from the state general fund.

Testimony from veterans indicated that such tuition waivers would have minimal financial impact for the state due to the small numbers of qualifying veterans involved, but would demonstrate the state's good faith support for those veterans who served their country well and now need financial support to complete their educational training.

The University of Hawaii testified that the administration of the proposed tuition waiver program for veterans who have exhausted their federal benefits would be within their current capability and they therefore have no institutional objections to S.B. 2347-82.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2347-82 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. 116-82 Higher Education on S.B. No. 2751-82

The purpose of this bill is to make an appropriation to ensure the continuing operation and effectiveness of the University of Hawaii's continuing education for women program.

The sum of \$43,860 is appropriated for the College of Continuing Education and Community Services of the University of Hawaii at Manoa for the purposes of the continuing education for women program, including salaries and operating costs.

Your Committee received testimony from the University of Hawaii at Manoa, the City and County's Office of Human Resources, the Hawaii State Commission on the Status of Women, the Women's Legislative Coalition, and the YWCA Displaced Homemaker Services that the program is designed to give women the opportunity to re-enter the job market, university, or community colleges by providing educational and career counseling services. The program has also developed an interagency referral system so that clients may be able to locate and acquire needed services in the education and social services areas.

This program reaches out to men as well as women at all levels of the educational ladder from school drop-outs to advanced degrees, from assertiveness training to community service opportunities and training, with special emphasis on the representation of low-income women and men, members of diverse racial and ethnic backgrounds and women and men of all ages.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2751-82 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. 117-82

Higher Education on S.B. No. 2911-82

The purpose of this bill is to make an appropriation to ensure the continuing operation and effectiveness of the University of Hawaii at Hilo's continuing education and community services program.

The sum of \$182,508 is appropriated for the Center for Continuing Education and Community Service of the University of Hawaii at Hilo, including \$86,562 for the conversion of five existing positions to general funds, \$35,946 for travel and transportation expenses for outreach programs, and \$60,000 for program support.

Your Committee received testimony from the University of Hawaii at Hilo that there are extraordinary support costs associated with their main outreach areas on Kona, Waimea, Kohala, Honokaa, and Ka'u. Provision of services to these areas involves high mileage costs and per diem charges not associated with continuing education operations elsewhere in the University of Hawaii system.

The "self-support" policy currently governing outreach activities means that the using students must bear at least the direct costs of instruction, for example, instructor's salary, transportation and per diem. In the case of a three-credit course at Kona, this is presently a minimum of \$3,187. This amount equals the tuition income from fifty-four students, and it is not reasonable to expect classes of this size in most of the outreach service locations. Furthermore, under current operations there is little opportunity to generate a surplus in some areas adequate to subsidize an extensive program in the higher cost areas.

Additionally, the "self-support" system as it presently operates provides no reasonable opportunity for the recovery of administrative costs.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2911-82 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. 118-82

Education on S.B. No. 2756-82

The purpose of this bill is to provide that, for the year 1984 only, the Admission Day state holiday, now designated by law to occur on the third Friday of August of every year, be changed to provide that Tuesday, August 21, shall be that holiday in 1984.

Your Committee heard testimony in support of this measure from Mr. Edward Burns, chairman of the 1984 Hawaii Statehood Silver Jubilee Committee.

Your Committee has made minor technical changes which have no substantive effect.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2756-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2756-82, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 119-82

Education on S.B. No. 2192-82

The purpose of this bill is to provide the family court with the authority and means to enforce compulsory school attendance, when the parent or other person having charge of the child, fails to use proper diligence to enforce a child's regular attendance at school.

Your Committee heard testimony in support of this measure from the chairman of the Board of Family Court Judges, the state Office of the Public Defender and the state Attorney General.

Your Committee adopted the recommendation of the state Public Defender by amending section 571-14 to provide the family courts with exclusive original jurisdiction in compulsory school attendance cases involving a parent or guardian.

Minor technical amendments have been made which have no substantive effect.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2192-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2192-82, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 120-82 Education on S.B. No. 2757-82

The purpose of this bill is to provide an appropriation for the expenses of the 1984 Hawaii Statehood Silver Jubilee Committee.

Your Committee heard testimony in support of this measure from Mr. Edward J. Burns, Chairman of the 1984 Hawaii Statehood Silver Jubilee Committee.

Your Committee has amended the bill to provide for further discussion on the amount of the appropriation. Your Committee has also made technical amendments which have no substantive effect.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2757-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2757-82, S.D. 1 and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 121-82 Education on S.B. No. 2185-82

The purpose of this bill is to enable the State Foundation on Culture and the Arts (SFCA) to award grants which would be consistent with their duties of assisting, stimulating, guiding and promoting culture and the arts and history and the humanities throughout the state.

Your Committee heard testimony from the SFCA in support of this measure. The SFCA has been advised by the Department of the Attorney General that the foundation has no legal authority to award grants but instead can only contract for purchases of service. Purchase of service payments, unlike grants (assistance payments to recipients for carrying out programs of activities), do not adequately enable the SFCA to fulfill its purposes.

Your Committee finds that this bill would not only allow the SFCA to award grants but would also clarify the principal functions, duties, and powers of the foundation.

Your Committee has amended the bill to make individuals as well as non-profit associations, corporations, and agencies eligible to receive financial assistance from the foundation. Minor technical amendments have also been made by inserting a comma omitted from the bill on page 2, line 1 and by adding the words "to be" on page 2, line 23 of the bill for grammatical purposes.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2185-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2185-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 122-82 Education on S.B. No. 2354-82

The purpose of this bill is to provide the Department of Education with statutory authority to assess and collect fees and charges from users and deposit the fees collected into a separate fund.

Your Committee heard testimony in support of this measure from the Department of Education and the Hawaii State Teachers Association.

It was noted in testimony before your Committee that, in the absence of this statutory authority, the Department of Education is required to deposit these funds into the state treasury as general fund realizations in accordance with section 103-2. This bill would allow schools to use these fees collected for expenses such as: janitorial supplies; repairs, maintenance and replacement of equipment and stage curtains; and overtime costs for custodial and school food services personnel.

Your Committee has amended the bill by making grammatical and technical changes which have no substantive effect.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2354-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2354-82, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 123-82 Education on S.B. No. 2148-82

The purpose of this bill is to provide funds for student activity programs to include conversion of 38 part-time student activities coordinator positions to full-time positions.

Your Committee heard lengthy testimony concerning student activities and student activities coordinators during Board of Education and Department of Education budget hearings at both sessions of the Eleventh Legislature.

Your Committee has amended the bill to provide for further review.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2148-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2148-82, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 124-82 Education on S.B. No. 2823-82

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

Your Committee heard testimony in support of this measure from the Department of Education and the Hawaii State Teachers Association. Without this statutory authority, the Department of Education would be required to deposit the money collected with the state treasury.

Your Committee has amended the bill to allow each individual school rather than the Department of Education to deposit and expend these funds.

Your Committee has amended section 1 of the bill to remove the ambiguous terms "classes" and "grades" from the list of co-curricular activities. In section 2 thereof various amendments have been made in section 298-5(a), (b), and (c) for grammatical correctness and clarity. Additional technical amendments were also made.

Your Committee is in accord with the intent and purpose of S.B. No. 2823-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2823-82, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 125-82 Education on S.B. No. 2824-82

The purpose of this bill is to exempt adult education special funds of the Department of Education from assessments for central services expenses and departmental administrative expenses.

The Department of Education noted that the exemption would minimize the need to continually increase student fees to meet rising costs of teachers' salaries and other operating expenses.

Your Committee has made minor technical amendments which have no substantive effect.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2824-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2824-82, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 126-82

Education on S.B. No. 2815-82

The purpose of this bill is to continue the career opportunities program as administered by the state's employment training office, University of Hawaii community colleges, to provide a job-oriented career opportunities program for secondary school students who need and are seeking alternatives to curriculum offerings currently available to them.

Your Committee heard testimony in support of this measure.

Your Committee is forwarding this measure to the Committee on Ways and Means for further discussion concerning the specific level of funding.

Your Committee has made minor technical amendments which have no substantive effect.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2815-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2815-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 127-82

Judiciary on S.B. No. 2297-82

The purpose of this bill is to provide a second law clerk for each judge of the Intermediate Appellate Court.

The testimony submitted by the Judiciary indicated that the Intermediate Appellate Court which began operating on April 28, 1980, has made a significant impact upon the appellate case backlog, reducing the number of pending cases from 828 at the end of fiscal 1979-80 to 698 by the end of fiscal 1980-81. Presently each judge issues a written opinion approximately every three and half working days. A second law clerk for each judge will appreciably increase the output and the productivity of the court.

The addition of a law clerk is an alternative previously recommended by the National Center for State Courts in response to the ever-growing backlog of appeals prior to the establishment of the Intermediate Court of Appeals. The addition of more judges was recommended only after increasing caseloads absorbed the productivity gains provided by the additional law clerks.

Your Committee on Judiciary has made a technical, nonsubstantive change to Section 1 of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2297-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2297-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 128-82

Judiciary on S.B. No. 2424-82

The purpose of this bill is to amend the campaign spending statutes by 1) eliminating the distinction between individual and corporate contributions to political candidates; 2) changing the allowable tax deductions to tax credits; and 3) eliminating the restriction that only \$100 of each donation to a qualified candidate can be counted as a deduction.

Under this bill, an income tax credit of up to ten per cent of the amount contributed is allowed with a contribution ceiling of \$100 for political party contributions and \$500 for candidates who have agreed to abide by the campaign spending limit.

Your Committee heard testimony from Common Cause/Hawaii who spoke in favor of this bill and the Department of Taxation who recommended certain amendments in order to achieve conformance with Section 41 of the Internal Revenue Code.

Accordingly, amendments have been made to this bill to bring it in conformance with the Internal Revenue Code. The words "payment of which is made by the taxpayer within the taxable year," and a new sentence have been added to indicate that unused credit cannot be carried over into another year. The words "\$200 when filing a joint return" and "\$1,000 when filing a joint return" have been appropriately added to allow credit on a joint return regardless of which spouse has made the contribution. Finally, specific language has been added which states that "the credit allowed by this section shall not exceed the amount of the tax imposed for the taxable year reduced by the sum of other total allowable credits" to specify that a tax refund will not be allowed.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2424-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2424-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 129-82

(Majority) Judiciary on S.B. No. 2684-82

The purpose of this bill is to amend the statutes relating to criminal injuries compensation to remove the inequities against victims of violent crimes.

The bill proposes to revise the appeal process to allow for judicial review where claims are initially denied. Presently judicial review to the supreme court of the decisions or orders of the Criminal Injuries Compensation Commission is only allowed where the commission has exceeded its authority and jurisdiction. The bill will allow an aggrieved party to appeal the commission's decisions or orders to the director of the Department of Social Services and Housing and if the party is not satisfied may appeal that decision or order to the Hawaii Supreme Court. Your Committee amended the bill to clarify the judicial review process.

The bill provides that relatives of an adult deceased victim may also be eligible for compensation for incurred expenses on account of hospital, medical, funeral, and burial expenses as a result of the victim's injury and death. Your Committee heard testimony that many times relatives would pool together to pay for outstanding medical bills. This change would accommodate common practices and customs of the extended family concept in Hawaii. Your Committee amended the bill to conform to this provision.

Your Committee heard testimonies regarding the intensive questioning done by the Commission of victims of violent crimes. Your Committee is cognizant that provocation and responsibility of the victims for the criminal offense are factors which the Commission must consider in awarding compensation. However, there should not be a need to subject a victim to extensive interrogation where the case has already been adjudicated in the courts. To alleviate the victims' undergoing double interrogation, first in the courts and secondly by the Commission, the bill provides that the judicial determinations shall be accepted by the Commission. The Commission expressed concern that a criminal acquittal would necessitate a denial of compensation. This concern is unfounded because a criminal acquittal only indicates that there has not been evidence of proof beyond a reasonable doubt which is the highest standard of proof.

Under present law, a victim shall not be awarded compensation if the victim was a relative of the offender or if the victim was living with the offender as a spouse or member of the offender's household. As a result of the current law, victims were not able to be compensated merely because they were either living with the offender or was related to the offender even though after the offense they no longer lived with the offender. The bill thus provides that this limitation be repealed from the statutes.

Finally, the bill provides that the Criminal Injuries Compensation Commission shall institute derivative actions against any person liable in the name of the victim and others who have been awarded criminal injuries compensation. This change would mandate the Commission to take steps to recover from the liable parties compensation paid out as a result of the offender's misconduct.

Your Committee amended the bill with technical, nonsubstantive changes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2684-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2684-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

Senators Anderson, O'Connor and Yee did not concur.

SCRep. 130-82

(Majority) Judiciary on S.B. No. 2683-82

The purpose of this bill is to create a new chapter entitled: "Equal Access to Justice Act," modeled after federal Public Law 96-481 which became effective on October 1, 1981.

This bill would ensure that, in the course of civil proceedings involving as adverse parties individuals and governmental agencies, the individual shall be awarded reasonable litigation expenses when the case is adjudicated in his favor.

Your Committee heard testimony from the Hawaii Business League, the National Federation of Independent Business and a local businessman which supported this bill. The increasingly high costs of litigation, coupled with rising inflation and taxes, often inhibit individuals and businesses from seeking proper adjudication of governmental disputes through the courts. Reimbursement of legal costs will help to rectify this situation while at the same time insuring that governmental agencies act responsibly in the performance of their regulatory duties.

Your Committee has amended this bill to expand its applicability to include persons as well as businesses. The definition clause and appropriate sections of the bill have been amended to reflect this change. Furthermore, your Committee has removed the limitation which would allow only businesses that receive \$1,000,000 or less in gross annual receipts to be applicable under this chapter.

The bill has been further amended to clarify its intent that reimbursement of legal costs shall be awarded to the person only when the civil proceeding has been initiated by the governmental agency. An additional amendment has been added which stipulates that the court may, in its discretion, award the governmental agency reasonable legal expenses when the agency prevails.

Finally, your Committee has added an amendment which would award the person reasonable legal fees when the governmental agency has elected to terminate the civil action.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2683-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2683-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator O'Connor did not concur.

SCRep. 131-82 (Majority) Judiciary on S.B. No. 2269-82

The purpose of this bill is to provide for the establishment of a criminal justice training fund which shall be utilized to finance appropriate training programs of the state and county criminal justice agencies.

In order to implement an effective program to combat crime, the various components of the criminal justice system must have persons who are highly skilled and specially trained. The bill seeks to establish a fund to be used for the training of criminal justice personnel by a system of fines to be levied upon all persons convicted of a criminal or traffic offense.

The criminal justice training fund would be established in the Department of the Attorney General and would be available to criminal justice agencies such as the Department of the Attorney General, the county departments of police and prosecuting attorneys, the Office of the State Public Defender, the Corrections Division of the Department of Social Services and Housing, the statewide intake service centers, and personnel of the judiciary branch of government involved with criminal cases.

The bill provided that upon a criminal conviction, a penalty assessment of ten per cent of the fine or restitution ordered by the court shall be deposited into the criminal justice training fund. It also provided that upon a conviction or a bail forfeiture for any traffic offense, a penalty assessment of one dollar shall be deposited into this training fund.

Your Committee amended the bill by clarifying that the penalty assessment be levied on the defendant. In criminal offenses, your Committee amended the bill to provide for the assessment of a penalty in cases which the judge chooses not to impose a fine as part of the penalty.

The bill provided that the fund be allocated in the proportion of twenty-five per cent to the judiciary for costs of collecting penalty assessments and for training purposes and of seventy-five per cent to the Department of the Attorney General. Your Committee amended the bill by having the Department of the Attorney General have full discretion of the allocation of the fund for training purposes. Thus your Committee decreased the percentage allotted to the judiciary to an amount of fifteen per cent for costs of collecting penalty assessments only. The remaining portion of eighty-five per cent would be allocated to the Department of the Attorney General for training purposes.

Your Committee further amended the bill by clarifying what criminal justice agencies would be eligible to receive funds for training.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2269-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2269-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

Senators Anderson, Kuroda, Soares and Yee did not concur.

SCRep. 132-82 (Majority) Judiciary on S.B. No. 2534-82

The purpose of this bill is to amend the campaign spending statutes relating to campaign expenditure limitations and public funding to political candidates.

Under this bill, a candidate who has filed a campaign spending affidavit and who is opposed by another candidate who has not filed an affidavit need not adhere to the spending limitation and shall still be entitled to receive public funds, to receive tax deductible contributions and to pay a lower filing fee.

In addition, this bill increases the spending limitation base by ten per cent a year instead of the current five per cent yearly increase. The amount of public funds available to higher offices of the governor, the lieutenant governor, the mayor and the prosecuting attorney is changed from twenty per cent of the established limit to a set amount of \$100. For all other offices, the amount available is changed from \$100 to ten per cent of the established expenditure limit. Finally, this bill deletes the present requirement that only fifty per cent of the total amount of available public funds be disbursed and deletes subsection (d) of section 11-223 which disallows the shifting of funds from a primary or special primary election to the general election.

Your Committee heard testimony in support of this bill from Common Cause/Hawaii who felt that enactment of this bill will serve as an incentive for candidates to abide by campaign spending limits and will encourage fuller participation in our electoral process.

Your Committee amended the bill by making nonsubstantive, technical changes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2534-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2534-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

Senators Anderson, Kobayashi, O'Connor, Soares and Yee did not concur.

SCRep. 133-82 Judiciary on S.B. No. 2190-82

The purpose of this bill is to clarify that the position of the director of the Hawaii Criminal Justice Information Data Center is exempt from the civil service system, and to change the name of the center to delete the redundancy that presently exists in its name.

On July 1, 1981, the Hawaii Criminal Justice Information Data Center was transferred from the Judiciary to the Department of the Attorney General for administrative purposes, as required by Act 269 enacted by the Legislature in 1980.

Act 128 enacted in 1981 included provisions for the orderly transfer of the center's personnel from the Judiciary to the Department of the Attorney General. According to the testimony of the Attorney General's office, following the passage of Act 128, the Department of Personnel Services determined that because Hawaii Revised Statutes section 846-2 did not specifically exempt the data center's director from civil service status, the position had to be filled through the civil service system. However, when the data center was attached to the Judiciary, the interim director had been appointed on an exempt basis. Your Committee agrees that the legislative intent in passing Act 128 should be clarified through this bill to keep the director's position exempt from civil service status.

Your Committee further agrees that the statutory name should be changed from "Criminal Justice Information Data Center" to "Criminal Justice Data Center," because "information" seems redundant of the word "data."

Your Committee has made a non-substantive amendment to the bill to conform to the Ramseyer format.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2190-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2190-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 134-82

Judiciary on S.B. No. 2754-82

The purpose of this bill is to appropriate funds to the victim-witness counselor programs in the counties of Kauai, Maui, Hawaii, and Honolulu.

Your Committee heard testimony from the Hawaii Crime Commission indicating that their studies have found time and again that as the average citizen interacts with the present criminal justice system, the frustration, trauma, and loss of time and money reach levels which have caused some experts to call it the criminal "injustice" system. These programs are designed and operated to aid the victims and witnesses through the criminal justice system.

Your Committee further heard testimony that the proposed budget for these programs would be as follows: \$28,000 for the county of Kauai, \$43,000 for the county of Maui, \$43,000 for the county of Hawaii, and \$215,000 for the city and county of Honolulu. Thus, your Committee amended the bill to grant these budget requests.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2754-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2754-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 135-82

Judiciary on S.B. No. 2195-82

The purpose of this bill is to amend the procedure relating to the transmittal of the annual report, accompany tabulations, and appropriation bill of the Criminal Injuries Compensation Commission.

Under the present law, the annual report of the Criminal Injuries Compensation Commission is submitted to the Governor and the director of finance. The director of finance, in turn, transmits to the Legislature the annual report and a bill which details the individual awards and amounts requested by the commission. This bill expedites the current process by deleting the requirement of sending the annual report to the director of finance and by permitting the commission to deal directly with the Legislature. Testimony from the director of finance in favor of the bill indicated that information on the total appropriation which is being requested in the bill and which is needed for financial planning purposes will still be obtainable from the commission.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2195-82 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. 136-82

Judiciary on S.B. No. 2627-82

The purpose of this bill is to allow the county prosecuting attorneys to utilize the Organized Crime Act.

The bill provides that the prosecuting attorneys of each county as well as the State Attorney General may combat organized crime within their jurisdictions using civil as well as criminal actions.

Your Committee heard testimony that the prosecuting attorneys are more specialized in the area of criminal prosecution and should be permitted to detect and prosecute organized crime figures through the use of the Organized Crime Act. However, the Act is restrictive in that only the Attorney General is responsible for enforcing the provisions of the Act. Testimony further revealed that the Attorney General has indicated in the past its preference to leave the investigation and prosecution of organized crime to local county prosecutors and law enforcement agencies.

The bill also provides that the Attorney General and the county prosecutors have access to inspect tax returns and records on file with the Department of Taxation of persons suspected of willful failure to pay or report taxes.

Your Committee feels that there is no need to expand the access of individual tax records. Thus, your Committee amended the bill by deleting that provision in the bill.

The bill further provides that monies be appropriated to implement the intent of the bill. However, your Committee feels that appropriations are not needed to carry out

the intent of this bill. Thus your Committee made amendments to reflect this.

Your Committee also made technical, nonsubstantive changes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2627-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2627-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 137-82 Judiciary on S.B. No. 2833-82

The purpose of this bill is to extend the life of the Hawaii Crime Commission from 1984 to 1990 and to set the term for each commissioner at a period of four years. The bill also changes the law to give the chairman the right to vote.

Testimony presented by the Hawaii Crime Commission stated that the commission strongly believes that it has been "a valuable tool in the fight against the crime problems facing the people of our State." The commission has conducted various studies, research, and programs on crime-related problems including those relating to schools, grand juries, extortion, and wiretapping. Your Committee concurs that the commission serves a useful function in the community's effort to reduce crime and has had a worthwhile impact on the criminal justice system.

Your Committee therefore agrees that the term of the commission should be extended beyond 1984 until 1990, and the commission members should be appointed for a period of four years. Your Committee has amended this bill to further clarify that under this change the present commission members will serve until January 30, 1986. The change will also enable the commission to more readily retain competent staff members who do not now have civil service status.

Your Committee has also adopted the recommendation that the commission chairman be allowed to vote in order to conduct business more expeditiously. Presently, since the chairman can vote only when there is a tie, there have been occasions when formal action could not be taken at meetings despite the attendance of a quorum.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2833-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2833-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 138-82 Judiciary on S.B. No. 2277-82

The purpose of this bill is to provide for the establishment of a statewide witness program by the Department of the Attorney General for the security and protection of government witnesses. The bill appropriates the sum of \$500,000 to the Attorney General's office to be expended for witness protection efforts, with greatest priority given to cases involving organized crime, racketeering, or career criminals. County and state prosecuting and law enforcement agencies may request witness protection or funding for that purpose from the Attorney General.

Your Committee heard testimony from the Department of the Attorney General that there is a need for statewide assistance to enable state and county law enforcement agencies to provide protection against witness intimidation, tampering, and retaliation when witnesses are willing to testify in government criminal investigations and prosecutions. The high cost of witness protection is often beyond the means of the counties. Moreover, many cases have statewide as well as local impact, especially in the area of organized crime.

Your Committee notes that the federal government's witness security program has been successful and that a similar program on the state level would enhance efforts by the counties in obtaining the cooperation of witnesses who are necessary for successful prosecution. Your Committee finds that a coordinated and cooperative effort by the various law enforcement agencies and the Attorney General's office is essential to the effectiveness of this program.

The Attorney General's office indicated in its testimony that statewide estimates are that the counties spent a combined total of over \$1 million on witness protection. The \$500,000 appropriation in this bill would be a step toward having the state share in the cost.

Testimony in support of the purpose of this bill was also received from the Honolulu Police Department, the Hawaii Crime Commission and the Honolulu Prosecuting Attorney.

Your Committee amended the bill by deleting the provision that would allow the Attorney General to condition the provision of security and protection or funding upon a county matching or reimbursement basis. Your Committee feels that since the purpose of the program is to provide additional assistance to the counties, it is not necessary to allow such conditions.

A further amendment was made to specify that section 710-1072.2 of the Hawaii Revised Statutes is the statutory section pertaining to the offense of retaliating against a witness.

Other technical, nonsubstantive amendments to the bill were made by your Committee.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2277-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2277-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 139-82 Judiciary on S.B. No. 2244-82

The purpose of this bill is to permit the state, upon the request of a state agency, to retain state income tax refunds for those persons who owe a debt to the state.

Your Committee heard testimony from the Department of Social Services and Housing that this bill will provide an effective technique to aid in the collection of delinquent child support debts owing to the state under the Aid to Families with Dependent Children (AFDC) program. AFDC recipients assign their child support rights to the state during their AFDC eligibility period. The state establishes, enforces, and collects the child support obligation, to repay in part, the taxpayer dollars expended by the state and Federal Government to support the family.

According to the testimony, there are more than 3,000 parents who are delinquent in their child support payments and are accumulating a debt to the state. Your Committee agrees that this bill will provide a useful income tax refund setoff mechanism which will assist the department in collecting the debts and reduce the obligated parent's debt in the amount of the refund.

Your Committee notes that the Federal Government began a Federal Income Tax Off-Set Program this year which allows for federal tax intercept of refunds in a similar manner as provided for in this bill.

Your Committee has amended this bill to clarify that any balance of a refund existing after the debt to the state has been satisfied should be returned to the person entitled to the refund. Other technical amendments have been made to correct grammar and to conform to the Ramseyer format.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2244-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2244-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 140-82 Judiciary on S.B. No. 2752-82

The purpose of this bill is to appropriate funds to be expended by the Hawaii State Commission on the Status of Women to develop materials for use by the county police departments for a statewide sexual assault prevention program.

Your Committee heard testimony from the Hawaii State Commission on the Status of Women that community response to sexual assault cannot be built on a foundation of misinformation, and that there is a need to provide factual information to the public. The appropriation of \$40,000 provided by this bill would be used to develop a statewide educational and training program which may include lectures, literature, and video presentations on the topic of sexual assault.

Testimony supporting the intent of the bill was also received from the Honolulu Police Department, the Sex Abuse Treatment Center, the Hawaii Crime Commission, and the Women's Legislative Coalition.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2752-82, 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. 141-82 Judiciary on S.B. No. 1073

The purpose of this bill is to establish an Office of Public Guardian in the Judiciary. The public guardian would serve as guardian, limited guardian, testamentary guardian, or temporary guardian of an incapacitated person when appointed by the Family Court in accordance with the Uniform Probate Code. The public guardian would be appointed if no other suitable guardian is available and willing to serve or if the best interests of the ward would be better served by appointment of the public guardian. The public guardian would also assist the court in the appointment and supervision of guardians, and advise and assist those who have been appointed or who are seeking appointment. Programs of public education on guardianship and alternatives are also to be developed by the public guardian.

Your Committee received testimony from the Family Court that there are cases brought before the court in which no one is available to serve as a guardian of an incapacitated person. These cases are generally filed by either the Department of Social Services and Housing or by a hospital when an emergency arises and there is an urgent need for someone to accept responsibility to act or to sign documents on behalf of an incapacitated person.

The Task Force for the Study of Laws Relating to Guardianship, Civil Commitment and Protective Services in Hawaii has also indicated that there is a shortage of private guardians available in the community. Additionally, there is a need for more public information about guardianship, for assistance to private guardians, and for assistance to the Family Court in monitoring private guardianships.

The Department of Social Services and Housing testified that it is concerned about its conflict of interest situation in cases in which it has been appointed guardian of a person while continuing to provide direct service to that person. The establishment of a public guardianship office would offer a viable alternative for safeguarding the interests of wards.

Testimony expressing support of this bill was also received from several other agencies including the Department of Health, the State Planning Council on Developmental Disabilities, the Executive Office on Aging, the Commission on the Handicapped, the Protection and Advocacy Agency of Hawaii, and the Hawaii Association for Retarded Citizens.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1073, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 142-82 Judiciary on S.B. No. 2296-82

The purpose of this bill is to provide for salary adjustments or increases for officials of the Judiciary whose compensation is presently fixed or limited by statute. The salary increases would be applicable to the chief justice and associate justices of the Supreme Court, the chief judge and associate judges of the Intermediate Appellate Court, the various circuit court, district court, and district family court judges, the Administrative Director of the Courts and his deputy, and the sheriff and his first and second deputies.

Your Committee finds that the last salary adjustments or increases for officers of the Judiciary were effectuated five years ago on January 1, 1976, with the exception of the salaries for the judges of the Intermediate Appellate Court, which were set in 1979 upon the creation of the Intermediate Appellate Court. Because of frequent and regular salary adjustments, the salaries of public employees and appointed and elected county officials now exceed the salaries of higher level officers within the Judiciary.

Your Committee has amended this bill by setting forth the compensation for the various positions within the Judiciary as follows:

- (1) Chief Justice of the Supreme Court - \$55,000 per year;
- (2) Associate justices of the Supreme Court - \$52,500 per year;

- (3) Chief Judge of the Intermediate Appellate Court - \$52,500 per year;
- (4) Associate judges of the Intermediate Appellate Court - \$51,250 per year;
- (5) Circuit court judges - \$50,000 per year;
- (6) District court and district family court judges - \$47,500 per year;
- (7) Administrative Director - \$50,000 per year; and
- (8) Sheriff and first and second deputy sheriffs - annual salaries to be set pursuant to position classification and compensation plan under Chapter 77.

As noted above, your Committee has set the annual salary of the chief justice of the Supreme Court at \$55,000. The salaries for the other high level positions within the Judiciary have been fixed, with the base being the salary of the chief justice. Your Committee feels that using the salary of the chief justice as the base results in consistent and equitable salary adjustments, taking into consideration the inflationary trend and concomitant rise in the cost of living.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2296-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2296-82, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Anderson, Kuroda, O'Connor and Yee.

SCRep. 143-82 Judiciary on S.B. No. 2294-82

The purpose of this bill is to provide supplemental funding for the operations and capital improvement projects of the Judiciary for fiscal year 1982-1983. The budget request seeks to expand the Judiciary to accommodate increase workload in various divisions.

Your Committee has received testimony and other pertinent information from the Judiciary relating to this bill, and has carefully reviewed them. We find that in light of the information received, certain requests require more justification regarding their pertinence to the programs involved. The bill has been amended until such time justification warrants these requests.

Your Committee has provided funds and positions for the establishment of a Juvenile Intake Agency under the Family Courts. This agency was mandated by Act 303, Session Laws of Hawaii, 1980. We find that Act 303 should be implemented to fulfill the intent of the Legislature.

After a thorough research by the Committee's staff on the projected electricity costs for the District Court Building, we have reduced the Judiciary's request to a more appropriate amount. However, your Committee has provided funds for the purchase and implementation of a computerized electrical load management system to provide an efficient method to reduce the usage of electricity when not needed. We believe that such a system is needed in all new buildings to save energy and costs.

The bill has been amended to provide \$150,000 for agencies providing alternative treatment programs, like Habilitat, under the Circuit Courts. Additionally, \$54,000 has been appropriated for the operations of the Neighborhood Justice Center. Finally, \$10,000 has been appropriated for other current expenses, such as special litigation costs, for the Judicial Selection Commission.

The Judiciary requirements for capital improvements have been amended by deferring on the supplemental request for the Wailuku Judiciary Complex until further study of this matter has been completed. This change has been made due to testimony from the Judiciary indicating that additional requirements were imposed by the Planning Department of the county of Maui to provide for additional parking area in this building. Subsequent to this request, the Judiciary informed us that additional plans and funds were needed to accommodate this requirement for the combination construction of additional parking area and reinforcement of the building for future construction of an additional floor. We find that further study of this request is needed to insure that these new plans are appropriate to the needs of the Judiciary on Maui.

We have also deferred a request for a feasibility study for a training facility. A study for a similar facility has been completed by the Honolulu Police Department and we recommend usage of this study for the purposes of the Judiciary at this time.

Minor technical changes have been made to conform to proper bill drafting.

Your Committee has approved a supplemental request of \$2,685,814 for fiscal year 1982-1983.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2294-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2294-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Anderson, Kuroda, O'Connor and Yee.

SCRep. 144-82 (Joint) Housing and Hawaiian Homes and Judiciary on S.B. No. 2657-82

The purpose of this bill is to establish a State Kuleana Task Force to study the problems facing owners of kuleana lands in the state, to recommend comprehensive solutions, and to report its findings and conclusions to the Legislature in 1983.

Your Committees heard testimony from the Office of Hawaiian Affairs that although the 1850 Kuleana Act authorized native tenants to acquire fee simple title to their cultivated plots of land, less than 30,000 acres, comprising only 9,337 kuleana grants, were awarded to them. This was less than one per cent of the total acreage that the common people were to receive under the 1948 Mahele.

Your Committee finds that since the time these grants were made, the land rights of the native tenants have continuously been evicted for various reasons, and have resulted in the displacement of many native tenants from their kuleana lands. For many of these landowners, it has been a frustrating and ongoing struggle to retain use and ownership of their kuleanas.

Among the many complex problems faced by these landowners are those relating to water, title, zoning, taxation, unknown heirs, multiple owners, identification and access. Many of these problems have involved legal actions which have been expensive and time consuming.

Yet, these kuleana lands represent a unique part of Hawaii's land tenure history and represent a significant cultural and economic resource to the Hawaiian people. Your Committees therefore agree that a task force should be created to conduct an in-depth study of the problems affecting kuleana landowners and to propose effective solutions.

Testimony supporting the purpose of the bill was also received from the Native Hawaiian Legal Corporation, the Hawaiian Civic Club of Honolulu, the Association of Hawaiian Civic Clubs, Hui Malama Aina O Koolau, the Legal Aid Society of Hawaii, and several individual kuleana landowners.

Your Committees have amended the bill to provide that the Task Force will be attached to the Office of Hawaiian Affairs for administrative purposes. Your Committees also recommend that the sum of \$25,000 be appropriated to their office to expend for the activities of the Task Force.

Further amendment has been made to allow more time for the Task Force to make a final report, with an interim progress report to be submitted to the 1983 Legislature.

The composition of the Task Force has also been changed by replacing the president of the Hawaii Bar Association and a representative from the executive branch, with a licensed attorney knowledgeable in real property law and a county planning director, both to be appointed by the governor. In addition, the five public members will be appointed by the governor rather than by the chairperson of the board of trustees of the Office of Hawaiian Affairs. The governor will be required to appoint the chairperson of the Task Force within sixty days so that the Task Force may be established expeditiously.

Your Committees believe that it is not necessary to allow the chairperson to remove or suspend any member of the Task Force within the one year it operates, so have deleted this provision from the bill.

The bill has also been revised to provide that the travel and per diem expenses for all of the Task Force members shall be paid for out of the Task Force appropriation.

The portion of the bill imposing a moratorium on legal action involving kuleana lands has been placed in a new section of the bill and clarifies that only new actions involving

these lands are barred from being filed in state court by the moratorium until June 30, 1983. Moreover, the time period of the moratorium should not affect the merits of any legal action which have or may be filed. This would hold in abeyance further erosion of the landowners' rights until the various problems and issues can be more carefully examined, while at the same time allowing pending litigation to continue.

Finally, your Committees have added a severability clause to the bill.

Your Committees on Housing and Hawaiian Homes and Judiciary are in accord with the intent and purpose of S.B. No. 2657-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2657-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Kuroda, O'Connor and Yee.

SCRep. 145-82 Judiciary on S.B. No. 2281-82

The purpose of this bill is to provide an appropriation for a pre-design study for the construction of juvenile detention facilities on the islands of Hawaii and Kauai.

Your Committee finds that on the islands of Hawaii and Kauai there is a lack of appropriate facilities for the detainment and incarceration of juveniles. Currently, juveniles are being housed in adult correctional facilities or are being transferred to the youth correctional facility on Oahu. It is the feeling of your Committee that appropriate detention quarters which are separate from adult facilities should be provided as soon as possible.

In testimony presented before your Committee, the Attorney General's office stated that the Governor's Conference on Juvenile Justice held on July 30-31, 1981 recommended that post adjudication juvenile facilities should be made available to all courts in all circuits and that separate alternative facilities should be obtained.

Your Committee also received testimony from the Department of Social Services and Housing in support of this bill.

An amendment has been made to this bill to include an appropriation of \$60,000 for a pre-design study to be completed by December 31, 1982.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. 2281-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2281-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 146-82 Judiciary on S.B. No. 2381-82

The purpose of this bill is to establish a new department to be called the Department of Corrections which would consolidate a number of functions concerning adult and juvenile offenders which are currently shared by the Department of Social Services and Housing and by the judicial branch of government.

It is the intent of your Committee to better coordinate the functions shared by the two agencies. Because functions relating to corrections are dispersed among governmental agencies, there are no one underlying philosophy or policy governing corrections. Thus, the lack of coordination reduces the efficiency and effectiveness of the agencies.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2381-82 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, O'Connor and Yee.

SCRep. 147-82 Judiciary on S.B. No. 2298-82

The purpose of this bill is to provide for three additional circuit court judges and four additional district court judges. Under this bill, two additional circuit court judges will be added to the first circuit, to total seventeen circuit court judges and an additional circuit court judge will be added to the second circuit to total three circuit court judges. Two additional judges will be provided to the district court of the first circuit to total fourteen and one judge will be added in each of the district courts of the second and fifth circuits to total three and two, respectively.

Your Committee heard testimony from the Judiciary, the Hawaii Bar Association and the Waikiki Improvement Association, Inc. in support of the passage of this bill. In the "Executive Summary" of a report prepared by the Judiciary planning and statistical office, statistics revealed a phenomenal increase in the backlog of cases as well as in the filing of new cases, which is compounded by an ever-increasing number of anticipated cases.

Your Committee feels that the additional judges will help to resolve the congestion, backlog and delay currently existing within our judicial system and to increase its overall effectiveness.

Your Committee has amended this bill to make technical, nonsubstantive changes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. 2298-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2298-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kuroda, O'Connor and Yee.

SCRep. 148-82

Judiciary on S.B. No. 2869-82

The purpose of this bill is to clarify for state and federal tax purposes only, that private school education and post-high school education is not required to the extent that the minor child has property or other financial resources which may be applied to tuition and related costs of such education. The bill is not intended to limit in any way, the power of the Family Court to compel the parties in a divorce or separation to provide for the education of a minor or an adult child.

According to testimony received by your Committee, income earned by a trust and used for a beneficiary's educational expenses will be taxed as income to the grantor or trustee to the extent that the grantor or trustee is legally obligated to provide such education to that beneficiary. The Internal Revenue Service has determined that the question of whether a parent has a legal obligation of support to provide private school or post-high school education is a matter of state law. The resolution of this question by this bill will mean that the income earned by or attributable to the child would be taxed to the child and not to the parents, therefore taking advantage of that child's exemptions and lower tax bracket.

The testimony also indicated that trusts or gifts of assets income from which is devoted exclusively to a child's education, are traditional methods to provide more funds to meet the rising costs of education. However, the impact on the state revenues would be negligible since a limited number of these trusts are set up and the income will still be taxed to the child.

Your Committee has amended the bill by deleting the reference to "property or other financial resources" and thereby limits the applicability of this bill's provisions to a child with a beneficial interest in a trust. Your Committee feels that the deleted references were unnecessary because the issue intended to be clarified by this bill arises only in the context of trusts.

Your Committee has also amended subsection (b) by substituting "is" for "may be" in order to require that the beneficial interest be currently applied to the child's education before the main provision is triggered.

Finally, the bill has been amended by placing the last sentence of the section into subsection (b) rather than in a separate subsection (c). Your Committee believes that this amendment will serve to clarify the limited applicability of this measure for income tax purposes only. Your Committee intends to ensure that this measure be used exclusively for tax purposes and only to the extent that trust funds are being used for a child's education. This provision should not preclude the Family Court from exercising its power to order parties in cases before it, to provide for the education of a child, including private school or posthigh school education.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2869-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2869-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kuroda, O'Connor and Yee.

SCRep. 149-82

Consumer Protection and Commerce on S.B. No. 1127

The purpose of this bill is to protect the general public, including the owners of condominiums.

Your Committee amended this bill by inserting substantive material.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1127, as amended herein, and recommends it pass First Reading in the form attached hereto as S.B. No. 1127, 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. 150-82

Consumer Protection and Commerce on S.B. No. 2140-82

The purpose of this bill is to clarify the scope of the plain language law by making certain technical amendments to chapter 487A, Hawaii Revised Statutes.

Your Committee heard testimony as to problems in interpreting the scope of the law presented by the Committee on Plain Language Conveyancing of the Hawaii State Bar Association and the Consumer Protector. In addition, written testimony was filed by several individuals, the Hawaii League of Savings Associations, and the Trustees of the Estate of Bernice Pauahi Bishop. Uncertainty as to the scope of the law has created confusion and difficulties for the public, for attorneys, and for others drafting written agreements, who have not been able to determine with any assurance which transactions are subject to the present law. Many of the problems addressed by the bill are analyzed in a report of the Committee for Plain Language Conveyancing published in the Summer 1981 issue of the Hawaii Bar Journal.

The following amendments are made by the bill:

1. Leases. The language relating to leases is clarified so that the reference to an agreement for a lease in subsection 478A-1(a)(2) more clearly refers to the lease itself and not to agreements concerning leases or other collateral documents such as an agreement to sell, an assignment of, or mortgage of a lease. The words "of space to be occupied for residential purposes" have been retained to clarify that leases to developers, of residential lots, or community association lot leases are not covered by the subsection.

2. Space Leases. The amendments also clarify that a "lease of space to be occupied for residential purposes" refers to common landlord/tenant or residential space leases and not to long-term condominium conveyance documents or ground leases. The intent of the law is to protect tenants in the usual short-term landlord and tenant relationship. Few problems ever arise as to the interpretation of long-term leases, which are relatively standardized, well understood and acceptable to lenders as security. The absence of a clear objective standard for a short term lease has been a problem for attorneys and others who prepare real estate agreements. Accordingly, the law was amended to specify a five-year standard.

3. Wills and Trusts. Wills and trusts, other than land trusts are clearly exempted. In all but exceptional cases, wills and trusts simply are not agreements and would not be covered. However, under certain peculiar circumstances or in the case of *intervivos* trusts an agreement may be said to exist. To avoid any possible question, the exemption for those transactions is now clearly confirmed. Certainty of what the will or trust means and is to accomplish, including often complicated estate planning purposes, together with the lesser costs of using forms widely in use, should far outweigh any incidental consumer benefit in having those few wills and trusts which may be "agreements" drafted into plain language. On the other hand, land trusts are commonly used as mere title-holding devices in transactions not for estate planning purposes, so the exemption for wills and trusts has not been extended to land trusts.

4. Incorporation by Reference. The new subsection 487A-1(d)(2) created by the bill, as amended, is intended to clarify that merely because another document is incorporated by reference or referred to in an agreement, that other document need not be in plain language. Documents incorporated by reference have often been drafted by other parties at other times and for other purposes and may be of hundreds of pages long. Little benefit would be derived from such a sweeping interpretation of the law. Provision is added, however, so that persons may not incorporate separate documents by reference which do not have an independent purpose merely to evade the law.

5. Legal Description of Real Property. The new subsection 487A-1(d)(3) excludes legal descriptions of real property. Property descriptions frequently are composed of detailed and technical language intended to aid a surveyor in locating and staking out the boundaries of a parcel or easements on it. Surveying terminology is in part a language of description which cannot be competently translated by persons without specialized training. Property descriptions usually also include technical legal information such as the liber and page numbers or Land Court document numbers for encumbrances on the property. Some of these items are required by statute. Your Committee believes that consumers will find legal and surveying descriptions of property lines, encumbrances and similar technical information of little additional value if described in plain language, such that the costs of revising them and the risk of error is likely to exceed the benefits to the consumer.

6. Government Approved Forms. The present exemption for certain government approved forms has been clarified. Hawaii lending institutions often use forms adopted and required by agencies such as the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association and other agencies. Questions have arisen whether all of these agencies are exempt under the present law. An example is the Federal National Mortgage Association Home Improvement Uniform Instrument Mortgage for Hawaii. Use of such forms is necessary for Hawaii lenders to participate in the national secondary loan market. Problems also exist when FHA or VA forms not in plain language, such as the FHA form of lease, may be used in transactions which do not at a later date involve participation by FHA, VA or another agency. Sometimes special wording is required to meet governmental requirements to achieve certain objectives, including tax objectives, although the document as a whole is not an approved or required form. Under the bill these documents or phrases would be exempt. Because section 487A-1(d) in the present statute was similar to section 487A-1(e)(4) in the original bill, your Committee has amended the bill to delete the language in the present section 487A-1(d), redesignate the proposed new subsections (e) and (f) to (d) and (e), and combine the language of the old subsection (d) into what is now subsection (d)(4) in the amended bill.

7. \$25,000 Definition. Technical problems have arisen in applying the \$25,000 limitation contained in the law. The language in subsection (e) is intended to answer certain of the questions of interpretation.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2140-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2140-82, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 151-82

Consumer Protection and Commerce on S.B. No. 2149-82

The purpose of this bill is to reduce the general excise tax rate on the commissions and other compensation of sales representatives and purchasing agents from four per cent to 0.15 per cent.

Your Committee finds that this bill will correct an existing inequity in the present law requiring a four per cent general excise tax to be levied on the commissions of sales representatives and purchasing agents who are not involved in the retail sale of property in the state and who are unable to pass on the tax to consumers.

Your Committee further finds that there is a parallel between insurance agents' commissions and sales representatives' commissions. This bill will tax commissions of sales representatives at the same rate as commissions of insurance agents.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2149-82 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. 152-82

Consumer Protection and Commerce on S.B. No. 2324-82

The purpose of this bill is to regulate transient vacation rental units.

Your Committee finds that the state is losing tax revenues because the general excise tax is not being paid on income derived from transient vacation rental units. The provisions of this bill are designed to reduce such lost revenues by requiring that any person, prior to offering a lodging unit for transient rental use, file a disclosure statement with the

Department of Taxation. The disclosure statement is to include the name, address, and telephone number of the person offering to rent the unit and the name, address, and telephone number of the managing agent.

Your Committee is aware that an identical measure, S.B. No. 66, S.D. 1, passed the Senate during the 1981 Regular Session. This bill represents a renewed effort to achieve passage of such a measure, which is supported by the Department of Taxation.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2324-82, 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. 153-82 Consumer Protection and Commerce on S.B. No. 2393-82

The purpose of this bill is to codify, in logical sequence, the responsibilities of the Department of Agriculture, the Board of Agriculture, and the chairman of the Board of Agriculture, with respect to the Division of Measurement Standards.

Presently, chapters 486, 486D, and 292 all relate to measurement standards such that there are many redundant sections among these chapters. This bill, essentially house-keeping in nature, would codify in a single chapter the authority and responsibility of the division by placing it under the Board of Agriculture and eliminate the redundant sections. This bill also provides for the bonding of nonregistered nonresident scale installers or service personnel.

The chairman of the Board of Agriculture submitted testimony indicating that this bill would align the Division of Measurement Standards with all other divisions in the department.

Your Committee has amended the bill to correct a typographical error on page 15, line 13. The reference to section 486-1(16) has been corrected to 486-1(18).

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2393-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2393-82, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 154-82 Consumer Protection and Commerce on S.B. No. 2399-82

The purpose of this bill is to reorganize the Department of Regulatory Agencies by removing the duties of bank examiner and insurance commissioner from the Director of Regulatory Agencies and by authorizing the director to appoint, and establish the salaries for, the bank examiner and the insurance commissioner.

Under present law the already overburdened Director of Regulatory Agencies serves as bank examiner and insurance commissioner. The establishment of the positions of bank examiner and insurance commissioner separate from the director will enhance the ability of the department to regulate the industries concerned and to protect the public in those areas.

Your Committee has amended sections 2 and 3 of the bill by removing the phrase "with the approval of the governor". Your Committee has also amended sections 2 and 4 of the bill by changing the maximum salaries of the bank examiner and insurance commissioner from that of second deputies to that of first deputies to department heads.

Your Committee has also amended the bill by adding new sections 3 through 11 to bring Title 22 generally and particular sections thereof in technical conformance with section 401-1. Technical amendments which resulted in a new section 16 and renumbered sections 12 through 19 have also been made.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2399-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2399-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 155-82

Consumer Protection and Commerce on S.B. No. 2920-82

The purpose of this bill is to require the insurance commissioner to annually publish a list of all noncommercial property insurers with their annual premiums for representative homeowner policies.

Your Committee finds that when consumers are presented relevant information on property insurance policies, they can save a considerable amount of time and effort in selecting an insurer who offers a comparable policy at a lower rate.

Your Committee further finds that many of the insured rely on the advice of insurance agents in determining the extent of coverage, occasionally to the insured's detriment.

Your Committee has amended the bill to provide more information to consumers by requiring the insurance commissioner to also publish the following:

- (1) Co-insurance factors
- (2) A statement as to methods used in valuing the property
- (3) Ratio of coverage to the property value
- (4) The portion of the loss the insurer will assume if the property is underinsured.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2920-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2920-82, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 156-82

Consumer Protection and Commerce on S.B. No. 2364-82

The purpose of this bill is to minimize the economic impact of state government regulations on small businesses.

This bill requires state agencies proposing to adopt, amend, or repeal rules under chapter 91, Hawaii Revised Statutes, to provide interested persons certain information in addition to the notice requirements of chapter 91. Among other things, agencies must provide a statement as to the economic impact of proposed actions on small businesses. Further, state agencies are required to conduct a periodic review of rules to determine whether the rules should be continued, amended, or rescinded, consistent with the objectives of applicable statutes, to minimize the economic impact on small businesses.

Your Committee finds that one of the major problems confronting small businesses is the cost and time involved in complying with governmental regulations. Overly burdensome regulations not only discourage the formation of new small businesses but also contribute to the cost of goods and services sold by small businesses. This bill will help to eliminate unnecessary or ill-advised regulation of small businesses by the state government.

Your Committee has amended the bill to provide for an effective date of July 1, 1983. The purpose of the amendment to the bill is to enable government agencies to prepare for the new notice requirements set forth in this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2364-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2364-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 157-82

Consumer Protection and Commerce on S.B. No. 2139-82

The purpose of this bill is to require public assistance recipients to pay a portion of all motor vehicle insurance premiums.

Under the present no-fault law, motor vehicle insurance is provided to public assistance recipients at no cost to the recipient. The cost of the underwriting of these recipients by the rest of the insured motoring public has increased every year.

Your Committee has amended the bill to provide that recipients pay a flat annual fee of \$75 instead of fifty per cent of the premium. The purposes of the amendment are to make the payment uniform for all recipients and to cut administrative costs. This cost is estimated to be thirty eight per cent of the actual premium cost of about \$197 per year for this kind of policy. Your Committee deems it important from a policy point of view to have public assistance recipients share in the cost of insurance, based on the premise that if they can afford a car, they can also afford insurance. As far as your Committee is aware, Hawaii is the only state which provides free motor vehicle insurance to public assistance recipients.

Your Committee has adopted the recommendation of the Department of Regulatory Agencies by changing the effective date of the Act to September 1, 1982, to allow for start up time and to coincide with the department's annual amendments to its administrative rules.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2139-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2139-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 158-82 Health on S.B. No. 2481-82

The purpose of this bill is to establish a minimum retention period for medical records.

Presently, there is no statutory minimum retention period for medical records. Because a person's past medical history is important in the proper diagnosis and treatment of a current condition, this bill establishes a minimum retention period and establishes notice requirements for destruction of medical records.

Your Committee received testimony from the Hawaii Medical Association, the Hospital Association of Hawaii, and Kapiolani-Children's Medical Center, in support of the concept of a minimum retention period.

Your Committee amended the bill to adopt two recommendations made by the representatives of health care providers.

First, the bill was amended to establish the retention period as fifteen years instead of ten years as proposed by the bill as introduced. Medical records of minors are required to be retained for a fifteen year period after the age of majority. The amendment was made as a result of testimony which stated that medical records retain importance far beyond ten years.

Secondly, the requirement that a health care provider publish a list of names of persons whose medical records are to be destroyed after the fifteen year period was deleted. Your Committee received testimony that publication of patient names would be a breach of confidentiality.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2481-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2481-82, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 159-82 Health on S.B. No. 2517-82

The purpose of this bill is to allow the Director of Health to establish reasonable fees for the issuance of permits, licenses, and variances by the adoption of rules pursuant to chapter 91. Incidental to this general fee - setting authorization, the bill also eliminates obsolete statutory fee schedules for certain occupational licensing and relicensing.

Your Committee finds that the cost of issuing permits, licenses and variances varies within the department, relative to the activities required for processing requests. These activities include, but are not limited to, research, maintenance of documentation, legal review, examinations, and public hearings. Testimony submitted by the Director of Health states that in most cases, costs for such activities as inspections, licensures, hearings and issuance of permits result in private profit for which costs must be borne by the public. This bill allows the state to recoup such costs.

Your Committee has made technical amendments to the bill which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2517-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2517-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 160-82 Human Resources on S.B. No. 2170-82

The purpose of this bill is to reduce a legislator's retirement benefits to that of a general public employee.

Your Committee recognizes that an inequity exists in the public employees retirement system. Currently, a legislator's retirement allowance is computed on the basis of three and one-half per cent of his/her average final compensation for each year of credited service. Moreover, after leaving the Legislature, a former legislator is allowed to draw retirement benefits with only ten years of service, regardless of age.

Alternatively, a general employee's retirement allowance is computed on the basis of only two per cent of the employee's average final compensation for each year of credited service. Furthermore, a general employee must attain the age of 55 years with at least five years of service to retire without penalty.

Your Committee has determined that no rational purpose exists which justifies such an inequity in the retirement system. Your Committee feels that this bill is the most effective way to rectify this unequal situation. Basically, your Committee believes that legislators do not deserve special treatment over and above that of other public employees.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2170-82, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 161-82 Human Resources on S.B. No. 2180-82

The purpose of this bill is to require from all applicants and recipients of public assistance the assignment of any benefits due to a third party liability in determining eligibility for medical assistance.

Your Committee heard testimony from the Department of Social Services and Housing (DSSH) stating assignment of benefits is requested in a limited amount of cases of known accident or accident related cases where liability may exist. However, applicants and recipients are required to utilize available private health insurance coverage prior to medical assistance coverage, making DSSH the last payor. Therefore, any rights or amounts of benefits so assigned shall be applied against the cost of medical care paid under this chapter. This amendment will prevent clients who refuse to sign assignment forms from receiving medical assistance coverage.

In order to improve and strengthen the language, your Committee has amended the bill to read as follows:

"In determining eligibility for medical assistance, the department shall require from all applicants and recipients the assignment of any benefits due to a third party liability."

Your Committee on Human Resources is in accord with the intent and purpose of S.B. 2180-82, as amended herein, and recommends that it pass Second Reading in the form attached as S.B. 2180-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 162-82 Human Resources on S.B. No. 2184-82

The purpose of this bill is to provide the means through which the labor relations researcher in the Office of Collective Bargaining would be accorded civil service status within the meaning of Chapter 76 and 77, H.R.S.

Your Committee received testimony supporting the bill from the Office of Collective Bargaining, the city and county of Honolulu's department of civil service and the personnel directors from the counties of Hawaii, Maui and Kauai.

Your Committee agrees with the testimony provided that only policy level positions should be exempted from civil service classification.

Your Committee has determined that the duties of the researcher in the Office of Collective Bargaining involves no policy making decisions, but rather its duties include gathering and analyzing data and making recommendations to assist the actual decision makers in their resolutions. Accordingly, your Committee agrees with the intent of the bill that civil service coverage should be extended to the researcher on the same basis as given to all other employees in the Office of Collective Bargaining.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2184-82 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. 163-82

Human Resources on S.B. No. 2242-82

The purpose of this bill is to amend Section 346-10, Hawaii Revised Statutes, which relates to the protection of records and confidential client information. The bill would include social service records as well as information on foster parents, adoptive parents and foster care facilities within its parameter of confidentiality.

Your Committee received testimony favoring the bill from the Department of Social Services and Housing (DSSH). The department testified that the bill will serve to protect the departments records as well as its confidential information on applicants and recipients of social services. The bill will also allow the disclosure of recipient information to be made in the investigation or prosecution of criminal or civil proceedings conducted in connection with the administration of plans or programs of the division. This would include such programs as Medicaid, AFCD, child support, adult day care or adult boarding homes. Finally, the bill will protect the identity and location of foster care and adoptive homes and facilities.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2242-82 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 164-82

Human Resources on S.B. No. 2243-82

The purpose of this bill is to meet the requirement of Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, of the 96th Congress, 2nd Session, which mandates states to enact statutes prior to October 1, 1982, specifying child care goals for children receiving federal financial aid who have been in foster care for more than twenty-four months. The Congressional intent is to reduce the length of time children are in placement and to promote early reunification with their parents or to establish other permanent plans for the children.

Your Committee is in agreement with the Department of Social Services and Housing that too often, children in foster care placement have languished there without adequate and timely plans for their return to their parents or have other permanent plans arranged.

The Department of Social Services and Housing recommended that to further comply with the federal mandate of Public Law 96-272, that the bill be amended to read:

- (a) Beginning October 1, 1983, not more than forty per cent of the total number of children for whom maintenance is provided pursuant to Part E of Title IV of the Social Security Act may have been in foster care for more than twenty-four months.
- (b) Commencing with the federal fiscal year beginning October 1, 1984, the department shall reduce by one per cent each fiscal year the total number of children for whom maintenance is so provided and who have been in foster care for more than twenty-four months.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2243-82, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2243-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 165-82

Human Resources on S.B. No. 2247-82

The purpose of this bill is to amend the definition of "dependent" to include dependents following entry or discharge of the veteran from any of the armed forces.

Presently, the Department of Social Services and Housing is servicing all dependents of veterans. However, the existing statutes only allows for servicing of people who became dependents prior to or during the veteran's enlistment period in any of the armed services. This bill will allow for the servicing of people who become dependents of veterans after leaving any of the armed services.

Your Committee has amended the definition of "dependent" to not include dependents of dishonorably discharged veterans.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2247-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2247-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 166-82

Human Resources on S.B. No. 2401-82

The purpose of this bill is to amend the child abuse reporting law, Section 350-1, Hawaii Revised Statutes, to facilitate the reporting of child abuse.

First, this bill rewords terms used in this section to broaden the law's scope and to minimize the need to repeatedly amend the law to include others who may be omitted from the definition of these terms. Secondly, it adds attorneys, employees of child care facilities and the clergy whose work brings them into frequent contact with children and families experiencing high stress. Lastly, it facilitates accountability for reporting, and minimizes confusion over who should report child abuse.

Your Committee has amended this bill by deleting attorneys and the clergy because of long-standing ethical relationships.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2401-82, as amended herein, and recommends that it pass Second Reading in the form attached as S.B. No. 2401-82, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 167-82

Human Resources on S.B. No. 2482-82

The purpose of this bill is to amend Section 346-63, Hawaii Revised Statutes, to include personal care in the Chore Services program which is administered through the Department of Social Services and Housing.

This bill provides chore services or the payment of services for bathing, washing, dressing, grooming and feeding assistance to those individuals physically handicapped or otherwise incapacitated to perform these tasks. This includes assistance or actual performance of these services and household tasks by the chore service provider to ensure the improvement or maintenance of the recipient's health and everyday life.

Your Committee believes that these services will greatly aid in a disabled individual's effort to live independently in the community. It will also create a positive difference in the option of choosing to remain at home rather than be placed in an institution.

Your Committee has amended this bill to include toileting as another service in order to assure that all essential functions necessary to maintain a normal lifestyle be provided to disabled individuals.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2482-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2482-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 168-82

Human Resources on S.B. No. 2246-82

The purpose of this bill is to add a new chapter to the existing Chapter 349, Programs on Aging, Hawaii Revised Statutes.

The new chapter would provide for:

1. Any doctor, registered nurse, social worker, police officer, other law enforcement officer, medical examiner, coroner, hospital or medical facility staff member who has reason to believe that an elderly person is or was the subject of elderly abuse or neglect to report the matter to the Department of Social Services and Housing.
2. All written reports submitted to the Department of Social Services and Housing reporting such abuse or neglect must contain the name and address of the elderly person, the person alleged to have committed the offense, and if known, the nature and extent of injury or harm.
3. Any other person with reason to believe an elderly person is or was the subject of abuse or neglect to report the matter orally to the Department of Social Services and Housing.
4. The Department of Social Services and Housing to take action to prevent further abuse or neglect where appropriate. The department must report its finding to the appropriate police department or prosecuting attorney if the elderly person suffered injury or harm serious enough to warrant criminal prosecution.
5. The Department of Social Services and Housing is to maintain a central registry of reported cases.
6. Any person acting in good faith in making a report is immune from civil or criminal liability and extends this immunity to any judicial proceeding resulting from such report.
7. No elderly person who in good faith is treated by spiritual means alone by a duly accredited practitioner shall be considered medically neglected.
8. Neither doctor-patient privilege nor husband-wife privilege be grounds for excluding evidence regarding an elderly person's harm or injury in any judicial proceeding resulting from a report.

Your Committee has amended this bill by deleting those sections already existing in Chapter 349C, Hawaii Revised Statutes. As the bill was originally drafted it was presumed that a chapter relating to elderly abuse or neglect did not exist. Chapter 349C was in fact enacted into law by the Eleventh State Legislature during the 1981 Regular Session.

Your Committee heard testimony from the Department of Social Services and Housing which strongly urged the passage of this bill. In particular the department concurred with the protection of the rights and privacy of individuals receiving services under Chapter 349C and those reporting information of suspected elderly abuse or neglect.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2246-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2246-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 169-82

Human Resources on S.B. No. 2523-82

The purpose of this bill is to establish December 31 as the annual injury cost reporting date instead of bi-annually on June 30 and December 31. It also requires the "stretching out" of assessment notices from May 1 to August 15 with payment due on September 30 instead of June 30 and it converts six temporary positions to three permanent positions.

Your Committee received testimony from the Department of Labor and Industrial Relations that this bill would administratively streamline the reporting system.

Your Committee is amending this bill by deleting Section 3 which would convert six temporary positions to three permanent positions.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2523-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2523-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 170-82 Human Resources on S.B. No. 2594-82

The purpose of this bill is to establish a Nursing Home Without Walls program as part of the medical assistance program.

This bill essentially provides for:

- 1) An expansion of the state medical assistance program to include home care services for those eligible for skilled nursing facility and intermediate care facility levels of care;
- 2) Seeking federal Medicaid program waivers which will allow payments or reimbursements for:
 - a) Homemaker services;
 - b) Chore services;
 - c) Medical day care services;
 - d) Social day care services;
 - e) Respite services;
- 3) Limiting individual client cost of home care services to no more than seventy-five per cent of the average monthly costs for skilled nursing facility and/or intermediate care facility services, with credit accruing to those whose cost are below seventy-five per cent, and that these credits can be applied to cover monthly costs for home services that may exceed the seventy-five per cent in subsequent months; and
- 4) The Department of Social Services and Housing will contract the licensed home care providers to provide the services.

Your Committee is aware of the importance to provide high quality home care services to the residents of Hawaii. Through the expansion of these services and their availability throughout the state, your Committee is able to address the concerns for an alternative to institutional care. Coordinated home care services rendered to patients in their homes avoids prolonged institutionalization, concomitant high costs, and associated adverse social and medical implications.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2594-82 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. 171-82 Human Resources on S.B. No. 2887-82

The purpose of this bill is to amend Chapter 346-71, Hawaii Revised Statutes, which establishes a durational period to determine whether an individual is eligible for General Assistance benefits.

Under the current law, the Department of Social Services and Housing must make a determination that an individual left his last place of employment for good cause, regardless of the individual's last date of employment prior to his applying for General Assistance benefits, in order to qualify for General Assistance. This bill proposes to allow an individual who has left his last employment, without good cause after six months prior to the date of application for General Assistance, to qualify for benefits.

Your Committee has amended this bill by extending the disqualification period from six months to twenty-four months prior to the date of application for General Assistance. The Department of Social Services and Housing testified that a twenty-four month disqualification period for General Assistance applicants, who left their last employment without good cause or misconduct, would be a fair and reasonable time period.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2887-82, as amended herein, and recommends that it pass Second Reading in

the form attached hereto as S.B. No. 2887-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 172-82 Human Resources on S.B. No. 2889-82

The purpose of this bill is to provide a standardized shelter level, according to family size, for all public assistance recipients irrespective of their actual shelter cost.

Your Committee has amended this bill to increase the maximum shelter allowance by fifteen per cent for public assistance recipients, excluding domiciliary shelter.

Under current provisions, the shelter allowance covers monthly rent, utilities, or homeownership costs. The intent of the shelter allowance is to supplement those costs which would provide more funds for presently inadequate levels of subsistence.

The percentage of people receiving public assistance whose rent and utilities was equal to or exceeded the maximum shelter allowance has dramatically increased from twenty per cent in 1975 to approximately fifty-eight per cent in 1981. Although utilities and rents have increased by at least twenty-five per cent since 1975, allowance levels have not increased to meet these demands since initiation of the flat grant program seven years ago.

Families and individuals receiving public assistance are also given a basic needs allowance to cover food, transportation, household supplies, personal essentials, etc. However, monies intended to be used for these daily needs of survival are used instead to pay for utilities and rent.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2889-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2889-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 173-82 Government Operations and Intergovernmental Relations on
S.B. No. 2160-82

The purpose of this bill is to allow state agencies to contract with bonded collection agencies for the collection of delinquent accounts.

Presently, the enormous increase in the delinquent tax balance and the number of delinquent taxpayers makes it imperative that the Department of Taxation contract out some of the collection work in order to reduce the delinquent tax balance or maintain it at reasonable levels.

Your Committee received testimony from the Department of Taxation supporting this bill.

Your Committee on Government Operations and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2160-82 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kuroda and Ushijima.

SCRep. 174-82 Government Operations and Intergovernmental Relations on
S.B. No. 2816-82

The purpose of this bill is to facilitate implementation of Act 207, Session Laws of Hawaii 1981, which established standards for the making or awarding of grants, subsidies, and purchases of service by the state.

Testimony before your Committee indicated that chapter 42 unduly limits access by organizations, because of qualifying restrictions, and by individuals, altogether, to state grants, subsidies, and purchases of service. However, in order to ensure that public moneys are expended for public purposes the restrictions proposed for repeal should not be discarded entirely.

Your Committee has amended the bill by deleting section 1 and by retaining in section 2 statutory material proposed for repeal. Your Committee has also made amendments

in sections 2 and 3 to allow for the waivability of the one-year's experience requirement, to make the director of the expending agency the authority to waive the nepotism restriction and to approve salary or employee benefit increases, and to limit applicability of the salary and benefit increase restriction to those recipients or providers who operate without negotiated wage contracts. The purpose of these amendments is to allow greater flexibility while retaining safeguards for the public purpose of expenditures.

Your Committee has also added a new section to the bill to amend section 42-12. Agency testimony indicated that, according to an oral Attorney General opinion, recipients in interagency funding must also comply with the standards of Act 207. The new section in the bill will exempt governmental recipients from those restrictions.

Your Committee has also amended the bill, as it amends section 42-3(2), by adding non-discrimination on the basis of physical handicap.

Instead of repealing the time limitation in section 42-5(c), the bill, as amended by your Committee, expands the time to fifteen days.

Your Committee has also amended the bill to retain the provision in section 42-8(b) for waiver of state liability. The bill, as introduced, would have repealed it.

Various technical amendments were made which have no substantive effect. Sections 5 and 6 of the bill were deleted because no proposed effects could be discerned. Sections of the bill were renumbered to reflect the deletions of sections 1, 5, and 6 and the addition of a new section 4.

Your Committee on Government Operations and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2816-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2816-82, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRRep. 175-82

(Majority) Transportation on S.B. No. 313

The purpose of this bill is to make an appropriation for air transportation facilities and services.

Your Committee has amended this short form bill to designate Poamoho as the site for a general aviation airport on Oahu, and to authorize the issuance of airport revenue bonds for design and land acquisition.

With minor revision and updating, your Committee finds that Standing Committee Report 47, 1981, with which Senate Bill 655 was referred to your Committee on Ways and Means, still presents an accurate report of the circumstances and the arguments which led to your Committee's conclusion that Poamoho is the most suitable of remaining available locations for a reliever airport on Oahu. Therefore, if this report seems familiar, it is because the greater proportion of its text consists of a recycled and updated version of the narrative found in SCR 47, 1981.

Your Committee is somewhat concerned that attempts are being made to revive proposals which were thought to have been decently buried during earlier consideration of available options for dealing with our general aviation problem.

The first of these is the suggestion that the state transfer its attention to seeking joint civilian-military use of Bellows Air Force Station. It may be useful to recapitulate the circumstances leading to your Committee's conclusion that Bellows is not available to us, whatever its merits as a reliever airport for general aviation traffic.

In November of 1979 the Deputy Secretary of Defense ruled out the availability of Bellows Air Force Station, Barbers Point Naval Air Station, Wheeler Air Force Base and Hickam Air Force Base for any "short or long term civilian-military joint use." In February of 1980 the Deputy Assistant Secretary of Defense wrote "It is the Department's firm and unequivocal view that joint use, with civilian aviation, of Hickam Air Force Base; Naval Air Station, Barbers Point; Wheeler Air Force Base; and Marine Corps Air Station, Kaneohe would be unacceptable. With regard to Bellows Air Force Station, this property is extensively used by various Departmental activities and it is not available for joint use, based upon its current configuration and use."

Despite these firm and fixed asseverations of Department of Defense policy with regard to shared use of military airfields, a delegation of Senators traveled to Washington

in July of 1981 to make one last try for shared use, with attention particularly focused on Wheeler. Armed for the first time with a comprehensive, in-depth study of the advantages, problems, and prospects of joint civilian-military use of that air base, your emissaries tried a variety of approaches -- through the Department of Transportation, by way of the Federal Aviation Administration, to the Pentagon bastions of the Department of Defense, and even by way of White House intervention. Not only was the Senate delegation told politely and firmly that there is no possibility of securing joint use at Wheeler, it was made equally clear that the Department of Defense has no intention of relaxing its sole possession and use of any of Oahu's military airfields no matter what avenues might be used in making the request.

So much for Bellows, and for any of the other military airfields upon which the state might turn covetous eyes.

As a clincher, your Committee wishes to note that James M. Cox, then Chief of the Airports Division of the FAA, Pacific Asia Region, testified on February 20, 1981, that "the possible joint use of existing military facilities. . . . can be nothing more than an interim solution, assuming there is no major military pullout. We cannot expect that the needs of aviation on Oahu can be satisfied by all of the potential joint use combined." (Emphasis added.)

Continuing to identify Bellows (or Wheeler, or Barbers Point, or Kaneohe) as "available" serves only as an exercise in wishful thinking; an impediment to getting down to the business of picking a site for a reliever airport that is within the state's capability to acquire and develop.

While discussion of the Bellows possibility provides one excuse for not proceeding to a viable determination, another proposal has resurfaced to provide an alibi for delay. This is the suggestion that redesign of the ground and air patterns at HIA could provide a safe and economical solution to our airport problems. This argument is bolstered with comforting statistics which show that airport operations are down; that the present situation at HIA is tolerable and likely to remain so for at least the near future.

The state's airport planners counter by pointing out that much of the decrease in airport traffic is a result of FAA and military operations cutbacks in response to the problems generated by the PATCO strike. This aspect of airport operations is expected to return to normal as the controllers achieve capability of handling greater volumes of traffic. And our state's economists opine wistfully that tourism, after all, is not expected to stay flat forever; Hawaii is trying its best to coax customers into its tourist market. As we achieve the hoped-for upswing in tourism, and the tide of world recession recedes (and it always has), traffic at HIA will once again trend upward, and the problem of congestion will return.

Airport planners and users assure us that flight patterns and HIA operations cannot simply be readjusted to accommodate an increase in operations. In this context, it may be useful to note that the Airline Pilots Association does not give HIA high marks. Although a committee of their international association recommended upgrading HIA from a red star (seriously deficient) to an orange star (deficient) last October, the upgrading was accompanied by a warning that HIA would revert to red star status "if nothing is done in (this) session of the Legislature to get a reliever airport for Oahu."

Airport planners blanch at the costs that would be involved in retooling HIA to accommodate all predicted future growth. Your Committee was informed that the \$20 million or so that a brand new airfield would cost would look like small change compared to the cost of relocating and extending existing runways, and probably constructing a new runway in time to accommodate the overload. These changes would, your Committee was told, necessitate the acquisition of military lands and make it desirable to postpone a number of planning decisions such as whether or not to allow industrial use of Keehi Lagoon.

Your Committee has been made aware that failure to construct a reliever airport would have major financial implications beyond the cost of the necessary capital improvements outlined above. It is obvious that there would be costly delays at HIA both in the air and on the ground during the period of reconstruction -- delays which would be translated into higher air fares at a time when we devoutly hope that the airline industry, and the tourism which that industry services and fosters, will be competing in world markets to regain a strong position to sustain Hawaii's economy.

Proposals for solutions to our crowded skies sometimes suggest that part of the answer may lie in expansion of the state's present airport facilities on Oahu outside of Honolulu International. Dillingham Airfield is presently used only to about sixty per cent of

its capacity, and could, with the improvements already funded, conceivably absorb some additional air traffic, as long as by its nature the additional traffic is compatible with Dillingham's present mix of glider and propeller-plane activity. Even at maximum use, however, Dillingham cannot relieve HIA's congestion to any significant degree.

The Navy's Ford Island air strip is available to the state for limited use, and serves admirably for civil training (non-passenger) purposes. Indeed, without the Dillingham and Ford Island components in Hawaii's Oahu airport system, our air safety situation might well put us in violation of FAA safety criteria.

To summarize, your Committee has carefully reviewed current and past testimony, studies and correspondence from a variety of sources: military and civilian, technical and lay, federal and state, individual and community, pilot and grounding. We have reached the conclusion that a site must be selected in order that construction of a reliever airport can begin; that the option of postponing a selection, or deciding to modify HIA to continue to absorb general aviation traffic, is not available to us as responsible participants in a decision affecting the safety and welfare of so many of the citizens of our state.

We have reached the further conclusion that the host of studies, professional and lay discussions, and legislative hearings undertaken locally over the years in conjunction with such federal activities as congressional hearings, Federal Aviation Administration assessments, and Department of Defense studies have effectively narrowed the choice of sites to two: Waipio Peninsula and Poamoho.

In evaluation of the Waipio site, your Committee has given consideration to the following:

(1) It provides good ground access and convenience to potential users and is close to designated training areas, as well as designated air routes. But this convenient proximity also places the site uncomfortably close to existing air traffic patterns. A Waipio pattern to the south would overlap Ford Island's airspace, forcing closure of the Ford Island facility concurrently with the opening of the new Waipio airfield. (This assumes that the Navy would agree to this closure.) A Waipio pattern to the north might entail overflight of Waipahu and part of Pearl City. Within a two-mile radius of the southern Waipio single-runway configuration, there are approximately 7,500 housing units. This number would greatly increase if a northern pattern or a two-runway configuration were to be planned.

(2) Relocation of the FCC communications station would be required, with costs falling on the state. It is not known whether the FCC would agree to being transplanted.

(3) The bird population on Waipio Peninsula includes three endangered species, so your Committee predicts delays due to the preparation of a full EIS and the probable necessity to undertake mitigating measures.

(4) If a single runway were to be constructed on Waipio Peninsula, only about thirty acres of presently cultivated sugar cane land would be lost from production, in contrast to the approximate seventy-five acres that would be lost in the case of Poamoho.

(5) If the Waipio flight pattern were to force the closing of Ford Island, in order to achieve a net gain in system capacity it would be necessary to expand to a second Waipio runway. One way of doing this would necessitate the taking of one hundred additional acres of cane land. This acreage is essential to filter irrigation runoff so that discharges into the receiving waters of Pearl Harbor are acceptable. Acquisition of these cane lands would require that the state pay an amount sufficient to provide the growers with some alternative system of filtration, and might even entail ongoing state responsibility for maintenance of the filtration system.

Expanding into this agricultural land would also require that the Navy reduce still further its blast zone perimeter. Naval authorities responded to your Committee's inquiry in February of 1981 that "No further reductions of the blast zone size requirements can be foreseen." This appears to foreclose the first course of action.

(6) It has been suggested that a second Waipio runway could also be accommodated by acquisition of a part of the Ted Makalena Golf Course. Some recent explorations have been undertaken of this possibility, particularly in light of the unsatisfactory aspect of the land at this site for growing the grass which most believe to be an essential ingredient of a fairway; salt intrusion leads to a tendency of much of this land to be bald. However, the Navy's cooperation in a land exchange with the city and county in order that the golf course might be relocated would involve dealing with complications far removed from the golf course transaction itself. For example, one such complication

might well be the decision whether to proceed with the H-Power project or not, as the Navy indicates that before it makes the golf course trade there would have to be some arrangement made for receiving the material it presently disposes of on the land it would hope to offer Honolulu for a new recreation site. The above is mentioned only to indicate that the Navy's willingness to participate in an expansion of the possible Waipio Peninsula site for a general aviation field may have strings on it extending farther into the future than we can afford to wait.

Your Committee has learned that it might also be difficult to acquire golf course land because it was federal surplus property transferred to the city and county for public park purposes and that approval of the Secretary of the Interior would be required for release. Such approval, your Committee understands, would require a determination that there is "no feasible and prudent alternative" and it is highly unlikely that such a determination could be supported.

Your Committee reluctantly concluded that the problems connected with the Waipio site are greater in number and more serious in nature than proponents of this location have realized.

Your Committee then turned to an evaluation of the site at Poamoho which is advocated by the Department of Transportation, and has given consideration to the following:

(1) Selection of Poamoho for a general aviation airport would remove about seventy-five acres of prime agricultural land from production. While the total figure for land acquisition is about two hundred acres, all but the central seventy-five acres would be designated as buffer zone, and could be leased back to producers for retention in agricultural use. There is also a possibility that some form of land exchange might provide for acquisition of this site in such a way that there would be no net loss of agricultural production.

(2) The site can be given comparatively good marks for noise impact, as there are only about fifty housing units within a two mile radius of Poamoho, in contrast to the approximately 7,500 housing units within the same radius at Waipio.

(3) While Poamoho is in close proximity to designated training areas and is relatively remote from urban development and from the air traffic congestion in the vicinity of HIA and Barbers Point, its remoteness places it at the outer limits of FAA's "reasonable surface travel time" for the majority of potential users. As with any airport built with the assistance of federal funds, access to HIA cannot be denied or restricted to any class of users unless there is a reasonably convenient alternate airport which is publicly owned and operated. Even though Poamoho is toward the outer limits of this distance, FAA has determined that the site does meet its criterion of "reasonable", and an airport at Poamoho would enable the Department of Transportation to regulate access to HIA for those users it wishes to relocate.

Parenthetically, your Committee wishes to observe that Dillingham Field, while a useful component in the Oahu airport system, unfortunately does not meet this FAA criterion. So even if Dillingham were to be expanded to its ultimate available capacity, the Department of Transportation cannot use monetary disincentives to displace general aviation traffic from HIA to that location.

(4) Critics of the Poamoho site have frequently made reference to adverse weather conditions there, but your Committee has concluded that by mainland standards Poamoho can be said to have idyllic weather. Your Committee has been reminded that the general aviation fields which act to relieve Los Angeles International often have what we would consider severe problems of adverse weather and reduced visibility due to smog, yet flight schools abound, student pilots are trained, and general aviation is a growing and lively part of the commercial and recreational activities in southern California. If Kona weather brings occasional turbulence and low cloud bases to Poamoho, surely some operations can be postponed or cancelled, and others deemed to be essential transferred on a temporary basis to available slots at Honolulu International.

(5) A second full-length runway can be constructed at Poamoho, an important consideration as predictions as to the volume of general aviation traffic twenty years downstream can only be speculation, and an investment of this size should not be made under circumstances which provide no flexibility for future expansion should that prove necessary.

Your Committee further notes that the FAA has stated that "there does not appear to be a suitable GA reliever airport site on Oahu which is . . . suitable for development of a precision instrument approach procedure", so we discounted this factor in weighing the characteristics of both Poamoho and Waipio, since the disadvantage pertains to both.

Thoughtful consideration was given by your Committee to the caution given by James M. Cox, the FAA official previously cited in this report. He suggested that it might be imprudent to make a legislative selection of a site prior to the final approval of a federal environmental impact statement, because "to do so would raise questions as to whether or not there was a predetermined conclusion". On the somewhat obvious grounds that somebody has to pick a site before the impact on it can be studied, your Committee decided that this is properly a matter for determination through legislative policy rather than abdication to administrative selection.

Your Committee can recall a number of occasions when the Legislature has selected a site for a project and the requisite EIS procedures have followed without challenge to the propriety of the legislature's role in making the selection. The Barbers Point Harbor, the H-3 corridor, the reef runway and the alignment of Fort Weaver Road are all offered as possible cases in point.

Your Committee, recognizing the potential for disaster implicit in deferral of a decision, or in deciding not to build a reliever airport at all, selects Poamoho as the site for which the Department of Transportation should expedite the requisite environmental impact process.

Your Committee has amended this bill to appropriate \$5,500,000 for design and land acquisition for a general aviation airport at Poamoho.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 313, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 313, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kuroda.
Senator Toyofuku did not concur.

SCRep. 176-82

Transportation on S.B. No. 2147-82

The purpose of this bill is to strengthen the penalties for anyone convicted of driving a vehicle while under the influence of intoxicating liquor.

Your Committee heard testimony from the Department of Transportation, the Honolulu Police Department and Honolulu's Prosecuting Attorney. Also testifying were members of the insurance industry, the medical profession and other professionals trained and experienced in dealing with the problems of alcoholism. Your Committee also heard from individuals whose personal lives have been tragically changed by accidents involving drunk drivers.

Written supportive testimony was received from Mayor Tavares and Police Chief Cravalho of Maui County, and from the Small Business Association.

The testimony from these agencies, individuals and organizations was unanimously in favor of strengthening our present penalties for convictions for drunk driving.

In amending your Committee Chairman's S.B. 2147-82 to respond more effectively to public concern, your Committee has incorporated proposals made in bills introduced by Senators Abercrombie, Cayetano and O'Connor. Your Committee is appreciative of the thoughtful research which led to these proposals.

It is frightening to realize that one of every two Americans will be involved in an alcohol-related auto crash in his or her lifetime. In our own state the dimensions of the drunk-driving problem can be highlighted by recent statistics. In 1981, almost two-thirds of Hawaii's traffic deaths were alcohol-related; drinking drivers involved in all accidents here numbered 2,465 in 1980.

The problem is already of major proportions, yet it is growing, and will continue to increase unless and until this Legislature provides meaningful sanctions that will deter drunken driving.

Your Committee finds that penalties which have proved effective elsewhere share a common philosophy: that driving is not a right, but a revocable privilege. Laws in other jurisdictions indicate a common belief that first-offense convictions for drunk driving should be severe enough to make a lasting impression, and inescapable so that these heavy punishments cannot be avoided once the driver is convicted.

As amended, S.B. No. 2147-82 provides that first offenders attend an alcohol abuse rehabilitation program, receive a fine of not less than \$250 nor more than \$1,000, and suffer 48 hours imprisonment or a ninety-day license suspension. For an offense committed within five years of a prior drunk driving conviction, the bill, as amended, mandates 150 hours of community service work, a fine of between \$250 and \$1,000, ten days imprisonment, and a one-year license suspension. For an offense which occurs within five years of two prior drunk driving convictions, the offender incurs permanent revocation of his license and up to one year in jail, or a voluntary, ninety-day commitment to an alcohol abuse treatment facility accompanied by a five-year license suspension. Moreover, the penalties in all categories are escalated when a person other than the offender suffers injuries in connection with the offense.

In specifying a sentence of a certain number of hours of community service, it is your Committee's intention that the service be performed in assistance of a program which deals with some phase of the rehabilitation or care of victims of alcoholism, if such programs will accept help from those sentenced to community service.

In order to maintain the current point losses for drunk driving convictions, your Committee has deleted section 2 of the bill pertaining to the traffic "point system". While the heavier sanctions imposed by this bill tend to lessen the importance of the point-system sanctions of section 286-128 in connection with drunk driving offenses, your Committee finds that violations of section 291-4 should be retained on the point schedule.

Finally, your Committee has amended the measure by including provisions which 1) increase the penalties for the improper refusal to submit to a breath or blood test under our implied consent statute, 2) impose mandatory minimum sanctions against persons convicted of driving while under suspension or revocation of license, and 3) clarify and conform existing statutes relating to license suspension and revocation.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2147-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2147-82, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 177-82

Consumer Protection and Commerce on S.B. No. 880

The purpose of this bill is to unify and update the law with respect to nonprofit corporations in the state and to bring it into conformity with the Model Non-Profit Corporation Act as published by the American Bar Foundation in conjunction with the American Bar Association (ABA). The ABA Model Act is the product of extensive efforts of learned legal, financial, and corporate scholars over the past thirty years. This Model Act has been a major influence in the revision of Hawaii's nonprofit corporation laws in the past.

The Chamber of Commerce of Hawaii, upon request by this Committee, investigated public reaction to the adoption of the Model Act during this past year. To facilitate this review, the Chamber created an Ad Hoc Committee comprised of members of the Chamber's Government Affairs Committee, practicing corporate attorneys and financial advisers. This Ad Hoc Committee met on a formal and informal basis well over eight times during the year resulting in an extensive review of the Model Act. The members of the Chamber's Ad Hoc Committee and Government Affairs Committee gave considerable time to review this important Model Act in the spirit of public service. Based upon the substantial effort of the Chamber of Commerce as well as the work of other interested parties, your Committee finds that this bill will:

1. Facilitate the conduct of business in Hawaii;
2. Update Hawaii's corporation laws;
3. Provide Hawaii with established court interpretation for its corporation laws;
and
4. Conform Hawaii's corporation laws with over twenty states which have adopted the substance of the ABA Model Corporation Act, the companion bill to this bill.

Your Committee has made numerous amendments to S.B. No. 880. These amendments were necessary in order to bring S.B. No. 880 into substantial conformance with the language of the ABA Model Act. Therefore, S.B. No. 880 is similar to the ABA Model Act with the following exceptions for the following reasons specifically enumerated below:

<u>Section</u>	<u>Heading</u>	<u>Change</u>	<u>Reason</u>
-6	Corporate name.	Conforms this section to the comparable section of the Model Act for profit corporations.	To simplify the administrative procedures with respect to the review of trade names and partnership names at the Department of Regulatory Agencies, this section was amended to conform to the profit corporate name section.
-8	Change of registered office or registered agent.	This appointment of a registered agent shall terminate immediately upon receipt of a notice of resignation of such agent by the director.	This section was amended to prevent any time lag in terms of the effectiveness of the resignation of a registered agent for a non-profit corporation.
-31	Members.	This section has been amended to provide that the rules, rights, and qualifications of membership may be set forth in the articles or bylaws, but if they are not so set forth in the articles or bylaws, they are to be determined by the board of directors.	This change is to provide greater flexibility in terms of the operation of non-profit corporations in the state.
-32	Meetings of members.	Retains current Hawaii law.	Current Hawaii law with respect to the place of meetings and the time of meetings have been retained as it is more flexible and provides greater ease in the operation of a nonprofit corporation in the state.
-43	Voting.	To conform this section to the change in section -31, an amendment was made to this section to provide for the determination by the board of directors with respect to	The change to this section is to provide greater flexibility in the administration of nonprofit corporations in the state.

<u>Section</u>	<u>Heading</u>	<u>Change</u>	<u>Reason</u>
		voting rights of the members, or any class or classes of members.	
-62	Number and election of directors.	This section has been amended to provide that, if not established by the bylaws, the number of directors may be set by the membership at the annual meeting.	This section is conformed to the existing nonprofit corporation practice under current Hawaii law.
-63	Quorum of directors.	This section has been amended so that the number constituting a quorum of the board of directors of a nonprofit corporation may be set at any number by the articles or bylaws.	This section is conformed to existing nonprofit corporation practice under current Hawaii law.
-66	Committees.	This section deletes the requirement provided under the Model Act that two or more directors must sit on each committee of the board of directors. Also, this section is amended reflect the change made to section -108.	This section has been amended to conform the Model Act to existing nonprofit corporation practice in that it provides greater flexibility in the administration of nonprofit corporations in the state. Also, see reason for change to section -108.
-67	Equal division of directors; appointment of provisional director; qualifications, rights, powers, and compensation.	Amended to provide an interim procedure in resolving a deadlock of directors including, without limitations, a meeting of members for a vote.	Provides greater flexibility for small nonprofit corporations to resolve a deadlock of directors.
-70	Loans to directors and officers prohibited.	This section of the Model Act has been clarified to conform Hawaii law.	Current Hawaii law is clearer in providing for the personal liability of any director or officer who consents to participate in the making of a prohibited loan only if he affirmatively votes for such making of the loan.

<u>Section</u>	<u>Heading</u>	<u>Change</u>	<u>Reason</u>
-108	Sale, lease, exchange, or mortgage of assets.	This section has been amended to provide that a vote of the members is not required with respect to any sale, lease, exchange, mortgage, pledge, or distribution of assets of a non-profit corporation in the normal and continuing course of such corporation's business.	The restrictions as provided under the Model Act have been amended in that they appear to be too broad. Many incidental transactions in the normal course of a nonprofit corporation's business may be caught in this net.
-159	Effect of chapter on existing corporations.	A "grandfather clause" has been added to provide for the effect of this chapter on existing corporations.	This new section provides for continuity in this chapter's impact on existing corporations upon the effective date of this chapter.

Your Committee has further provided that the effective date of the passage of this Act will be three years hence to allow for any technical corrections deemed necessary. Any refinement in the Act's provisions may be accomplished over this three-year period prior to its effective date.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S. B. No. 880, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 880, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 178-82 Consumer Protection and Commerce on S.B. No. 2142-82

The purpose of this bill is to provide for regulation of alarm businesses by requiring the licensing of persons in the alarm business and the bonding of such businesses.

Presently, the alarm business is unregulated. As a result, the problems of improperly kept alarm records, false alarms, and disturbances caused by audible alarms without an automatic cutoff persist.

Your Committee concluded from the testimony that neither licensing nor oversight of the industry is presently justified, and amended the bill accordingly. Included was an amendment proposed by the Honolulu Police Department prohibiting automatic telephone dialers from being set for 911 or the telephone number of any police facility. The purpose of this amendment is to prevent a tie up of one or more emergency phone lines in the event of a malfunction or major power outage.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2142-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2142-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kuroda, Henderson and Yee.

SCRep. 179-82 Consumer Protection and Commerce on S.B. No. 2336-82

The purpose of this bill is to define the relative legal rights and duties of the self-service storage industry and its customers.

Presently, the self-service storage industry is entirely without statutory guidelines. With over 7,500 individual renters currently using existing self-service storage facilities, this bill is needed to protect both the consumer and the self-service storage businessman.

This bill provides procedures upon the renter's default for a preliminary lien notice, a notice of lien sale, publication of the latter, and sale or, upon the renter's protest, judicial proceedings to enforce the lien.

Your Committee has amended this bill by deleting paragraph -4(2) on page 6 of the bill. Technical, non-substantive amendments have also been made.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2336-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2336-82, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Kuroda, Henderson and Yee.

SCRep. 180-82

Consumer Protection and Commerce on S.B. No. 2286-82

The purpose of this bill is to protect the public by setting standards of qualifications which include education, training, and experience for those who seek to engage in the practice of social work and by promoting high standards of professional performance for those individuals already engaged in the practice of social work.

There exists a clear consumer disadvantage in the social work profession because most clients of social work services are under stress, fearful, anxious, and suspicious. Many are emotionally disturbed, or retarded, or elderly, or victims of abuse, or helpless children. Others are under stress merely trying to meet the basic needs such as housing and food. These kinds of clients cannot reasonably be expected to possess the judgment to properly evaluate a provider's credentials.

Your Committee finds evidence of abuse against these vulnerable clients. Yet, in instances of alleged abuse by providers, consumers of social work services almost never make complaints for several reasons:

- (1) Fear of losing welfare benefits;
- (2) Belief that agencies are only interested in protecting themselves;
- (3) Lack of knowledge about where to make a complaint; and
- (4) The nature of the clientele itself such as children, abused victims, the retarded, or the mentally ill.

For such reasons, 25 states in the country have some form of legal regulation of the social work profession, and most have laws similar to Hawaii's Regulatory Licensing Reform Act of 1977 (Sunset Law). Also, there are regulation bills pending in each of the other states.

Licensure will provide consumer protection and recourse by subjecting questionable and unethical practices to a complaint process that is legal rather than informal and personal. By providing mandated guidelines and standards for practices, this bill, in effect, is intended to discourage the unskilled from practicing and the unethical from abusing vulnerable consumers.

Your Committee finds that the social work profession is in need of licensure and has adopted recommendations from the profession as well as from the community and to make the following major amendments, in addition to numerous minor amendments throughout the bill:

(1) The "practice of clinical social work" has been redefined by the National Association of Social Workers, Hawaii Chapter; the Hawaii Government Employees Association; and the Hawaii Psychiatric Society and added to paragraph (6) of page 2 of this bill. A corresponding amendment has been made in (2)(C) of the Requirements for licensure section. The purpose of this amendment is to incorporate a definition of professional activity, jointly formulated by the above-mentioned professional organizations.

(2) The category of "Licensed Independent Social Worker (LISW)" has been deleted, leaving three remaining categories: 1) Licensed Clinical Social Worker (LCSW); 2)

Licensed Master Social Worker (LMSW); and 3) Licensed Social Worker (LSW). The purpose of this amendment is to further align the bill with the Hawaii Government Employees Association's position, disagreeing with the concept of varying levels of social workers. According to written testimony submitted by HGEA's Russell Okata, "The four categories of social work listed . . . are excessive, arbitrary and would create unnecessary problems and expense for the regulating agency." It is therefore with this reservation that the HGEA is in agreement with respect to the inclusion of the three definitions.

(3) The continuing education in the renewal of license section has been radically amended due to the importance of this aspect. Your Committee finds the Hawaii Government Employees Association and the National Association of Social Workers, Hawaii Chapter, expressed reservations about this portion of the bill on the grounds that continuing education for neighbor island social workers is going to be difficult to provide. Both organizations are committed to resolving this problem, in the public interest and in the interest of the neighbor island social workers. Your Committee recognizes this problem and will vigorously work toward its solution.

Your Committee finally points out that in conformance with section 26H-6, the Department of Regulatory Agencies completed a study on the subject of licensing social workers titled, "Report on Senate Resolution 120, S.D. 1, Relating to the Need for Regulation of the Practice of Social Work", January 13, 1982, and submitted it to the Legislature prior to the current session. Also, the department was represented at the hearing by the deputy director, who reaffirmed its opposition to the creation of a regulatory board and to licensure of social workers in general. Nevertheless, the DRA's position, if the bill becomes law, is to have a board to accomplish its purpose.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2286-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2286-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kuroda, Machida, Henderson and Yee.

SCRep. 181-82 Consumer Protection and Commerce on S.B. No. 796

The purpose of this Act is to unify and update the law of profit corporations in the state and to bring it into conformity with the Model Business Corporation Act as published by the American Bar Foundation and the American Bar Association Section of Corporation, Banking and Business Law (ABA).

The ABA Model Act is the product of extensive efforts of learned legal, financial, and corporate scholars over the past thirty years. This Model Act has been a major influence in the revision of Hawaii's profit corporation laws in the past.

The Chamber of Commerce of Hawaii, upon request by this Committee, investigated public reaction to the adoption of the Model Act during this past year. To facilitate this review, the Chamber created an Ad Hoc Committee comprised of members of the Chamber's Government Affairs Committee, practicing corporate attorneys, and financial advisers. This Ad Hoc Committee met on a formal and informal basis over eight times during the year resulting in an extensive review of the Model Act. The members of the Chamber's Ad Hoc Committee and the Government Affairs Committee gave considerable personal time to review this important Model Act in the spirit of public service.

Based upon the substantial effort of the Chamber of Commerce as well as the work of other interested parties, your Committee finds that the Act will:

1. Facilitate the conduct of business in Hawaii;
2. Update Hawaii's corporation laws;
3. Provide Hawaii with established court interpretations for its corporation laws; and
4. Conform Hawaii's corporation laws with over twenty states who have adopted the substance of the ABA Model Corporation Act.

Your Committee has made numerous amendments to S.B. No. 796. These amendments were necessary in order to bring S.B. No. 796 into substantial conformance with the language of the ABA Model Act. Therefore, S.B. No. 796 is identical to the ABA Model Act with the following exceptions for the reasons specifically enumerated below:

<u>SECTION</u>	<u>HEADING</u>	<u>CHANGE</u>	<u>REASON</u>
-2	Definitions .	Inclusion of take-over bid definitions as currently provided under Hawaii law .	Take-over bid provisions are retained in sections -150 to -162, to provide protection for the public and Hawaii corporations .
-8	Corporate name .	Deleted the word "company" as a permitted use in the names of Hawaii corporations .	The use of the word "company" by corporations in their names would cause confusion in the administration of current Hawaii law in that only sole proprietorships, partnerships, and associations are permitted to use that word in their names .
-10	Registered name .	Deleted this section .	The registration of names provided in the Model Act is currently not permitted under Hawaii law and is viewed as unnecessary .
-12	Registered office and registered agent .	Deleted this section .	Under current law only foreign corporations are required to maintain a registered office and registered agent in the state . The Model Act provides for this requirement in sections -113 and -114, therefore, this section is unnecessary .
-13	Change of registered office and registered agent .	Same as above .	Same as above .
-14	Service of process .	Conforms the Model Act to current Hawaii long-arm statute service of process provisions .	The retention of current Hawaii long-arm provisions is viewed as providing greater protection for the public .
-35	Board of directors .	Retains the historical precedent in requiring at least one director in a Hawaii corporation to be a Hawaii resident .	Provides Hawaii with greater stability and accountability of corporations organized in this state .

<u>SECTION</u>	<u>HEADING</u>	<u>CHANGE</u>	<u>REASON</u>
-36	Number and election of directors .	Retains the historical precedent in the number of directors of a Hawaii corporation .	Current Hawaii law requirement concerning the number of directors in a corporation provides greater flexibility and protection for the public than the Model Act .
-44	Action by directors without a meeting .	Retains current Hawaii law .	Current Hawaii law is retained as it was recently adopted by the Legislature .
-47	Loan to employees, officers and directors .	Retains current Hawaii Law .	Current law is simpler and more easily understandable .
-48	Liabilities of directors in certain cases .	Includes a Federal Housing provision .	The Model Act is silent with respect to any requirement under the Federal Housing Act which currently reflected under Hawaii law .
-50	Officers .	Retains current Hawaii law with respect to the requirement of officers of a corporation .	Current Hawaii law is viewed as more flexible and, therefore, it has been retained .
-52	Books and records .	Retains current Hawaii law .	Current Hawaii law is retained as it is simpler and more easily understandable .
-54	Articles of incorporation .	Retains current Hawaii law .	Requires that the primary specific purpose of a corporation be enumerated in the Articles of Incorporation in subsection (c) .
-55	Filing of articles of incorporation .	This section of the Model Act has been amended to apply to all documents required to be filed under this chapter . Therefore, all filings will be administered under	The administration of the filing requirements under the Model Act will double the workload of the Department of Regulatory Agencies due to the duplicate filings required . Therefore, all filing requirements for

<u>SECTION</u>	<u>HEADING</u>	<u>CHANGE</u>	<u>REASON</u>
		<p>this section by this Department of Regulatory Agencies. The following sections have been revised to conform with this change in the filing requirements pursuant to this section</p> <p>-55, namely, sections -6 -16, -23, -50, -53, -56, -57, -61, -63, -64, -65, -74, -75, -76, -82, -83, -84, -85, -86, -88, -89, -90, -92, -93, -110, -112, -114, -115, -116, -119, and -120.</p>	<p>documents under this chapter have been changed to conform to the requirements of this section -55 which parallels current filing procedures.</p>
-94	Involuntary dissolution.	<p>This section has been amended to conform to current Hawaii law with respect to additional circumstances under which a corporation may be dissolved involuntarily by the director, namely, when a corporation has failed to complete voluntary dissolution within five years; when a corporation has been adjudicated bankrupt; and when a corporation's articles of incorporation have expired and the corporation has not attempted to review or extend the</p>	<p>This change is viewed as providing greater protection in the public interest with respect to conditions under which a corporation should be dissolved involuntarily.</p>

<u>SECTION</u>	<u>HEADING</u>	<u>CHANGE</u>	<u>REASON</u>
		articles for two years.	
-108	Corporate name of foreign corporations.	The permitted use of the word "company" in the names of foreign corporations has been deleted.	The use of the word "company" has been deleted for the reason set forth in section -8.
-110	Application for certificate of authority.	Same as above.	Same as above.
-111	Filing of application for certificate of authority.	This section has been amended to retain the current requirement that a foreign corporation submit a certificate of good standing order to transact business in the state.	The requirements under current law is viewed as providing greater protection than the Model Act.
-115	Service of process on foreign corporation.	This section has been modified from the Model Act as provided in section -14.	Current Hawaii longarm provisions are viewed as providing the public with greater protection in service of process on corporations.
-125	Annual report of domestic and foreign corporations.	This section has been revised to retain current Hawaii law.	Current Hawaii law is retained as it was recently amended to reflect the administrative changes approved by the Legislature regarding forms prescribed by the Department of Regulatory Agencies.
-126	Filing of annual report of domestic and foreign corporations.	The word "promptly" has been deleted with respect to the return of the reports filed by a corporation for any necessary corrections.	It is viewed that the use of the word "promptly" is subject to disagreement and may create administrative problems for the Department of Regulatory Agencies.
-127	Fees and charges to be collected by director.	Deletion of franchise tax provisions.	The Model Act's franchise tax provisions have no application

<u>SECTION</u>	<u>HEADING</u>	<u>CHANGE</u>	<u>REASON</u>
			under current Hawaii fee structure.
-128	Fees for filing documents and issuing certificates.	Current fee schedule is retained.	The filing fee structure of the Model Act is conformed to that of current Hawaii law.
-150 to -162	Takeover bids provisions.	Current Hawaii law is retained.	The take-over bid provisions are retained to protect the public and its Hawaii corporations.

The Committee made special inquiry into the matter of shareholder voting, on such matters as the abolition of cumulative voting and of common-law preemptive rights unless provided for in the articles of incorporation which is provided for in the ABA Model Act and contrary to present Hawaii law, and which is part of this amended bill. The Committee also inquired into the concept of reducing to a simple majority the shareholder votes necessary for approval of amendment of articles of incorporation, merger or consolidation, sale of substantially all corporation assets, and dissolution which is the position of the ABA Model Act and of this amended bill. In each instance the Committee concurred in adopting the Model Act position.

On the other hand, your Committee has retained the present statutory provision which questions the good faith of a director if the director has "or should have" knowledge concerning a specific matter in question. The ABA Model Act would delete the phrase "or should have", thereby lowering the standard of duty imposed on directors. Committee members opted for retention of the higher standard.

Your Committee has further provided that the effective date of the passage of this Act will be three years hence to allow for any technical corrections deemed necessary. Any refinement in the Act's provisions may be accomplished over this three-year period prior to its effective date.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 796, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 796, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 182-82 Higher Education on S.B. No. 2262-82

The purpose of this bill is to amend Section 304-93, Hawaii Revised Statutes, in order to clarify when student recipients of State Higher Education Loans must commence repayment of principal and interest charges.

Under the current statute, students are not required to begin repayment until they graduate or withdraw from their degree program. It would be possible under the existing statute for a student to borrow funds and delay repayment by continuing to be enrolled in a degree program for as little as one course per semester.

The proposed amendment to Chapter 304-93 would require loan recipients to begin repayment when they graduate or when they cease to be enrolled at least half-time in a degree program. This amendment would ensure that loan recipients who cease attending full-time would not be required to begin loan repayments as long as they continue to make at least half-time progress toward the completion of their degree. Students who enroll less than half-time could reasonably be expected to generate employment earnings sufficient to allow for the initiation of loan repayments.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. 2262-82 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 Cayetano, Ushijima and Yee.

SCRep. 183-82

Higher Education on S.B. No. 903

The purpose of this bill is to amend Section 304-4, Hawaii Revised Statutes, in order to clearly designate that the Board of Regents has the power to appoint and set the salary for the President of the University of Hawaii, as well as to establish separate salary schedules for academic and non-academic officers and employees of the University. Sections 26-52 and 89C-2, Hawaii Revised Statutes, are also amended as necessary to comply with the purpose of this bill and to remove the statutory ceiling already struck down by court order.

The Board of Regents of the University of Hawaii has testified that the authority to set salaries for the President and other University administrators is of utmost importance to the current and future development of the University as a premier institution in the state and the Pacific Basin.

It is the Board's position that the basis of comparison or standard for establishing an appropriate salary for the President should be related to academic salaries nationwide rather than to positions in Hawaii State Government. Similarly, salaries set for other academic administrators must recognize the national and international market in which the University must compete for talent. In the case of non-academic personnel, it is the Board's position that the primary source of recruitment for such positions is within the state and should therefore be reflected in a compensation schedule separate from that for the academic administrators.

Your Committee notes that Judge Sodetani's decision in the recent PEMAH suit has removed the statutory ceiling set in 1976 and thus enabled the Board to set the salaries for all excluded positions except that of the President. The Board has testified that it does not favor reinstatement of a salary ceiling by legislation which may not recognize the national and international market in which the University of Hawaii must compete for leadership talent. The previous ceiling seriously hampered the University's efforts in recruiting for several deanships.

Your Committee is in accord with the intent and purpose of S.B. No. 903, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 903, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cayetano, Ushijima and Yee.

SCRep. 184-82

Ecology, Environment and Recreation on S.B. No. 2960-82

The purpose of this bill would amend Section 171-53, Hawaii Revised Statutes, to require that the Department of Land and Natural Resources hold public hearings prior to any decision-making to lease or sell shoreline and submerged lands to a private developer or developers. The bill also requires that such public hearing be conducted in the county where the public land in question is located.

Your Committee has amended this bill by including shoreline areas among public lands affected by this section. It is felt that some protection must be extended to include shoreline, or beach areas, in future development proposals. Also, your Committee has deleted the words "or sell" in regard to the Board of Land and Natural Resource's intent to release public land to a private developer. Your Committee has been advised that such public land can no longer be sold pursuant to Act 199, Sessions Laws of Hawaii 1981.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2960-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2960-82, S.D. 1, and be referred to the Committee on Economic Development.

Signed by all members of the Committee except Senators Cobb and Mizuguchi.

SCRep. 185-82

Ecology, Environment and Recreation on S.B. No. 2621-82

The purpose of this bill is to amend Chapter 342 of the Hawaii Revised Statutes to advance state funds to the counties to assist in financing the federal share of planning and design costs of wastewater treatments facilities. These monies shall be reimbursed by the federal government at the construction phase.

The need for this revision arose when the Federal Clean Water Act was amended in 1981. The amendments resulted in federal reimbursements for the planning and design

of wastewater treatment facilities to be held until actual construction starts. The revolving fund would advance the federal share of the project to the counties and would be repaid when federal funds are released.

The Department of Health, the counties of Maui and Hawaii, and the City and County of Honolulu strongly support this bill, citing the potential loss of \$18 million in federal funds and the loss the wastewater facilities.

The Department of Budget and Finance raised objections to the use of a revolving fund for this purpose. The department felt that the four-year repayment period precluded the use of a revolving fund.

Your Committee has amended this bill to provide for grant funding, expended by the Department of Health, through its HTH 840 program, to the counties. The funds would be repaid into the general fund when the federal share of the expenditures became available.

Because federal funding assistance is to be cut from 75% to 55% in 1984, it is necessary to begin planning and design as early as possible in order to maximize federal funding. The advancement of state funds would allow this to occur.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2621-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2621-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Mizuguchi.

SCRRep. 186-82 Ecology, Environment and Recreation on S.B. No. 2864-82

The purpose of this bill would authorize the issuance of special purpose revenue bonds to assist a processing enterprise which would provide recovery of energy or material resources from municipal solid waste.

Your Committee received testimony from the Department of Budget and Finance, the City and County of Honolulu, and several community groups regarding this bill. With the exception of the Department of Budget and Finance which addressed the technical aspects of this bill, the testimony received was in support of the intent and purpose of S.B. No. 2854-82. However, it was explicitly conveyed to the Committee by members of the Waipahu community that such a processing facility should not be established within a residential community.

The City and County of Honolulu has been looking into alternative sites for the location of a solid waste processing plant and advised the community that it does not intend on establishing such a facility in Waipahu against the wishes of that community.

Your Committee has made one amendment to this bill by adding the phrase, "provided that such facility is not constructed on any residential-zoned land." Jensen Hee, director of the Department of Budget and Finance, did pose several technical questions regarding the language of the bill. He suggested that it should identify the project to which this bill would assist. Also, Mr. Hee recommends that the amount of the bond authorization for the project should be specified.

Your Committee has not amended this bill to reflect the changes suggested by the Department of Budget and Finance, however, it does acknowledge the concerns expressed in Mr. Hee's testimony. Your Committee recommends that the Committee on Ways and Means, to which this bill will be referred, address these changes in a more extensive manner.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2864-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2864-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Mizuguchi.

SCRRep. 187-82 Health on S.B. No. 2924-82

The purpose of this bill is to establish procedures whereby a person may execute a declaration directing the withholding or withdrawal of life-sustaining procedures in the event of a terminal condition.

Your Committee finds that medical technology has advanced to a point where in many instances patients who would otherwise die can be kept alive for extended periods of time by the application of life-sustaining procedures. In some cases the question arises as to whether such procedures only serve to prolong needless suffering of patients and their families when the quality of life being sustained has no real value and the condition will inevitably lead to death. Your Committee further finds that each individual has the right to accept or refuse the application of extraordinary life-sustaining procedures when suffering from a terminal condition. The provisions of this bill allow individuals to exercise that right of self-determination.

The bill establishes procedures for executing and revoking a declaration directing the withholding or withdrawing of life-sustaining procedures in a terminal condition; provides for safeguards; and provides for enforcement of declarations and protection from liability of medical personnel honoring a declaration.

Your Committee has amended the bill to ease the method of revoking a declaration by allowing a declarant to effect revocation through the declarant's attending physician as well as by notification to the Department of Health. Other amendments have been made for reasons relating to grammar and drafting style and which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2924-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2924-82, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Toyofuku and Saiki.

SCRep. 188-82 Health on S.B. No. 2421-82

The purpose of this bill is to change the method of admitting mentally retarded persons to Waimano Training School and Hospital from a commitment procedure to a guardianship procedure.

Generally mentally retarded persons are placed in institutions because they lack the ability to care for themselves in the community and can benefit from institutional programs. These persons are generally committed to Waimano Training School and Hospital not because of their dangerousness, but because they are gravely disabled and unable to care for themselves. The emphasis being one of optimum placement rather than coercive confinement. Ideally, persons who need institutional placement and are willing to accept services would elect to live in an institution for the mentally retarded. However, the nature of mental retardation is that mentally retarded persons lack the capacity to make decisions for themselves. It is by reason of this lack of capacity, not the need to lock up an individual for protection, that guardianship is a more appropriate mechanism to provide institutional care for the mentally retarded.

Your Committee amended the bill by deleting the provisions appearing on pages 4 and 5 on the bill as introduced allowing the Director of Health to be appointed as a guardian. If the Director were appointed as a guardian of a person being treated at Waimano, he would be in an obvious conflict of interest as the provider of services as well as the guardian.

Your Committee has further amended the bill by making technical non-substantive changes and by deleting the proposed amendment to section 571-8.4 as the jurisdictional matter has been resolved within the judicial system.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2421-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2421-82, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Toyofuku and Saiki.

SCRep. 189-82 Health on S.B. No. 2428-82

The purpose of this bill is to improve the laws relating to treatment of mentally ill persons by providing for commitment to a psychiatric facility of "gravely disabled" persons, allowing a court appointed guardian to voluntarily admit a ward to a psychiatric facility, lowering the standard of proof for involuntary commitment from "beyond a reasonable doubt" to "clear and convincing evidence", and making technical changes to the laws.

Your Committee finds that present laws do not allow for treatment of many mentally ill patients who are in need of treatment. This is because before such persons can be involuntarily hospitalized they must be adjudged to be "imminently dangerous" to themselves

or others. Further, the court must find "beyond a reasonable doubt" that the criteria for involuntary hospitalization has been met. There are many mentally ill persons who are not dangerous but who are unable to care for themselves and need treatment.

This bill addresses this problem by creating a new category of "gravely disabled" persons. Under the bill, a person is gravely disabled if the person "is unable to provide for his basic personal needs for food, clothing, or shelter, and is unable to make or communicate rational or responsible decisions concerning his personal welfare, and lacks the capacity to understand that this is so." Such persons could be involuntarily hospitalized for treatment.

The bill also changes the standard of proof in commitment cases from the standard used in criminal cases of "beyond a reasonable doubt" to the lesser standard of "clear and convincing evidence".

Your Committee finds that this bill will facilitate treatment and care for mentally ill persons and provides adequate safeguards to protect individual rights.

Your Committee has amended the bill by adding the words "if indigent" on page 13, line 23, to clarify the right to legal representation by the public defender. The bill has been further amended by making technical changes which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2428-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2428-82, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Toyofuku.

SCRep. 190-82

Housing and Hawaiian Homes on S.B. No. 2814-82

The purpose of this bill is to provide for the conveyance of 52.6 acres of state land in the Miloli'i-Ho'opuloa area on the island of Hawaii to the Office of Hawaiian Affairs, in order that OHA can subsequently negotiate and enter into long-term residential leases with persons or their heirs who were displaced from their original home sites by the 1926 eruption of Mauna Loa. The bill also exempts OHA from satisfying state and county zoning and building permit requirements in connection with these leases.

The Office of Hawaiian Affairs submitted testimony that since 1926, there have been several efforts by territorial, county, and state officials to resolve in an equitable manner the displacement of these people. However, none have resulted in any permanent resolution; the residents of Miloli'i-Ho'opuloa presently do not hold any tenure to the land.

Further, your Committee finds that the Miloli'i-Ho'opuloa community is one of the few remaining which testifies to a unique folk culture not easily found elsewhere in Hawaii and is one which warrants preservation particularly in light of the new development projects and increased in-migration which have considerably changed the Kohala-Kona coast in recent years.

Your Committee adopted the recommendation of the Office of Hawaiian Affairs by amending section 3, paragraph (1) by adding the following phrase:

"and who actually resided in the area set aside by Executive Order 473, at some point prior to December 31, 1949; or".

Section 3 is further amended by adding a new paragraph (3) to read as follows:

"(3) Those persons who resided in the area by virtue of assignment of lot by those persons who were awarded a lot in some manner under the county management of Executive Order 473; or".

Paragraphs (3), (4), and (5) are renumbered (4), (5), and (6), respectively.

The purposes of the amendments to the bill are to ensure that all persons or their heirs displaced by the 1926 lava flow will be eligible for long-term residential leases under this bill.

Your Committee has also made various grammatical and other technical amendments to clarify the purpose of this bill.

The Department of Land and Natural Resources, while seeing merit in the concept of the bill, raised the question of the effects of exempting OHA from state and county zoning and building requirements.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2814-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 2814-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 191-82 Housing and Hawaiian Homes on S.B. No. 2866-82

The purpose of this bill is to allow the Hawaii Housing Authority to issue \$75 million in taxable revenue bonds to finance the acquisition of fee title to leasehold properties converted under the Land Reform Program.

The Department of Social Services and Housing submitted testimony indicating the lack of financing for conversion loans will ultimately jeopardize the viability of the Land Reform Program. Further, many of those conversions effected through agreements of sale will be subjected to significant interest rate increases prior to maturity, resulting in rates that are well above current market; these conditions may easily result in defaults.

The Hawaii Housing Authority has explored available alternative financing sources. The use of taxable bonds as proposed in this bill is one alternative. The bill establishes a program similar to the Hula Mae program, but which differs in that (1) it uses the proceeds of taxable bonds, (2) an eligible borrower is a lessee who qualifies to purchase the fee interest under chapter 516, and (3) there are no income or asset limitations.

Your Committee has amended the bill by:

- (1) Adding a definition to section 516-90 reading "Priority Borrowers" means persons or families whose income is less than the limits provided in chapter 356-206, when a loan under this part is made for the purchase of the fee title to leasehold property of the priority borrower's principal residence."
- (2) Adding a subsection to section 516-95 reading "At least fifty per cent of the principal amount of loans made pursuant to this part shall consist of loans to priority borrowers."

The purpose of these amendments is to assure that the needs of low and moderate income families are met.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2866-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2866-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 192-82 Housing and Hawaiian Homes on S.B. No. 2807-82

The purpose of this bill is to comply with requirements of the federal Mortgage Subsidy Bond Tax Act of 1980, which governs the issuance of mortgage subsidy bonds by states and municipalities.

The City and County of Honolulu Department of Housing and Community Development testified that under the federal act, the total amount of mortgage subsidy bonds which can be issued within the state cannot exceed \$200 million. The Act further specifies that one-half of this amount is reserved to the state housing finance agency and the remainder is to be allocated among the municipal jurisdictions.

This bill presently provides for a \$100 million allocation for the Hawaii Housing Authority, as the state agency, but leaves blank the allocation amounts for the individual counties.

Your Committee adopted the recommendations of the City and County of Honolulu by amending the bill with the following sums for county allocation:

"City and County of Honolulu	\$58,000,000
County of Hawaii	\$20,000,000
County of Kauai	\$ 8,000,000
County of Maui	\$14,000,000"

The purpose of these amendments is to establish county allocations for this program. Your Committee has also amended the bill by making minor technical changes which have no substantive affect.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2807-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2807-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 193-82 Housing and Hawaiian Homes on S.B. No. 2489-82

The purpose of this bill is to allow the Hawaii Housing Authority (HHA) to subsidize interest payments on construction and other loans for the development of rental housing.

The bill requires the HHA to develop an interest subsidy program which will be used to subsidize interest payments on construction and other loans executed for the development of new rental housing. The Authority is also required to establish eligibility standards for the rental housing, loans, and private developers under this program.

Your Committee finds there is a need for this legislation since the federal government is drastically reducing the amounts of federal housing funds available to localities to finance new rental housing construction.

Your Committee has amended section 1 by deleting "on behalf of the private eligible developers of land in the developers' interest payments". The purpose of this amendment is to clarify the purpose of this bill.

Your Committee has also made minor technical amendments which have no substantive effect.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2489-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2489-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 194-82 Housing and Hawaiian Homes on S.B. No. 2661-82

The purpose of this bill is to provide the Office of Hawaiian Affairs (OHA) the right of first refusal to title to all lands returned to the state pursuant to section 5(e) of the Admissions Act.

Presently, land returned to the state by the Federal government is administered by the Board of Land and Natural Resources. State agencies, including OHA "compete" with other state agencies for the use of these lands. This bill would give OHA first right to title of these lands.

Your Committee amended the bill to clarify that OHA should have the first right to use, rather than title to, land returned pursuant to section 5(e).

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2661-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2661-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 195-82 Agriculture on S.B. No. 2893-82

The purpose of this bill is to amend the general excise tax law to establish a five-year exemption from the general excise tax for the producers and manufacturers of pineapple products.

Your Committee received favorable testimony on this measure from pineapple producers. However, the tax department is opposed to the bill.

Your Committee finds that the support of the pineapple industry through this temporary tax relief measure conforms to the goals and objectives of the State Plan.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2893-82 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 196-82 Agriculture on S.B. No. 2510-82

The purpose of this bill is to appropriate the sum of \$95,000 for the Molokai Institute for Agriculture Program.

Your Committee heard favorable testimony on this measure.

Since the Molokai Institute for Agriculture Program is administered by Maui Community College, your Committee has amended the measure to allow the Department of Agriculture to contract with Maui Community College for the expenditure of the funds appropriated for the purposes of the Act.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2510-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2510-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt and Kawasaki.

SCRep. 197-82 Agriculture on S.B. No. 2971-82

The purpose of this Act is to prevent erosion of the state's agricultural economic base and to assist terminated employees of the Puna Sugar Plantation, by authorizing the Board of Land and Natural Resources to receive land from the Puna Sugar Plantation and to develop such lands into agricultural parks. Such lands shall then be made available to those terminated plantation employees as have been designated by the Puna Sugar Plantation in the conveyance documents.

This bill would remove county control over the subject lands and permit the conveyance of five-acre fee simple lots to the terminated employees.

Your Committee heard testimony on this bill, including the concern of the Department of Land and Natural Resources on the legality of the bill. Further study of the bill is recommended.

Your Committee has amended the bill by including "or its designee" after the name "Puna Sugar Plantation" in Section 2, based on the testimony from Puna Sugar Company, Limited, that it intends to convey the title to the lands through a designee.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2971-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2971-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt and Kawasaki.

SCRep. 198-82 Agriculture on S.B. No. 2289-82

The purpose of this bill is to amend chapter 155 to permit the chairman of the Board of Agriculture to approve loans for principal amounts not exceeding \$25,000, and to establish limitations on agricultural loans to certain corporations and partnerships.

Presently, a qualified individual can effectively exceed the maximum loan amount in a particular class by obtaining a loan as a sole proprietor while simultaneously obtaining a loan through a corporation or partnership within which he has a substantial ownership interest. This bill would close this loophole by aggregating loan amounts for individuals and organizations owned by such individuals for the purpose of determining whether the maximum amount has been reached. Your Committee has amended the bill to more accurately reflect this desire to aggregate sums sought by an individual and by corporations or partnerships within which the same individual has a substantial interest.

Your Committee has also amended the bill by raising the loan limitations under the various categories.

The purpose for these amendments is to raise the maximums to an appropriate level.

The present loan maximums were established over a decade ago, and inflation has since more than doubled the cost of farming, making the existing statutory limits on the loan categories inadequate for their stated purposes.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2289-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2289-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt and Kawasaki.

SCRep. 199-82 Housing and Hawaiian Homes on S.B. No. 2250-82

The purpose of this bill is to allow the Hawaii Housing Authority to issue tax exempt revenue bonds under the Hula Mae program to finance home improvement loans. In addition, this bill proposes a bond authorization of \$25 million for the home improvement loan program and amends the "asset limit."

Testimony in support of the measure indicated limited funds to support housing rehabilitation activities and the lack of funds to construct replacement housing.

Your committee adopted the recommendations of the Hawaii Housing Authority by amending the definition of "eligible borrower" to provide consideration for targeted areas, and to provide guidelines for eligible improvement loans.

Your Committee has also amended the bill by making minor 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. 2250-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2250-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 200-82 Housing and Hawaiian Homes on S.B. No. 2701-82

The purpose of this bill is to establish limited-equity housing cooperatives in Hawaii.

The Consumers Housing Task Force submitted testimony supporting limited-equity cooperatives because they allow members to buy in at low initial stock purchase fees. The transfer value of that stock is limited by the bill to 10% appreciation per year (and can be further limited by an individual co-op's board of directors), which is the mechanism that allows for continued affordability.

The bill provides for incorporation by co-ops and establishes guidelines for the sale of stock and the dissolution of corporations to ensure the purposes of this bill.

Your Committee has amended the bill by adding new sections 2 and 3 and by substituting the term "charter of incorporation" for "article of incorporation" throughout the bill to ensure compatibility with existing statutes.

Your Committee has also added new subsections (d) and (e) on pages 4 and 5 to conform the bill to the requirements of the National Co-op Bank.

Various technical amendments have been made to clarify the purposes of the bill.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. 2701-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2701-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 201-82 Housing and Hawaiian Homes on S.B. No. 2994-82

The purpose of this bill is to clarify certain provisions pertaining to the Hawaii Community Development Authority's power and role and provide specific authorization to the Authority for implementation of the Kaka'ako Plan and rules.

During your Committee's discussion on this bill and the Hawaii Community Development Authority (HCDA) in general, there was concern expressed over the problems of integrating into the plan areas contiguous to the Kaka'ako boundaries. In particular it was suggested that the boundaries be expanded to cross Ala Moana Boulevard to Kewalo Basin and include the Fort Armstrong area. Your Committee has no specific proposal at this time. We urge that further study be made with the possible relocation of existing Kaka'ako small businesses into the Fort Armstrong area.

Your Committee is in agreement with testimony submitted by the Hawaii Community Development Authority to delete section 7 of the bill.

Section 7 was intended to authorize the HCDA to administer housing loan and mortgage programs. Since the bill was drafted, HCDA met with the state's bond counsel and has been advised that due to existing federal constraints, section 7 would probably not accomplish these objectives.

Your Committee has also amended the bill by deleting sections 8 and 10 which have no significance independent of the deleted section 7. Sections 2 and 3 have been combined in a single section of the bill in conformance with sound drafting practice. All sections of the bill, except 1 and 2, have consequently been renumbered.

Various technical amendments have also been made without substantive effect.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2994-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2994-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt and Anderson.

SCRep. 202-82 Agriculture on S.B. No. 2892-82

The purpose of this bill is to provide state financial assistance to producers of sugar, by supplementing the assistance provided under federal laws through the establishment of a sugar stabilization fund, which will ensure the continued viability of the sugar industry in the state.

Your Committee heard various written and oral testimony on the bill. Your Committee supports the intent and purpose of the bill, but feels that the loans should bear a nominal interest rate of not less than six per cent per annum rather than be interest-free as presently proposed. Your Committee has amended the bill accordingly.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2892-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2892-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt and Kawasaki.

SCRep. 203-82 Agriculture on S.B. No. 2434-82

The purpose of this bill is to provide a mechanism for the identification of important agricultural lands in the State of Hawaii by the establishment of an agricultural land study program. As originally proposed, this program was intended to be established as an ongoing function of the state Department of Agriculture, with responsibilities relating primarily to the collection and dissemination of data. However, upon review of the public testimony submitted on this and other legislation relating to agricultural lands, your Committee has amended this bill in the following major respects.

The intent of this bill has been more clearly defined to include the development of an agricultural land classification system for the state. Your Committee finds that existing land classification systems such as the Agricultural Lands of Importance to the State of Hawaii (ALISH) and the Land Study Bureau's Detailed Land Classification are primarily soil-based systems, and as such, were never intended to be used as the principal criterion for determining agricultural land use policies. Moreover, in order to establish a rational basis for classifying and identifying important agricultural lands, there must first be a clear articulation of the agricultural goals of the state.

An independent study commission is established as the mechanism for achieving these ends. Its primary functions are to examine existing agricultural and land use policies

of the state and to advise the Legislature in the development and implementation of a system or process for identifying important agricultural lands. Specific tasks are set forth to guide the activities of the commission over a two-year period. During the first year, the commission's tasks shall include: the identification and evaluation of alternative agricultural goals for the state; the development of alternative definitions of "important agricultural lands" based on the alternative goals and assumptions previously identified; and the development of an agricultural land classification system or process based upon the commission's findings. Prior to the convening of the 1983 Regular Session, the commission shall submit for legislative review, a report of its preliminary findings which shall include the commission's recommendations on the following: a desired goal or set of goals relating to agricultural production in this state; a clear definition of "important agricultural lands" based on the agricultural goal or goals being sought; and a system or process for classifying agricultural lands which would result in the identification of important agricultural lands in the state. Second-year tasks include an identification of important agricultural lands and the development of legislation necessary to implement the final recommendations of the commission.

Due to the technical nature of the tasks required to be performed, the composition of the commission has been specified to draw upon individuals and organizations with particular expertise in agricultural and land use matters. However, it is your Committee's intent that in the conduct of its activities, the commission shall invite the participation of the general public and hold informational meetings and hearings in all counties as frequently as it deems necessary and feasible.

The bill has been amended to further provide the commission with certain powers and authorities necessary to effectively carry out its functions. An appropriation of \$1,000,000 has been included for the establishment of the commission and the performance of its duties.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2434-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2434-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt and Kawasaki.

SCRep. 204-82 Education on S.B. No. 2346-82

The purpose of this bill is to impose an educational fee on students attending public schools whose families reside and work on a military installation or other federal property and who are not domiciliaries of the state.

Under the provisions of this bill the Board of Education is required to adopt rules providing for the charging of the educational fee when federal Impact Aid funding to the state falls below a certain percentage of the total per capita cost of education in the state, exclusive of capital outlay and debt service, for elementary or secondary students.

The federal Impact Aid Program (P.L. 81-874) enacted in 1950, provides financial assistance to school districts in federally affected areas. These funds are used by school districts to be applied toward their operating expenses.

In the 1950 Report of the House Committee on Education and Labor, one of the principal reasons for the enactment of Impact Aid legislation was that a federal project or activity causes an influx of persons into a community, resulting in an increased number of children in need of education.

The two major categories of students affected are: 1) those whose parents live and work on federal property (Category A), and 2) those whose parents live or work on federal property (Category B). In previous years, funds received from the federal government were based on the numbers of students in each of these categories. However, given the present mood of the President and elements in Congress, there will be a phaseout of funding for those students in the "B" Category. Further, it should be noted that families of students in the "B" Category may be residents of the State of Hawaii who are working on federal property.

Your Committee also notes that the federal funds received under the Impact Aid Program provide assistance in educating federally-connected students but do not cover the total cost of educating a student in our public schools. Further, your Committee notes that \$13,700,000 was budgeted (in expectation of receipt from the federal government) from the Impact Aid Program. The most recent figures indicate that there are 34,755 eligible federally-connected students in the State of Hawaii (14,988 are Category "A" students

and 19,767 Category "B" students). Therefore, on this basis, we can determine the cost per student of funds received from the federal government is approximately \$394 per student. In light of this, your Committee notes that the approximate average cost of educating one pupil in our public schools for one year is \$2700.

Your Committee notes that the State of Hawaii is anticipating the loss of approximately \$3 million in Impact Aid funding this year and the likelihood of partial, if not total elimination of these funds in the foreseeable future is a reality. It is totally beyond reason to expect that the State of Hawaii support thousands of pupils who are enrolled in our public schools only as a direct consequence of federal assignment with the taxes of our small island population. In the absence of Impact Aid funds for this purpose, we are faced with no alternative other than to attempt to cover costs associated with educating these students. Your Committee further finds that this proposal is not and should not be viewed as anti-military. It is merely the recognition of an extremely serious problem.

Your Committee also notes that the taxpayers and parents of our public school children have a guaranteed right to a properly functioning educational system which they are directly supporting through taxes. An imposition of thousands of federally-connected public school students, with no Impact Aid funding to cover their education, deprives our taxpayers, parents and students of equal protection of the law.

Your Committee has amended the bill to specify that the educational fee to be charged shall become effective when Impact Aid drops below fifteen per cent of the total per capita cost of education in the state. (The bill as introduced left the percentage figure blank.) The bill has been further amended to have the fee apply to students whose families live or work, rather than live and work, on military installations or federal property and who are not domiciliaries of the state.

Further, a new provision has been added which requires the fee to be in an amount calculated to make up the difference between fifteen per cent of the cost of public education in the state and the actual federal funds received. The format of the proposed new section has been changed for the purpose of clarity.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2346-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2346-82, 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. 205-82

Health on S.B. No. 2143-82

The purpose of this bill is to enhance the ability of the people of this state to obtain prescription drugs safely but economically.

The substitution of equivalent drug products for brand name drugs has held out the promise of lower medical expenses, but the medical profession has been concerned about the risks associated with substitution. This bill provides safeguards to the public by increasing the labeling requirements for generic drugs and by narrowing the range of drugs which do not require premarketing approval by federal agencies.

This bill also expands the definition of "dispenser" to include persons under the direct supervision of, as well as, physicians, osteopaths, dentists, and pharmacists themselves. The resulting reduction of personnel expenses should result in lower drug costs to the public.

However, to further safeguard the public, your Committee has amended the bill by requiring that a person, not authorized to dispense drugs under present law, do so only under the supervision of, as well as in the presence of, persons who are so authorized. Testimony was heard that "direct supervision" might not encompass "presence", which further ensures safe practices.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2143-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2143-82, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senators Toyofuku and Saiki.

SCRep. 206-82

Economic Development on S.B. No. 2223-82

The purpose of this bill is to expand the authority of the governor during a petroleum shortage. The bill also proposes a new definition for petroleum shortages.

The bill enables the governor to establish a percentage of petroleum products which will be set aside by prime suppliers each month. The set-aside products are intended to be sold into the state distribution system for the protection of the public health, safety, and welfare. General rules concerning the administration of the set-aside provision are contained in the bill. The amount to be set aside will be determined by the state's energy resources coordinator. The amount to be set aside shall not exceed 5 per cent of the total supply of the prime supplier for each petroleum product.

The bill also enables the governor to direct utilities to minimize consumption of petroleum by enabling the utilities to contract for all available power generated by non-regulated producers from non-petroleum products.

The bill further enables the governor to impose an ad valorem tax on petroleum products and establishes the petroleum control authority and fund. Among the more salient powers of the authority, it is charged with the power to purchase and resell petroleum products, the proceeds from which are to be deposited into the state petroleum authority fund. The monies in this fund are to be used for the purposes of administration and other costs during a petroleum product shortage.

The bill proposes a new definition of shortage wherein the demand for any petroleum product exceeds the supply by 5 per cent or greater for a given month.

The bill also repeals the Petroleum Control Fund.

Your Committee, upon due consideration and input from the private sector has amended the bill to maintain the Petroleum Control Fund. Also deleted from the bill is the governor's authority to impose an ad valorem tax upon petroleum products in a shortage. Your Committee finds that the power to impose taxes rests within the realm of legislative prerogative, and as such ought not be surrendered under any circumstances.

Your Committee has also deleted Section 3 of the bill which establishes the petroleum products control authority and the petroleum products control fund. Your Committee finds that the purposes of this section are not consistent with the intent of the bill, and places the state in a position to buy and resell petroleum products; a function which is better served by the private sector.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2223-82 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2223-82, 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 Saiki.

SCRep. 207-82

(Majority) Judiciary on S.B. No. 2555-82

The original purpose of this bill was to authorize the establishment of a state operated lottery system, the revenues of which shall go to the benefit of Hawaii's senior citizens.

Your Committee amended the purpose of this bill to authorize the establishment of a state operated lottery system, the revenues of which shall be allocated to programs providing health and human services.

Your Committee is cognizant of the current economic condition of the state and the nation and that health and human services provided to the people of the state would be severely diminished or curtailed if another source of revenue is not realized. Your Committee feels that a state operated lottery system is that source of revenue which would provide the necessary funds to programs providing health and human services and at the same time provide the opportunity for individuals to win tax-free monies in spite of the current economic conditions, and restore hope to the populace of this state.

Your Committee heard testimonies of opponents of legalized lottery. Opponents testified that a legalized lottery would lead to an acceptance of gambling by the general public, thus paving the way to the legitimization of all forms of gambling. However, it should be noted that social gambling has been legitimized for the last nine years since 1973. Even a deputy prosecuting attorney representing his office indicated that, should the

lottery be legalized, he would buy a lottery ticket.

There were also concerns expressed about organized crime infiltrating the lottery system. A representative from the Honolulu Police Department Vice Division did indicate that a state operated lottery is usually free of organized crime and that, if the Legislature is going to legalize lottery, it should be state operated. Thus, your Committee recognized that concern and set up a state operated lottery.

Your Committee's staff spoke with directors and deputy directors of lottery programs in other states. The staff also spoke with law enforcement authorities in states with lotteries. From these discussions, it was revealed that there have not been any significant problems with lotteries being infiltrated by organized crime.

During the staff's inquiries, it was revealed that state operated lotteries in other states generated gross annual revenues for 1981 from a range of \$3.6 million to \$385 million. Your Committee realizes that this potential revenues will greatly alleviate the burdens placed upon programs of health and human services by the economic conditions.

Basically, your Committee amended the original bill in total. In amending the bill, your Committee looked at the statutes of fifteen states with a lottery system and devised the most structurally sound and secure system.

The bill provides for the establishment of a state lottery commission which shall consist of seven members to be appointed by the Governor with the advice and consent of the Senate for terms of three years with provisions for staggered terms. The commission members shall serve without compensation but shall be reimbursed for expenses necessary for the performance of their duties. Your Committee restricted the commission members from running for or holding elected office. It also prohibits them from actively participating in political campaigns.

Each nominee for the commission appointed by the Governor shall undergo a security screening by the Attorney General with the result going to the Governor and the Senate.

The bill provides that the commission shall promulgate rules and regulations pursuant to Chapter 91. Such rules may include rules on the type of lottery, price of tickets, numbers and sizes of prizes, manner of selecting winning tickets, manner of payment, frequency of drawings, number and types of location where tickets sold, licensing of agents, manner in which proceeds are maintained, manner and amount of compensation to be paid, and apportionment of total revenues. The commission shall be required to report monthly to the Governor and annually to the Legislature.

The bill provides further that a director shall be appointed by the commission. The director shall be paid not more than \$37,500 annually. The director shall administer the operations of the lottery subject to the approval of the commission and he shall require a bond from every licensed agent. The director must report monthly to the commission and prepare a budget annually to be submitted to the commission. The bill also provides factors that the director shall consider before issuing licenses to sales agents.

The bill places strict limitations on the sale and purchase of lottery tickets. Anyone convicted of a felony shall not be licensed to sell tickets. Only licensed agents shall sell tickets. The bill provides further that no tickets shall be sold at a higher price than indicated nor shall tickets be sold to minors. Finally, no member of the commission or his immediate household may claim or receive prize money.

With regard to prize money, this bill provides that unclaimed monies will be allowed only for one year after which it reverts back into the lottery fund. These prize monies will be exempted from state and county taxes.

A state lottery fund is established in the Department of Budget and Finance. Revenues in this fund shall be appropriated by the Legislature to the benefit of health and human services programs. The revenues available for such appropriation shall be not less than 30 per cent of the gross revenues.

Your Committee feels that the Legislature be kept informed as to the operations of the state lottery. Thus, a provision is included for the Legislative Auditor to conduct an audit every two years.

The bill provides that any violations of any provisions of the Act shall be punishable by a fine of not less than \$1,000.

Finally, the bill provides that the state lottery shall be in existence for six years and will terminate unless it is renewed by the Legislature.

Your Committee is aware that the establishment of a state lottery in Hawaii by this bill is not a new and novel undertaking. On January 13, 1893, just prior to the overthrow of the Hawaiian Kingdom, Queen Liliuokalani signed into law an act granting a franchise to establish and maintain a lottery.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2555-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2555-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.
Senators George and O'Connor did not concur.

SCRep. 208-82 Transportation on S.B. No. 2261-82

The purpose of this bill is to amend Section 261-7(a) of the Hawaii Revised Statutes, which provides that until June 30, 1982, the Department of Transportation may not enter into contracts for the sale and delivery of in-bond merchandise at Honolulu International Airport with more than two concessionaires.

Your Committee heard testimony from the Department of Transportation, Duty Free Shoppers, Ltd., the Chamber of Commerce of Hawaii, and the Honolulu Airlines Committee supporting the bill and emphasizing the importance of duty-free revenues to the health of the Airport Special Fund. Representatives from Maison Canon, Ltd., spoke against the bill, pointing out that the study done by Coopers & Lybrand for the department suggested that the present duopoly is not the best way to maximize airport revenues and that the history of the duty-free business indicates it is dynamic and expanding.

The primary concern of your Committee is the enhancement of duty-free revenues to the state. These revenues are affected by the vagaries of local, national, and international economic fluctuations. Further, the duty-free business is an unpredictable one, depending on such factors as foreign government customs regulations and the traditions and buying habits of foreign travelers. Rather than tie the hands of the department by specifying a particular system for the operation of duty-free contracts, your Committee feels that the department should be given the flexibility to change the system at the airport in response to changing conditions and circumstances. Your Committee was particularly persuaded of this need for flexibility by a letter received last year from the Federal Trade Commission which stated:

We suggest that . . . legislation that permits DOT to determine the number of airport stores and permittees upon consideration of foreign tourism, airport conditions, store operations, and revenue needs might satisfy the purposes of the proposed legislation and yet retain for the state the flexibility to meet future changes in conditions. If, for example, the airport were expanded to allow additional stores or if prices charged were found to be excessive, additional concessions permits could be granted. Additional concessions could be granted upon expiration of the then current concessions in order to avoid diminishing the value of the concessions already operating. Only administrative action by DOT would then stand in the way of potential competitors for duty-free sales. The state itself would be freer to respond to changing conditions of tourism, airport use, store operations and revenue needs.

In providing the department with this flexibility, your Committee feels that guidelines should be given to the department so that in awarding contracts for the sale and/or delivery of in-bond merchandise at HIA, consideration will be given to revenue requirements, maximization of revenues, the protection and enhancement of the duty-free business and the tourist industry in the state, the health of the airline industry, the availability and capacity of airport facilities, the ability of the applicant to comply with the state rules and regulations concerning sale and/or delivery of in-bond merchandise, and the reputation, experience and financial capability of the applicant.

To further protect the state's duty-free revenues, your Committee believes that the department should not enter into any contracts for sale and/or delivery of in-bond merchandise unless the applicant agrees to pay twenty per cent of gross receipts, the same percentage the present concessionaire is paying. This restriction should apply at least until June 30, 1988, at which time the present concessionaire's contract will expire.

Presently, the department is required to supervise the operations of duty-free contractors because of the restriction on the number of contracts into which the department can enter. Your Committee feels that while this supervision must continue if the department elects to have only one contractor, in the event that there is more than one contractor, then the forces of competition in the marketplace should be allowed to regulate the industry

and no departmental supervision should be required.

Your Committee has heard testimony to the effect that there is not sufficient customs personnel presently available to allow a second concessionaire at the airport. Thus, if we continue to operate under the current statute which allows a duopoly, it will almost certainly mean continuation of the present monopoly for the foreseeable future. The Coopers & Lybrand study indicates that of the various options that may be available to the department, a monopoly is a poor choice for maximizing revenues.

Your Committee has amended the bill to add a findings and purpose section, to provide the department with guidelines for granting contracts to duty-free operators, to require that all duty-free operators pay twenty per cent of gross receipts through June 30, 1988, and to relieve the department of supervision of duty-free operations should it elect to have more than one contractor.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2261-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2261-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Toyofuku.

SCRep. 209-82 Human Resources on S.B. No. 2369-82

The purpose of this bill is to provide the state with a means to offset child support debts owed by taxpayers against state tax refunds otherwise due them.

Your Committee received testimony from the Department of Social Services and Housing in support of this bill.

Your Committee has amended the bill to authorize, and provide a method for apportionment of parts of a joint-return refund which shall be subject to this offset.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2369-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2369-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 210-82 Human Resources on S.B. No. 2173-82

The purpose of this bill is to amend Section 88E-12, Hawaii Revised Statutes, to exclude deferred compensation from the computation of state withholding taxes.

Your Committee has found that at present, only federal income taxes are excluded in computing deferred compensation. This bill proposes to provide that compensation which is deferred pursuant to a plan established under this chapter shall not be included in the computation of federal or state income taxes withheld on behalf of any participating employee. It also amends Section 235-213(b) to repeal paragraph (11) which will make Internal Revenue Code section 457 operative for the state thereby making deferred compensation not taxable at time of deferral.

Your Committee has amended this bill to include a pro-vision which will preserve any amendments which address these sections in another bill whether enacted before or after the effective date of this Act.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2173-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2173-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 211-82 Human Resources on S.B. No. 2268-82

The purpose of this bill is to reduce the employer's contribution to the pension accumulation fund by any investment earnings in excess of seven percent for three successive fiscal years beginning July 1, 1982.

This bill authorizes the board of trustees to establish the investment yield rate and tables and factors for actuarial valuation of the system provided that the rate of salary increase shall be based on the actuarial experience during the five-year period covered by the most recent actuarial experience investigation.

Your Committee believes that the bill is a realistic approach to the entire funding process of the Retirement System and provides its members, the employers and the taxpayers the true financial picture and costs to maintain the system.

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

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2268-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2268-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 212-82

Human Resources on S.B. No. 2916-82

The purpose of this bill is to provide state employees with a means to tailor their financial plans more closely to their needs.

Your Committee notes that membership in the State Employees Retirement System (ERS) is a valued feature of state employment for many employees. However, certain employees, primarily those younger and less highly compensated, find that too much of their current income is deducted for retirement purposes. For example, 14.5 per cent (7.8 per cent for the ERS and 6.7 per cent for Social Security) of an employee's salary is deducted for retirement purposes.

The net result of the present system is that many employees find it difficult to make ends meet with their current take-home pay because so much is set aside for retirement. These employees need more take-home pay now, rather than generous retirement benefits in the distant future. This is understandable because their needs are greatest while they have children to raise and educate and mortgages to pay, rather than when they become more established. Thus, many prefer more income now, even at the expense of possibly reduced retirement income.

Compounding their dissatisfaction with their take-home pay is the lack of perception regarding the large amounts the state contributes for an employee's retirement. The state contributes an amount equal to about 26.3 per cent (19.6 per cent for the ERS and 6.7 per cent for Social Security) of an employee's salary for that employee's retirement benefits. Unfortunately, the state's contribution is not reflected in an employee's payroll statements. However, the cost to the state is no less real and the state's contribution could be redirected to provide employees more income at the time their needs are greatest.

Your Committee believes that a solution to the dilemma is to allow state employees to establish an Individual Retirement Account (IRA) as an option to membership in the ERS, with the state contributing to the IRA. Originally, the bill provided that the employee would establish an IRA, pledging to invest six per cent of his income, and the state would double that contribution each pay period until the total contribution in any one year reaches the maximum \$2,000 allowed by law. If the maximum is reached before the end of the year, the employee would retain the six per cent per pay period that he would otherwise have had deducted for his IRA, and the state would pay to the employee the twelve per cent it was previously contributing to his IRA.

Your Committee, however, noted that some concern has been expressed that "voluntary" employee contributions such as envisioned in the original bill may be considered "mandatory" by the Internal Revenue Service (IRS) even though the IRA would be an individual rather than group IRA. In any case, mandatory employee contributions are apparently considered by the IRS as non-deductible to the employee. Therefore, your Committee has amended the bill to provide that the employee who elects to establish an IRA will not be required to contribute to that IRA. Instead the IRA would be funded by the state's contribution of twelve per cent of the employees gross salary and the employee would have added to his paycheck the 7.8 per cent currently deducted as an employee contribution to the retirement system. If the current maximum of \$2,000 for an IRA is reached in any one year the employee would also receive an extra compensation the twelve per cent the state had been contributing to the IRA.

The amended bill would allow the average member of the ERS who earns about \$19,200 to receive an additional \$125 per month rather than contribute that amount to the retirement system. At the same time the state would contribute \$192 to that individual's IRA.

After approximately ten months the IRA maximum \$2,000 per year would be reached. Thereafter, the employee would have added to his paycheck the \$192 previously contributed by the state, less withholding taxes and Social Security payments. Aside from the obvious advantages of more take-home pay, the employee would receive a tax deduction for the total \$2,000 contributed to the IRA. Most importantly, the interest rates on an IRA are higher than the rate of inflation and this, combined with the fact that the interest earned is not taxed until withdrawal, will generate enormous sums. For example, a thirty-year-old who contributes \$2,000 a year at a conservative interest rate of twelve per cent until age sixty would accumulate \$629,328 for his retirement, a sum that would provide a monthly annuity of \$6,655 for twenty-five years, or until age eighty-five. These amounts, combined with Social Security, should provide more than adequate retirement income. In fact, the monthly annuity may be higher than what the employee would receive had the employee remained in the ERS. The key variable is the rate of wage inflation versus the rate of interest earned by the IRA. Another variable is whether the employee who remains with the ERS wishes to take a reduced annuity to provide benefits to a surviving spouse. In the case of an IRA a surviving spouse would retain all benefits and thus the monthly annuity would remain the same.

Your Committee notes that an often overlooked, but key advantage of an IRA is the fact that death either prior to or after retirement has no impact on benefits. On the other hand ERS retirement benefits are generally significantly reduced in the same situation.

Your Committee is appreciative of the fact that the proposed IRA program is a tempting one. However, it should be noted that the ERS provides certain other benefits, primarily a life insurance policy which would give an employee's beneficiary up to one year's salary as a death benefit, a disability plan that entitles an employee to a pension of up to two-thirds of average pay for life, a post-retirement allowance annually which automatically increases two and one-half per cent of an employee's basic pension and pays all health insurance plan premiums for retirees. While these benefits can readily be paid for out of the additional take-home pay that would accrue to an employee in the proposed IRA program they should not be ignored.

Some concern has been expressed that IRA rollover rules would not allow tax-deferred rollover of an employee's annuity savings account to an IRA. At the same time there is concern that if a significant number of employees wish to take advantage of the IRA program the ERS may have difficulty in making the funds available immediately. Therefore, your Committee has amended the bill to provide that funds which cannot be rolled over be paid to the employee within one year of the election to establish an IRA.

Concern has been expressed that IRA's may be eliminated by the federal government. Your Committee finds it difficult to believe that the federal government would rescind a plan designed to ensure adequate retirement income. To do so would be contrary to all federal policies designed to reduce the stress on the federal government of having to supplement inadequate retirement income. Nevertheless, your Committee, has amended the bill so that an employee who elects to establish an IRA under the proposed program of state contribution must rejoin the ERS if the federal government eliminates the tax-deferred IRA Program. However, the employee can only rejoin the ERS and will not be able to buy back any previous service. Thus, the employee who elects to establish an IRA under the state program will be ensured of a retirement plan. At the same time no unnecessary burden will be placed on the ERS which would result if an employee could buy back with large amounts of service time.

Despite the advantages of an IRA, an employee without significant amounts of disposable income cannot reap its benefits. Thus, it is important that the state provide an option to those who need more disposable income during their working careers. Those employees who wish to remain in the ERS will still be free to establish IRAs, but without any state contribution.

Your Committee believes that the state will also benefit from the IRA plan because its contribution towards the employee's retirement will be reduced. Given the burgeoning costs of the ERS, a plan that reduces the costs to both parties while increasing benefits to employees should be made available.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2916-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2916-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Saiki and Yee.

SCRep. 213-82 Human Resources on S.B. No. 2888-82

The purpose of this bill is to prevent homeowners from being disqualified for medical assistance based on the equity value of their home.

Currently, persons may be disqualified for medical assistance if the equity value of their home exceeds a certain amount.

Your Committee finds that due to increases in real property value, many low-income homeowners are ineligible for medical assistance. It would be inequitable to force such homeowners to sell their homes to pay medical bills.

Your Committee has adopted the recommendation of the director of social services and housing by amending the bill to effect the purpose of the bill by amending section 346-29, HRS, rather than section 346-59.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2888-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2888-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 214-82 Human Resources on S.B. No. 2213-82

The purpose of this bill is to conform the Hawaii Employment Security Law to recent changes in federal law. Specifically, this bill amends chapter 383, Hawaii Revised Statutes, as it relates to extended compensation benefits.

Your Committee received testimony from the state Department of Labor and Industrial Relations that passage of the bill will ensure approval of chapter 383 for employer tax credits and for the continued receipt of federal funds for administrative purposes and the payment of extended benefits.

Your Committee made several technical amendments to the bill, most upon the recommendation of the United States Department of Labor.

The principal features of the bill, as amended are:

- 1) Deletion of references to national "on" and "off" triggers for extended benefits so that the payment of extended benefits will depend solely upon state triggers;
- 2) Increases of triggering thresholds;
- 3) Additional eligibility requirements;
- 4) Provisions to assist the state obtain reimbursement of child support payments from unemployment benefit claimants.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2213-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2213-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 215-82 Human Resources on S.B. No. 2524-82

The purpose of this bill is to reduce the cost of administering workers' compensation claims in those cases where the employee before his work injury suffers from a previous disability. While the bill will reduce administrative and legal costs connected with workers' compensation claims, it will not reduce benefits paid to injured employees.

The bill accomplishes its purpose by amending Section 33 of Hawaii's Workers' Compensation Law to provide a formula by which liability will be apportioned between the injured employee's employer and the State Special Compensation Fund. The formula is patterned after the Federal Longshoremen's and Harbor Worker's Act.

Your Committee finds that Section 33 in its existing form contributes to the cost of workers' compensation by introducing uncertainty as to whom should bear liability for work injuries, by encouraging litigation and by encouraging appeals to the Labor and Industrial Relations Appeals Board.

The section in its present form requires the director or the Appeals Board as the case may be to make a hypothetical and inherently difficult decision whenever a work injury combines with a previous disability to result in greater permanent partial or in permanent and total disability. In such cases the director or the board must quantify that disability which would have resulted from the injury without the previous disability. Often this determination is extremely difficult. Physicians frequently are unable to quantify the impairment before an injury and often disagree among themselves. Thus a good deal of uncertainty is injected into workers' compensation cases making settlements less likely and promoting costly litigation.

The existing provisions of Section 33 also contribute to the cost of administering workers' compensation claims by providing a strong incentive to employers to conduct an exhaustive search of the employee's entire medical history in the hope of finding a previous disability. If earlier injuries or health problems are turned up, litigation with the Special Compensation Fund ensues.

Further, Section 33 presently encourages unnecessary appeals to the appellate board. This occurs because in any particular case at the departmental level, the director is both decision maker and custodian of the Special Compensation Fund. Thus it becomes necessary for the employer to appeal the case in order to obtain a disinterested determination of the Fund's liability under Section 33.

Your Committee finds that this bill while not eliminating the foregoing problems entirely will substantially reduce them by making two basic amendments to the section. First, the bill provides a formula for the apportionment of liability between the Special Compensation Fund and the employer patterned after the formula used by the federal government in the Longshoremen's and Harbor Worker's Act. Under the formula, the Employer pays 104 weeks of compensation. Liability beyond that, if any, will thereafter be the responsibility of the fund. This is a less costly and more predictable means of apportioning liability than the hypothetical determination presently required. Second, the bill establishes that the previous disability reach a minimum threshold level before any liability is imposed on the fund. This should significantly reduce the total number of cases in which the Special Compensation Fund is required to participate.

The foregoing amendments were recommended to the Legislature by the Workers' Compensation Program Commission established pursuant Act 217, Session Laws of Hawaii 1980.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2524-82, 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. 216-82

Human Resources on S.B. No. 2607-82

The purpose of this bill is to eliminate from the Hawaii Revised Statutes, provisions inconsistent with the constitutional doctrine of the merit principle.

Your Committee finds that present statutory restrictions on the salaries of public officials and employees excluded from collective bargaining to ninety-five per cent of the salaries of first deputies and first assistants to department heads are inimical to the merit principle and the concept of equal pay for equal work inherent in that principle. The application of those restrictions pursuant to sections 89C-2(2) and 89C-2(3), Hawaii Revised Statutes, has been declared unconstitutional in Public Employees' Management Association of Hawaii, et al. vs. Ariyoshi, et al., Civil No. 65791. This bill eliminates such restrictions.

Your Committee has adopted the recommendation of the Director of Personnel Services by amending section 2 of the bill by deleting the words "or comparable" from page 2, line 7. The purpose of this amendment is to eliminate a term which is vague and which may be difficult to administer.

Your Committee has also made technical amendments which have no substantive effect.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2607-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2607-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 217-82 (Joint) Agriculture and Economic Development on S.B. No. 2690-82

The purpose of this bill is to provide enabling legislation to form the Hawaii cooperative council, and to provide initial state support from its inception.

Your Committees heard favorable testimony on the bill and support its intent and purpose. However, because of questions raised regarding the proposed mechanics involved in establishing the cooperative council, your Committees have amended the bill to appropriate \$25,000 to the farming and fishing cooperative associations to enable them to plan the formulation and establishment of the cooperative council.

Your Committees on Agriculture and Economic Development are in accord with the intent and purpose of S.B. No. 2690-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2690-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Holt, Kawasaki, Kuroda, Machida, Saiki and Yee.

SCRep. 218-82 (Joint) Agriculture and Consumer Protection and Commerce on S.B. No. 2697-82

The purpose of this bill is to exempt consumer cooperative associations from taxation.

Your Committees find that farming and fishing cooperative associations organized under chapter 421 and 422 are generally granted tax exemption. The original intent of this bill was to establish broad tax-exempt status for consumer cooperatives, which would be legalized in the state under S.B. No. 2696-82.

Your Committees received testimony opposing this measure from private companies which felt that the exemption of cooperatives from the 4% gross excise tax would create an unfair advantage for cooperatives.

In accordance with this position your Committees have amended the bill to limit the scope of this measure to an exemption from corporate taxes only.

Your Committees on Agriculture and Consumer Protection and Commerce are in accord with the intent and purpose of S.B. No. 2697-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. 2697-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Kuroda and Yee.

SCRep. 219-82 (Joint) Ecology, Environment and Recreation and Economic Development on S.B. No. 561

The purpose of this bill is to modify Section 205-33(2), Hawaii Revised Statutes, in order to allow sand mining by the state or county governments in waters less than 30 feet deep or within 1,000 feet off shore for the purpose of replenishing sand at public beaches.

This concept was proposed by a conference on sand mining and beach erosion sponsored by the Sea Grant Program at the University of Hawaii which was attended by a number of governmental, community and private organizations.

The Departments of Transportation and Land and Natural Resources presented testimony recommending approval for the bill. The Department of Parks and Recreation of the City and County of Honolulu also favored it, using Kualoa Point on Oahu as an example of a location that could benefit from this bill.

Your Committees have amended this bill to require that both informational and public hearings be held in the affected community; it would also require that the environmental impact statement procedure, pursuant to Chapter 343, Hawaii Revised Statutes, and the appropriate departmental permit procedure be followed. This revision would allow the affected areas to provide community input in the decision making process.

The only sand mining in off-shore areas permitted would be for replenishment of sand at public beaches.

Your Committees on Ecology, Environment and Recreation and Economic Development are in accord with the intent and purpose of S.B. No. 561, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. 561, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Kuroda, Mizuguchi, Saiki and Yee.

SCRep. 220-82 Agriculture on S.B. No. 2951-82

The purpose of this bill is to amend the Hawaii Revised Statutes by adding a new chapter which would establish an aquaculture advisory council in the Department of Land and Natural Resources.

Your Committee received favorable testimony on this bill. However, your Committee continues to hold the belief that the best alternative for the development of aquatic and marine species being farmed on or adjacent to dry land is to incorporate the study and development of these species into the multitude of other programs currently supported through the diverse agricultural institutions of the private and public sectors. Contrary to this direction, the bill continues to build separate institutions for the aquaculture industry.

Your Committee has amended the bill by adding a new Section 3 to the bill which provides that the proposed aquaculture advisory council in the Department of Land and Natural Resources will lapse at the end of fiscal year 1983-1984.

The purpose of this amendment is to allow the establishment of the council, while indicating that the council should move in the direction of integrating its work with other agricultural programs.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2951-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2951-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt, Kawasaki and Yamasaki.

SCRep. 221-82 Agriculture on S.B. No. 2775-82

The purpose of this bill is to replace chapter 180, Hawaii Revised Statutes, with a modernized law to provide for a state soil and water conservation office.

Your Committee finds that the Soil and Water Resources Conservation Act (RCA), which was enacted in 1971 by Congress, requires each state to conduct an appraisal of its soil and water resources. The United States Soil Conservation Service (SCS), an agency of the United States Department of Agriculture, was designated as the lead federal agency to undertake this appraisal. In Hawaii, the state leadership was given to the Hawaii Association of Soil and Water Conservation Districts (HACD).

The matter of conservation of soil and water goes beyond the conservation districts in the state, and has impact on the preservation of open lands and agricultural lands, and the identification of important agricultural lands mandated by Article X, Section 3 of the State Constitution.

The state currently utilizes a land classification system which dates back to the land study bureau of over two decades ago. Since that time, land testing methods have improved, and the SCS has published the two volumes entitled "Soil Survey of Islands of Kauai, Oahu, Maui, Molokai, and Lanai" and "Soil Survey of Island of Hawaii", in cooperation with the University of Hawaii Agricultural Experiment Station. This mammoth study is the first truly complete soil classification ever done in the Islands.

The importance of water and land conservation has been long recognized in the United States. A recent study entitled "Summary of Provisions of Conservation Districts Laws", prepared jointly by the National Association of Conservation Districts, the SCS, and the Office of the General Counsel of the U.S. Department of Agriculture, summarized the major provisions of conservation laws in every state, as well as Puerto Rico and the Virgin Islands. The study found that forty-eight states and Puerto Rico all have strong centralized agencies for soil and water conservation. Only Hawaii, Arizona and the Virgin Islands do not.

Soil and water conservation in Hawaii is governed by chapter 180, which has never provided for a central agency for soil and water conservation. As other state agencies

developed and became more centralized, the fifteen decentralized district organizations mandated by chapter 180 lacked sufficient cohesion and direction to accomplish their conservation goals.

Your Committee received favorable testimony regarding the repeal of chapter 180 and its replacement with a modernized version of the same chapter which would set up a centralized office while maintaining the fifteen district bodies. Your Committee also received testimony which indicated that a federal block grant may be available to states with centralized conservation agencies.

Your Committee has amended S.B. 2775-82 based on testimony received. These amendments are of a technical nature.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2775-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 2775-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt, Kawasaki and Yamasaki.

SCRep. 222-82

Health on S.B. No. 2955-82

The purpose of this bill is to fix responsibility to and provide funding for emergency medical services. The bill requires each county with a population of 200,000 or more to implement a comprehensive pre-hospital emergency medical services system consistent with standards established by the Department of Health.

Your Committee finds that emergency medical services are an important element of a good public safety system. Included in this system are the police, fire-fighters, and lifeguards. These so-called first responders, as well as the emergency ambulance personnel, must work cooperatively to ensure public safety. Adding another layer of government to the system will certainly not add to the efficiency of such a system.

Your Committee further finds that state takeover of emergency medical services is not in keeping with the concept that public safety services are and have traditionally been the responsibility of county government. Such services should be determined and managed at the county level. Hawaii's already imbalanced split of functions between state and county government is unhealthy. For example, on a nationwide basis, local governments take on the bulk of government responsibility, accounting for about 60 per cent of non-federal expenses and state governments have a secondary role, with only 40 per cent. In Hawaii, the roles are reversed, with the counties assuming only 23 per cent of the expenditures and the state 77 per cent.

Your Committee further finds that emergency medical services should generally be provided and managed at the county level. To ensure adequate funding the state should share in its cost. However, the present system of state reimbursement for county operation of emergency ambulance service on Oahu provides no incentive for the city and county to operate the system as efficiently as possible. Therefore, state funding should be designed to provide maximum incentive for the county to develop cost-effective, as well as efficient emergency ambulance services. In recognition of the fact that the smaller counties are unable to operate and fund emergency ambulance services on the same basis as a large county, provisions should be made to continue state operations in those counties.

The bill has been amended to change the qualifications for the two advisory committee members who must be physicians engaged in the full-time practice of emergency medicine from board "eligible" or board certified by the American Board of Emergency Medicine to board "qualified" or board certified to conform to the American Board of Emergency Medicine policies.

The bill requires that fees be established and the revenue from those fees be deposited in the appropriate general fund. Your Committee assumed that it would be understood that the fees must also be collected. However, testimony from the Department of Health indicates that the logic of that assumption completely escapes the department. Therefore, to clarify any misunderstanding, the bill was amended to read that both the state and each county with a population of 200,000 or more shall establish "and collect" reasonable fees.

The bill removes specific requirements regarding nonpayment of fees because such provisions are more appropriately addressed through rules and regulations which the Department of Health is required to adopt. The bill was amended to specify that the fees

established and collected by each county with a population of 200,000 or more apply only to services rendered by that county and not by any private or other ambulance service.

The provision for a state grant-in-aid to each county with a population of 200,000 or more equal to 75 per cent or direct costs of operating its emergency medical services system was amended to provide a grant-in-aid for the first year equal to 100 per cent of the total cost of the system and 80 per cent of direct costs each year thereafter. Although your committee believes the total funding resulting from a grant-in-aid equal to 75 per cent of direct costs plus fees collected would more than support the system, the bill was amended by increasing the state portion of funding to dispel any fears the City and County of Honolulu may have regarding insufficient funding.

The City and County of Honolulu also claimed that there is no rational basis for mandating counties with a population of 200,000 or more to be funded on a different basis from other counties. However, it is obvious that only a county with a high volume of ambulance calls per station could generate sufficient revenues to help support ambulance service. For example, in 1980 ambulance calls at the busiest ambulance station in Hawaii County totalled 1,324 per year, an average of 3.6 per day while the busiest station in the City and County of Honolulu had calls totalling 5,870 per year, an average of 16.1 per day. Hawaii County with its low volume of calls, could not be expected to support a system the same way the City and County of Honolulu could through the collection of fees. Thus, the revenue-generating capacity of a county with a population less than 200,000 is considerably smaller than that of a larger county while at the same time, many of the fixed costs of operating a system remain the same. Hopefully, the City and County of Honolulu will agree that different does not always mean discriminatory.

The bill provides that each county with a population of 200,000 or more could set fees for its ambulance service. Thus, the City and County of Honolulu would be more than able to cover its 20 per cent share of the costs of the emergency ambulance service on Oahu and could actually generate more in ambulance fees than its 20 per cent share of costs.

It should be evident that the differentiation made between large and small counties provided for in the bill is not discriminatory as claimed by the City and County of Honolulu. Population size is the most important factor in determining whether a county can run a self-sufficient system under the provisions of this bill.

Normally, your Committee would not reply to all concerns raised regarding a specific bill but many concerns raised by the Department of Health represented such a gross overreaction that your Committee is replying in order to focus attention on the obstructionist attitude of the department.

The department contends the proposed bill would create a double set of standards for emergency medical service systems, a duplication of training and increased costs for technical assistance, data collection and evaluation. Your Committee notes that first, the department is still responsible for establishing standards for county emergency medical service systems which should provide uniformity of standards. Second, the feared duplication of services assumes that there will be no cooperation between the state and County. Providing funding for training to the City and County of Honolulu does not necessarily mean duplication. It is assumed that a cooperative effort will be made and that the city and county will be free to contract with the present provider if it so chooses.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2955-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2955-82, S.D. 1, and referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Toyofuku and Saiki.

SCRep. 223-82

Human Resources on S.B. No. 2606-82

The purpose of this bill is to establish procedures for salary adjustment in classes where a shortage category has been determined. Your Committee is aware that under present statutory provisions, the director of personnel services may establish a shortage category and adjust the entry salary to attract and retain competent persons for government service. Subsequent classes may also receive an adjusted entry salary to preserve relationship within the series. The adjustment on shortage categories fluctuates according to labor market needs.

Your Committee made several amendments to the bill to the effect that salary adjustments in shortage categories be consistent between classes or groups of positions in classes within the same series. Also, to provide that increases shall apply to incumbents at

all steps of that class by an equivalent amount. Your Committee further amended the bill to delete proposed new subsection (g).

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2606-82 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2606-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 224-82 Ecology, Environment and Recreation on S.B. No. 2522-82

The purpose of this bill is to provide employees of the stadium authority specific and limited enforcement authority, including the power to serve and execute warrants, arrest offenders, and serve notices, summons, citations or orders. These powers would remain in force and effect only while the employees are performing their duties at Aloha Stadium, and would apply to traffic and parking violations on stadium grounds and conduct contrary to stadium regulations.

Your Committee received testimony from the stadium authority supporting this legislation, and was informed of the problems faced by the authority in its attempt to enforce stadium rules regulating conduct, parking and traffic on the premises.

Your Committee is conscious that there are problems regarding the operation of a large recreational facility such as Aloha Stadium and that current enforcement statutes in response to these problems have been ineffective.

However, current security procedures at the stadium have been brought to the public's, and your Committee's, attention in the wake of the Pro Bowl game and the irregularities in the handling of matters by security employees.

Testimony was presented to the Committee by a private citizen who is presently involved in litigation against the stadium security. While this individual could not go into detail concerning his experience, members were informed of a beating he was given by a security guard and the lack of concern or regard exhibited toward him by other security personnel and a stadium official.

His allegations present an alarming and extremely disturbing picture of the security situation at the stadium.

Your Committee was advised by Robert Shuford, chairman of the stadium authority's special committee on security, that security guards receive very little training, approximately four to six hours of indoctrination, in connection with their job.

While stadium officials have assured the Committee that efforts to more closely screen applicants for security positions and to provide better training which were implemented in September will be accelerated, the present situation cannot be resolved by giving stadium personnel more enforceable powers.

In view of the inadequate training undergone by the present security personnel at the stadium and the number of allegations and suits filed against the authority concerning the misconduct by and abusive behavior of certain members of the security personnel, your Committee finds that it cannot, in good conscience, report out this bill in its present form.

Recognizing that there is a need to address certain violations of the public with regard to traffic and parking regulations, and instances where public misconduct arises, your Committee has amended this legislation to address these problems.

The stadium hired twenty-one off-duty police officers during the football season and intends to use more officers during the baseball season. Your Committee has amended the bill by deleting all language which would give certain powers to stadium employees. The bill has been amended to utilize the presence and abilities of the off-duty police officers by authorizing them to use their powers to arrest offenders, issue citations, and enforce stadium rules and regulations. This authorization includes any police officer of the counties. At no time will non-police security personnel be permitted to exercise powers entrusted to the county police.

Your Committee realizes that this bill, even in amended form, does not resolve existing problems but may be able to prevent further abuses of the security system at the stadium or unnecessary incidents of force and violence in the future. Your Committee intends

to introduce a resolution to address current problems at the stadium facility.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. 2522-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2522-82, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Cobb and Mizuguchi.

SCRep. 225-82 Legislative Management

Informing the Senate that Stand. Com. Rep. Nos. 65-82 to 224-82 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 226-82 Legislative Management

Informing the Senate that S.C.R. Nos. 22 and 23 and S.R. Nos. 35 to 37 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 227-82 Economic Development on S.B. No. 2720-82

The purpose of this bill is to amend the Hawaii State Planning Act.

Your Committee on Economic Development is in accord with the intent and purpose of S. B. 2720-82, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2720-82, S.D. 1, and be recommitted to the Committee on Economic Development for further consideration.

Signed by all members of the Committee.

SCRep. 228-82 Legislative Management

Informing the Senate that S.R. No. 38 and Stand. Com. Rep. No. 227-82 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 229-82 Government Operations and Intergovernmental Relations on
S.B. No. 2322-82

The purpose of this bill is to transfer functions relating to vehicle number plates from the lieutenant governor to the county directors of finance.

Under present law the lieutenant governor has the responsibility to determine the design of vehicle number plates and to contract for the purchase of such plates on behalf of all counties.

Since the county directors of finance are responsible for vehicle registration and the issuance of number plates, it would be more appropriate for county determination of the need for the general issuance of new number plates and of the design of the new plates and for county contracting for these plates.

Your Committee has amended the bill on pages 2 and 5 by substituting majority for unanimous consent of the directors of finance. Minor technical amendments which have no substantive effect have also been made.

Your Committee on Government Operations and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2322-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2322-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 230-82 Ways and Means on S.B. No. 1390

The purpose of this bill is to amend section 143-8, Hawaii Revised Statutes, to authorize each county to determine and charge impoundment fees reflective of the actual costs of impounding dogs. This Act will relieve each county of the need to seek legislative amendment should the actual cost of impounding dogs differ from county to county.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1390, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 231-82 (Majority) Ways and Means on S.B. No. 2196-82

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

Act 245, Session Laws of Hawaii 1980, set the maximum interest rate which may be paid on any coupon of general obligation bonds of the state at nine and one-half per cent (9 1/2%). This rate was temporarily increased to twelve per cent (12%) on July 1, 1981 by Act 18, First Special Session Laws of Hawaii 1981. This action was taken to enable the state to continue the financing of capital improvement projects high prevailing interest rates. However, the increase will expire on March 31, 1982, and the interest will revert to 9 1/2%.

Since World War II, the Bond Buyer's 20-Bond Index of general obligation bonds has ranged from a low of 1.29% on February 14, 1946 to a record high of 13.44% on January 15, 1982. Municipal bond interest rates have not dipped below 12% since December 3, 1981.

As a practical matter, prevailing market conditions rather than statutory ceilings govern the rate of interest which state and local governments must pay on their bonds. A survey published by The Weekly Bond Buyer on January 18, 1982 shows that 29 of the 46 states which have authority to issue general obligation debt, have no statutory interest rate ceiling on their bonds.

It should be noted that general obligation bonds issued by the state are callable or refundable after ten years and if interest rates should decline significantly, the state could refund its bonds.

Your Committee amended the bill by adding April 1, 1982 as its effective date. Since the temporary bond ceiling will expire on March 31, 1982, such an effective date would assure continuity for the bond program.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2196-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2196-82, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Senators Abercrombie, Cayetano and Kawasaki did not concur.

SCRep. 232-82 Ways and Means on S.B. No. 2198-82

The purpose of this bill is to appropriate moneys for the court-ordered payment of retroactive salary increases and adjusted fringe benefits for certain public officers and employees who are excluded from collective bargaining.

Section 89C-2, Hawaii Revised Statutes, in part, limits the salaries of certain public officers and employees who are excluded from collective bargaining to ninety-five per cent of the salaries of their departments' first assistants or deputy directors or the president of the University of Hawaii, as the case may be. The Public Employees' Management Association of Hawaii (PEMAH) filed suit in circuit court to overturn the salary limitations. The circuit court, in PEMAH, et al. v. State of Hawaii, et al. (Civil No. 65791), found with PEMAH, et al. and declared the limitations unconstitutional. The circuit court's judgment also awarded back pay and required commensurate adjustments of fringe benefits for the excluded officers and employees for the period beginning May 26, 1979 to June 30, 1981.

This bill appropriates the moneys necessary to comply with the judgment of the court.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2198-82 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. 233-82 (Majority) Ways and Means on H.B. No. 798

The purpose of this bill is to increase the rate of interest applicable to underpayments, nonpayments, and overpayments of state taxes from the current eight per cent a year to twelve per cent a year.

The bill also provides for the payment of interest on refunds pursuant to appeal to the tax review board.

Your Committee finds that the recommended increase in the rate of interest is appropriate and is in conformance with increases allowed under the federal income tax law.

Your Committee finds that this bill will result in a net revenue gain for the state.

Your Committee has amended the effective date.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 798, 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. 798, H.D. 1, S.D. 2.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 234-82 Ways and Means on H.B. No. 804

The purpose of this bill is to permit the state to tax the beneficial interest in a land trust being transmitted as a consequence of the death of a beneficiary regardless of the beneficiary's residence under the inheritance and estate tax laws.

Chapter 558, Hawaii Revised Statutes, provides that a beneficial interest in a land trust may be personal property. Real property having a situs in the state is subject to the inheritance tax on both residents and nonresidents, however, the beneficial interest in a land trust if it is designated personal property is intangible personal property and is not taxable to nonresidents.

This bill would permit the state to tax the beneficial interest in land trust property having a situs in the state of nonresidents as well as residents for inheritance and estate tax purposes, thereby treating nonresident and resident holders of land trust property in the same manner.

Your Committee has amended the effective date.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 804, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 804, S.D. 2.

Signed by all members of the Committee.

SCRep. 235-82 Ways and Means on H.B. No. 1100

The purpose of this bill is to increase the statutory fee for an identification certificate from \$2 to \$6.

The present statutory fee of \$2 has not been amended since 1957. Pursuant to section 9228, Hawaii Revised Statutes, the fee was increased administratively by 50 per cent to \$3 in 1974. Since that time, however, the fee has remained unchanged.

During the past sixteen years, the costs involved in providing identification certificates have greatly increased. Your Committee finds that this bill is necessary to meet rising costs of the program and to provide more efficient service.

Your Committee agrees that the increase in fee proposed by this bill is justified and necessary to meet these costs.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B.

No. 1100, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 236-82 Agriculture on S.B. No. 2288-82

The purpose of this bill is to allow the Department of Agriculture, upon approval of the governor, to enter into contracts, cooperative agreements, or other transactions with individuals, agencies, or governmental agencies in order to better carry out its functions.

Your Committee received testimony stating that the Department of Agriculture has received funds from federal, county, and state organizations as part of joint agreements, contracts, or grants in connection with special projects related to its normal functions. The Department of Accounting and General Services and the attorney general's office has pointed out the lack of specific statutory language authorizing the Department of Agriculture to receive such funds. This bill would remedy this oversight.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2288-82 and recommends it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 237-82 Legislative Management

Informing the Senate that S.C.R. No. 24 and Stand. Com. Rep. Nos. 229-82 to 236-82 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator Cobb.

SCRep. 238-82 (Majority) Higher Education on S.B. No. 2970-82

The purpose of this bill is to amend Section 304-4, Hawaii Revised Statutes, to strengthen the residency requirements for tuition classification at the University of Hawaii by adding an additional residency criterion that students not be financial dependents of nonresident parents or guardians.

Specifically, the proposed residency criterion would require that in order to qualify for the resident tuition fee, minor and adult students may not have been claimed as dependents for tax purposes by parents or guardians who are nonresidents for the year preceding registration. The intent of this added criterion is to ensure that students not be allowed to switch midstream from nonresident to resident status when they have entered the state primarily for educational purposes and their primary financial support is still being derived from their nonresident parents or guardians.

The current definition of bona fide resident makes it possible for many nonresident students who still derive their primary support from parents who pay taxes in other states to earn residency status after only one year in Hawaii.

The University of Hawaii has indicated that campus registrars process approximately 575 to 600 changes each year in tuition status from nonresident to resident. Based upon this approximate number of tuition status changes, the loss in tuition revenue due to these changes is about \$428,000 to \$447,000 per year. While it is not possible to determine exactly how many of these changes would still be valid under the new criterion, if only half of the students presently qualifying for a switch to resident status would not qualify under the new criterion, the state would retain about one-quarter of a million dollars per year in revenue currently foregone. This is for just the first year following reclassification. If these same students continue their undergraduate education for several more years, and then proceed on to graduate or professional school, the amount of foregone revenue is even greater.

Your Committee's investigations have revealed that other mainland states not only charge much higher nonresident tuition and resident tuition rates than Hawaii, but are also much more restrictive in the requirements which must be met to obtain residency. For example, a recent WICHE study on "Tuition and Fees in Public Higher Education in the West," December, 1981, indicates that one of the criteria which must be met in the State of California is that the student must demonstrate that he has been self-supporting for at least three years. Since this particular criterion presents many difficulties of enforcement and is currently the subject of legal challenge, your Committee has sought

to identify alternative criteria which may be constitutionally acceptable and capable of effective enforcement. We believe S.B. 2970-82 offers a reasonable and acceptable criterion.

The University of Hawaii has testified in support of the proposed modification of the statutory definition of residency for tuition purposes. The University believes the limitation expressed in S.B. 2970-82 is equitable to the taxpayers of the state, who provide a generous subsidy for public higher education. While the Board of Regents will have to amend its Rules and Regulations in accordance with the Administrative Procedures Act to implement the additional residency criterion, they anticipate no difficulty in doing so or in otherwise administering the new provision.

Your Committee also received testimony from a Hawaii student and a parent of a student adversely affected by the high nonresident tuition rates and stringent residency requirements of other states. They shared the view that with Hawaii taxpayers bearing the bulk of a student's cost of education in this state, that nonresident students should not be able to so easily switch to resident status in Hawaii in order to avoid paying a fair share of their own educational costs.

Your Committee has amended the bill by adding a severability clause.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2970-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2970-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 239-82 Judiciary on S.B. No. 2642-82

The purpose of this bill is to provide for the continued operations of the Juvenile Justice Interagency Board and to alter its membership to increase input and insure representation from all counties in the state.

The administrative responsibilities for the Juvenile Justice Interagency Board is presently under the authority of the State Law Enforcement Planning Agency which will be defunct as of March 31, 1983. This bill provides that those responsibilities be transferred to the Attorney General's office. The success of the juvenile justice system in the state requires coordination and cooperation of all governmental and agency jurisdictions.

The bill provides further that the board membership be increased from seven to nine members and requires that at least one resident member be from each county in the state. This would increase valuable input and insure statewide representation.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2642-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 240-82 Judiciary on S.B. No. 2182-82

The purpose of this bill is to require the Department of Health to issue new birth certificates upon the request of a law enforcement agency when the law enforcement agency has certified that new certificates are necessary for the fulfillment of its official duties.

Your Committee heard testimony from the U.S. Marshal's Office, the Honolulu Police Department and the Department of Health in support of this bill. The U.S. Marshal's Office indicated that this bill is necessary to ensure the protection and relocation of individuals who, because of some involvement with organized crime, are forced to leave the state and must assume new identities. Confidentiality of records is extremely important in these instances. Our existing statutes, however, do not guarantee confidentiality of name changes. This bill would rectify this situation.

Under this bill, witnesses, victims and families will be able to join the armed forces if they desire, secure passports, insurance, education and bonded jobs, thus facilitating their re-entry into public life. The Honolulu Police Department cited some thirteen individuals who have assumed new identities elsewhere and who are currently not being afforded these opportunities.

Your Committee has made a technical, nonsubstantive change to this bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2182-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2182-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 241-82 Judiciary on S.B. No. 2189-82

The purpose of this bill is to change the name of the "assistant attorney general" to "first deputy attorney general."

According to the testimony received from the Department of the Attorney General, the designation of "assistant attorney general" raises confusion because of its departure from the prevailing practice in other jurisdictions to designate their counterpart "deputy attorney general" and the other attorneys on their staff as "assistants."

Your Committee has amended this bill to change the designation to "chief deputy attorney general" in order to avoid the implied existence of a second or third deputy attorney general.

Your Committee has also amended the bill to reflect the change in designation in other relevant sections of the Hawaii Revised Statutes.

Your Committee has made technical, nonsubstantive amendments to this bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2189-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2189-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 242-82 Judiciary on S.B. No. 2475-82

The purpose of this bill is to allow a person to change his name without having to comply with the requirements of publication, recordation in the Bureau of Conveyances, and report to the Registrar of Births when it is determined that such compliance is not necessary in order to protect the person desiring the name change.

The bill provides that a person desiring to change his name may do so by filing, with the petition, an affidavit executed by a prosecuting attorney of this state showing that for that person's protection, the requirement of publication in a newspaper of general circulation in the state, the recordation in the Bureau of Conveyances, and the report to the Registrar of Births shall not be necessary.

The bill further provides for a new section entitled "Effect of change" but maintains the substantive language of the prior law. This provision makes for a clearer understanding of the procedure and effect of a name change. It also deletes reference to ratification and confirmation of name change under prior law.

Your Committee has amended the bill for purposes of clarity. Your Committee has also restored the language referring to ratification and confirmation of name changes made under prior law, as your Committee believes such a provision is necessary to protect any persons who may have had their names changed under prior law.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2475-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2475-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 243-82 Judiciary on S.B. No. 2624-82

The purpose of this bill is to clarify the law relating to the grand jury counsel to assure that the grand jury counsel operates in a manner that will help the judicial system in the cause of justice rather than add undue obstacles and hardships.

The bill provides that any attorney who is currently handling or assisting in a criminal case or has handled or assisted in a criminal case within a three-month period immediately preceding a grand jury session be prohibited from serving as grand jury counsel. This provision would eliminate the necessity for a grand jury counsel to withdraw from a given grand jury case or session because he is already representing the person under

investigation by the grand jury in another case. This provision would also avoid placing an attorney, who normally represents criminal defendants, in a difficult position of reconciling the roles of grand jury counsel and criminal defense attorney.

On December 28, 1981, the Hawaii Supreme Court held in State v. Kahlbaun that the grand jury counsel be in close proximity to the grand jury and that, preferably, counsel should be in a separate room next to the grand jury. This requirement has added an unnecessary burden on the grand jury counsel. The bill provides that the counsel may be in the vicinity of the building in which the grand jury is meeting or may be at a site where the grand jury may contact counsel by telephone for appearance before the grand jury within ten minutes.

The bill provides that the function of the grand jury counsel shall be to respond to questions on the law posed by the grand jury. Your Committee heard testimony that grand jury counsels presently are providing unsolicited advice on law and other factual or unrelated matters. Testimonies indicate that grand jury counsels are also becoming involved with administrative matters of the grand jury such as scheduling.

Your Committee feels that the grand jury counsel's function to advise the grand jury encompasses the narrow and specific role of giving legal responses to legal questions only when asked by the grand jury. Thus, your Committee amended the bill by including the term "only" to indicate that the only function of the grand jury counsel would be to respond to questions of law when asked by the grand jury.

The bill further provides a remedy for situations where there is question as to whether the grand jury counsel acted improperly or whether the advice given was erroneous. The bill provides that if such a situation arises, then the prosecutor may withdraw the case from the grand jury and appear before the court for a ruling. If the court rules that the advice was proper, then the case shall resume. If the court rules that the advice was improper, then the grand jury shall be given the corrected advice or shall be advised as to the improper conduct and then the case shall continue. Your Committee amended the bill by clarifying the language to properly reflect its intentions.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2624-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2624-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 244-82 Judiciary on S.B. No. 2366-82

The purpose of this bill is to change the date for the reporting of deficits of campaign spending.

The bill provides that the date for reporting of deficits be changed from fifth to the twentieth day after the last day of the election year. Your Committee heard testimony that this provision will enable candidates and committees to file a more accurate second half of required semi-annual reports based on bank statements and other statements that are normally received after the fifth of January.

Your Committee amended the bill to provide for the same change in date for the reporting of surpluses.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2366-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2366-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 245-82 (Majority) Judiciary on S.B. No. 2248-82

The purpose of this bill is to enable a child born out of wedlock to file a paternity action up to three years after he reaches the age of majority.

Under present law an action for legitimation must be brought no later than three years after the child's birth.

Your Committee heard testimony from the Family Support Division of the Department of the Corporation Counsel of the City and County of Honolulu and the Department of Social Services and Housing of the State of Hawaii, that the present three year statute of limitations period is unduly restrictive. Currently, a child is generally reliant on his mother or

the state to bring a paternity action on his behalf before the statute runs. Your Committee agrees that the right of an illegitimate child to assert a claim for parental support or legitimacy is too fundamental to permit its forfeiture by failure of his mother to file suit due to ignorance of the law, refusal, neglect, or by the state's failure to bring a timely action.

This curtailment of the ability to have paternity actions adjudicated discriminates against illegitimate children, and often places the burden of child support upon the state and the taxpayers because the natural father is not held responsible for providing child support.

The statute of limitations is intended to protect an alleged father from having to defend against a paternity claim long after facts have grown cold and witnesses' memories have faded. However, due to significant advances in the technology of blood testing and genetics it is possible to obtain scientific evidence which yields a very high rate of accuracy in excluding paternity. In view of the availability of this evidence, your Committee finds that the state's interest in barring stale claims is outweighed by the interests of the child and state in establishing paternity and child support.

Your Committee has amended the bill by deleting section 1 of the bill because according to the testimony of the Corporation Counsel's office, the words "child, or personal representative of the child, his," in subsections (a) and (b) of section 584-6 of the Hawaii Revised Statutes, were inadvertently bracketed for purposes of deletion, but should actually remain in the statute.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2248-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2248-82, 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. 246-82 Judiciary on S.B. No. 2572-82

The purpose of this bill is to specify that the child abuse statute prohibits the preparation of, engagement in, and dissemination of child pornography.

On April 27, 1981, section 707-751 of the Hawaii Revised Statutes relating to the promoting of child abuse in the second degree was found to be unconstitutional by a circuit court judge. The court's order indicated that the statute prohibited speech protected by the First and Fourteenth Amendment of the United States Constitution as well as speech that is not protected. The court indicated that because the statute did not incorporate the three-part test defining obscenity as enunciated by the U. S. Supreme Court in the case of Miller v. California, the statute prohibited non-obscene as well as obscene materials. The court further indicated that since non-obscene expression is permitted and protected by the First Amendment, the statute is overbroad on its face and unconstitutional.

The state is currently appealing the trial judge's decision to the Hawaii Supreme Court. However, your Committee believes that any question as to what is being prohibited should be clarified.

The bill provides that the conduct or material being prohibited in the child abuse statutes relates to pornography.

Your Committee amended the bill by incorporating the three-part test of the Miller definition of pornography, and by including the definition of pornography within the sections to clearly indicate that it is applicable to those sections.

Your Committee further amended the bill by conforming the applicability of the definition of pornography to the other parts of the sections. Your Committee also made technical, nonsubstantive changes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2572-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2572-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 247-82 (Majority) Judiciary on S.B. No. 2867-82

The purpose of this bill is to clarify the constitutional amendment requiring the resignation

of any public official before being eligible as a candidate for another public office.

The bill provides that any elected public official shall resign unless both the office that he holds and the office that he seeks are to be filled in the same election.

Your Committee held a hearing on this bill and received supporting testimony from the Office of the Lieutenant Governor. This testimony brought out the problems with the current language in Section 7 of Article II which poses ambiguities where the office held and the office sought does not end and begin on the same day. The bill retains the intent of the 1978 Constitutional Convention but clarifies and resolves the present ambiguities.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2867-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator O'Connor did not concur.

SCRep. 248-82 Judiciary on S.B. No. 2245-82

The purpose of this bill is to update the Reciprocal Enforcement of Support Act which Hawaii adopted in 1951, to provide for more efficient methods of enforcing child support obligations across state lines and in other countries.

Testimony in support of the bill was presented before your Committee by the Family Support Division of the Department of the Corporation Counsel of the City and County of Honolulu, the Department of Social Services and Housing, and the Family Court of the First Circuit.

Under this bill, Hawaii residents would have available for the first time the reciprocal support enforcement laws, to enforce child support obligations owed to them by residents in other countries which have similar laws.

This bill also clarifies that the "duty of support" includes the duty to pay arrearages, because the present law does not make reference to arrearages of support past due as an enforceable duty of support.

This bill further clarifies that the common law defense of spousal or parental confidential relationship is not available in this type of proceeding.

Another change proposed by the bill would limit the jurisdiction of the responding court to the enforcement of child support obligations. This would allow the court and the parties to proceed on the child support issue without affecting custody or visitation rights when they are collateral.

If a defendant in a support action asserts a defense of non-paternity, the court would be empowered to adjudicate paternity under certain circumstances.

Under another provision, the court would also have the authority to issue a temporary child support order in an action brought under this chapter even though there is another pending or prior court proceeding.

Procedures through which a foreign support order may be registered and enforced in this state as a local decree are also set forth in this bill. This will simplify the present cumbersome process of reducing a foreign decree to a local decree.

Your Committee has amended section 4 of the bill by combining several proposed sections which relate to foreign support orders into one proposed section with several subsections. In addition, several section headings have been clarified and other technical, nonsubstantive changes have been made.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2245-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2245-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 249-82 Higher Education on S.B. No. 2728-82

The purpose of this bill is to amend the law relating to the University of Hawaii.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. 2728-82, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. 2728-82, S.D. 1, and be recommitted to the Committee on Higher Education for further consideration.

Signed by all members of the Committee except Senators Cobb, Cayetano, Ushijima and Yee.

SCRep. 250-82 Legislative Management

Informing the Senate that S.R. Nos. 39 and 40 and Stand. Com. Rep. Nos. 238-82 to 249-82 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator Cobb.

SCRep. 251-82 Tourism on S.C.R. No. 10

The purpose of this concurrent resolution is to adopt the State Tourism Plan pursuant to the Hawaii State Planning Act (Act 100, Session Laws of Hawaii 1978), chapter 226, Hawaii Revised Statutes.

Chapter 226 requires the Department of Planning and Economic Development to prepare functional plans in twelve specified areas for submittal to the Legislature for review, modification, and, as appropriate, adoption by concurrent resolution.

The functional plans are intended to implement the broad goals, objectives, policies, and priority directions contained in the Act,

Pursuant to the provisions of chapter 226, the Department of Planning and Economic Development has prepared the State Tourism Plan designed to implement the State Plan's visitor industry objectives.

In developing the State Tourism Plan, the department solicited input from various state and county agencies and community organizations. Through technical studies, surveys, public information workshops, and information provided by the Governor's Advisory Committee, the State Tourism Plan identifies the underlying needs and requirements of the visitor industry and provides for an implementation process to ensure the coordinated achievement of recommended policies and actions.

The Tourism Plan has been modified during the past year in accordance with the Policy Council's Guidelines to Agencies in the Revision of State Functional Plans. These guidelines issued by the Policy Council outlined a number of measures to be undertaken to address concerns raised by the Legislature in the 1981 session. These include steps to simplify and condense the State Tourism Plan, clarify interrelationships and impacts with respect to other plans, and provide more explicit identification of issues of statewide importance.

Your Committee heard testimony from the Department of Planning and Economic Development, the Policy Council, the Hawaii Resort Developers Conference, and other interested individuals and organizations.

Your Committee has adopted recommendations of the Policy Council and the Hawaii Resort Developers Conference to amend the State Tourism Plan as follows:

1. Amend the item on page 12 of the plan pertaining to complementary interest for the education functional plan to read: "Information to students of [economic contribution of tourism and other economic activities] costs and benefits of tourism."

The Policy Council recommended this amendment to communicate a more holistic perspective of the visitor industry. Your Committee feels that the state's students should gain a more complete understanding of the socioeconomic and political perspectives on tourism, which are interdependent considerations.

2. Amend the introductory sentence of paragraph B(1)(a) on page 16 of the plan to read: "Give preference to the development of [full-service hotels over any other type of visitor accommodations.] an orderly mix of visitor accommodations, including full-service hotels, condominium apartments, and some single-family homes, in order to meet the lodging desires of the broad spectrum of our visitor guests."

The Hawaii Resort Developers Conference recommended this amendment to provide for a variety of visitor accommodations and cater to a broader segment of the tourist market. Such an amendment would benefit the construction industry by providing

additional jobs. The Policy Council was not in complete agreement with this change. Your Committee feels that the Hawaii Resort Developers Conference's proposal is an appropriate amendment since a broader range of accommodations would cater to a more diverse clientele and benefit the construction industry.

3. Amend the introductory sentence of paragraph B(3) (b) on page 18 of the plan to read: "Institute more expeditious resort development approval systems at the State, County and Federal levels[.] while assuring opportunities for public input."

The Policy Council proposed this amendment to ensure public input when more expeditious approval systems are instituted. Your Committee feels the public should be able to participate actively and play an influential role in this matter of community concern.

4. Amend paragraph B(3)(c) on page 19 of the plan to read: "Encourage private development of designated resort destination areas where capital improvements have been made or are planned before encouraging development of other possible [visitor] resort destinations."

The Policy Council recommended technical amendments to make the terminology consistent with other implementing actions in the plan.

5. Amend paragraph B(3)(e) on page 19 of the plan to read: "Encourage the use of regional sewerage systems by hotel and visitor condominium developments rather than use of individual private systems[.], except in the case of remote resort destination areas where the developer installs an approved sewerage system."

The Hawaii Resort Developers Conference proposed this amendment because many of the resort destination areas do not have access to regional sewerage systems. The Policy Council recognizes that several existing and planned resort destinations do not as yet have access to regional sewerage systems.

6. Amend paragraph B(4)(e) on page 20 of the plan to read: "Resort development shall take place within designated visitor destination areas [and, to the maximum extent possible, shall avoid agricultural lands of importance, environmentally sensitive areas and recreational lands of high community value]."

Your Committee concurs with the Policy Council that this amendment would allow greater flexibility in this implementing action and ease constraints on development in these areas. Further, this amendment would recognize the counties' responsibility for designating visitor destination areas and bring this plan into conformance with individual county plans.

The foregoing amendments have been incorporated into the concurrent resolution as Exhibit A to the resolution.

The concurrent resolution has been further amended to delete the State Tourism Plan as an Exhibit A and to identify the plan being adopted as the plan prepared by the Department of Planning and Economic Development dated October 1981. (Exhibit A is the list of amendments to the plan in S.D. 1 of the concurrent resolution.) Your Committee finds that appending the proposed plan to the concurrent resolution unnecessarily increases costs of printing the resolution as copies of the plan have been distributed to all members of the Legislature and are available to the public through the Department of Planning and Economic Development.

Your Committee on Tourism concurs with the intent and purpose of S.C.R. No. 10, as amended herein, and recommends that it be referred to the Committee on Economic Development, in the form attached hereto as S.C.R. No. 10, S.D. 1.

Signed by all members of the Committee.

SCRep. 252-82

Judiciary on S.B. No. 2520-82

The purpose of this bill is to require a notary public to file a copy of the notary's commission, an impression of the notary's seal, and a specimen of the notary's signature with the clerk of the circuit court of the circuit in which the notary resides, and to require that a notary public's records be filed on July 1 rather than on June 30 of each year.

The bill provides that a notary public need only file a copy of his commission, an impression of his seal, and a specimen of his official signature with the clerk of the circuit court of the circuit in which he resides. Presently, a notary public has to file with the clerks in each judicial circuit. This bill would make filing with each clerk optional.

Your Committee heard testimony from a representative of the Attorney General's Office that notaries public generally file only with the clerk of the circuit in which they reside. They are reluctant to file with the clerk of each circuit because of the assessment of fees. In addition, many notaries public actually notarize documents only within their own judicial circuits and not the other three circuits. Thus, it is unnecessary to have documents filed in each circuit for authentication purposes.

The bill further provides that notary public's records be filed on July 1 rather than June 30 each year. This provision reflects the desire of the clerks of the circuit courts to better process the filing of the records of notaries public and to conform the filing date with the closing of the fiscal year.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2520-82, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 253-82 Judiciary on S.B. No. 2993-82

The purpose of this bill is to designate April 15 of each year as "Father Damien Deveuster Day," provided that this day shall not be construed to be a state holiday.

Your Committee has recognized and has determined that the hard-working efforts of Joseph Deveuster, known to one and all as Father Damien, should be honored by setting aside April 15 as a day of remembrance.

Your Committee further recognizes that the story of Father Damien is one of self-sacrifice and one of service to an exiled people who had suffered from the most feared and debilitating disease known to mankind. In the past century, his life and work have inspired and touched many people in Hawaii and throughout the world. Recognition of this day will insure that the people of Hawaii shall never forget the deeds and life of Father Damien.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2993-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 254-82 Judiciary on S.B. No. 2507-82

The purpose of this bill is to prohibit a private, non-profit agency or corporation from being appointed as guardian of an incapacitated person when it provides substantial services to the incapacitated person, in order to eliminate any conflict of interest in this situation.

The testimony presented before your Committee indicated that it is important that guardians be free to advocate for and act in the best interests of the ward at all times. A guardian who is also a direct service provider is placed in the position of having to evaluate and monitor himself. Your Committee notes that a private non-profit agency may act as a guardian in cases where it is not providing substantial services to its ward.

Among those testifying in favor of the bill were the Department of Social Services and Housing, the Department of Health, the State Planning Council on Developmental Disabilities, the Protection and Advocacy Agency of Hawaii, and the Task Force for the Study of Laws Relating to Guardianship, Civil Commitment and Protective Services in Hawaii.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2507-82, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 255-82 Judiciary on S.B. No. 2307-82

The purpose of this bill is to correct a conflict in the statutes providing allowances for legislators.

In 1981 the Legislature amended the two sections concerning per diem allowances for legislators during the legislative session to recognize the effect of the mandatory recess required by Article III, section 10, of the Constitution. In amending sections 24-2 and 24-4, Hawaii Revised Statutes, a conflict was created. Under section 24-2, Hawaii Revised Statutes, non-Oahu members would receive \$20 during the mandatory recess, while under section 24-4, Hawaii Revised Statutes, they would receive \$30 during the same period. A review of the intent of these sections indicates that for any recess over three days per diem of \$30 is paid. Therefore, the proper amount for the mandatory recess is \$30 a day.

This bill will correct the conflict between the sections.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2307-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 256-82 Judiciary on S.B. No. 2304-82

The purpose of this bill is to include a new definition of "filer" under Chapter 97, Hawaii Revised Statutes, relating to lobbyists.

Presently, both the lobbyist and the organization who employs the lobbyist must file expenditure statements but only as to what expenses are incurred by the lobbyist. Consequently, an organization which expends more than \$250 within a six-month period for lobbying purposes must hire another lobbyist in order to file an expenditure statement.

This bill adds a new definition of "filer" under Section 97-1 and amends Section 97-3(c) by appropriately replacing the term "lobbyist" with "filer." This would amend the law to provide that both the lobbyist and the organization shall file expenditure statements based upon separate expenses that each incurred for lobbying purposes.

Testimony presented before your Committee by the State Ethics Commission in support of this bill revealed that the existing statutes results in undue burden for the lobbying organization as well as the Ethics Commission, which must receive lobbyist registrations.

Your Committee feels that establishing reporting procedures for both the organization and the lobbyist is in accordance with the intent of the lobbying statutes.

Your Committee has amended the bill to specify that the second expenditure report is December 31 instead of December 30.

Your Committee is in accord with the intent and purpose of S.B. No. 2304-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2304-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 257-82 Education on S.B. No. 2947-82

The purpose of this bill is to extend the Filipino 75th Anniversary Commission for two additional years.

Act 181, Session Laws of Hawaii Regular Session 1977, provides that the commission shall not continue beyond December 31, 1981. This bill extends the existence of the commission until December 31, 1983.

Your Committee heard testimony in support of this measure from the chairman of the Filipino 75th Anniversary Commemoration Commission.

Your Committee has amended the bill to clarify the original Act relating to funds and donations to the commission. Your Committee has also amended the bill to correct minor drafting errors which have no substantive effect.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2947-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2947-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 258-82 Public Utilities on S.B. No. 2615-82

The purpose of this bill is to permit a public utility to file a civil action against anyone who tampers with, or otherwise destroys, property of the utility.

Meter tampering and theft of utility services affects all utility customers as it is the ratepayer that eventually must assume the expense incurred. By allowing the target utility to file an action for treble damages against the person illegally securing or tampering with utility services, the costs associated with providing the utility service will be borne by the person illegally benefitting from the services, rather than penalizing those who diligently pay their utility bills.

The Committee received favorable testimony in support of the bill from the Public Utilities Commission, the public utilities division, Hawaiian Electric Company and Hawaiian Telephone Co.

In order to address a theft from any utility, your Committee has inserted the words, "gas pipe", billing or collection equipment" and "or bypassed" to the bill.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. 2615-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2615-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 259-82 Public Utilities on S.B. No. 2228-82

The purpose of the bill is to change the title of the Public Utilities Division to the Division of Consumer Advocacy, in order to clarify and more properly reflect the functions of the division.

Your Committee received favorable testimony concerning this bill from the Consumer Advocate. There is a considerable degree of misunderstanding on the part of the public as to the intended role of the division vis-a-vis the intended role of the Public Utility Commission. A redesignation of the division would assist the public in differentiating the roles of these agencies.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. 2228-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 260-82 Consumer Protection and Commerce on S.B. No. 2232-82

The purpose of this bill is to provide that extensions, renewals, and amendments to the articles of incorporation of any association or corporation, and certificates authorizing increase or extension of capital stock of an association or corporation be signed, verified, or otherwise authorized by any two officers of the corporation or association who are not the same person upon filing with the director of regulatory agencies.

Your Committee has amended the substance of the bill to provide for the regulation of mergers of two subsidiary corporations of a common parent corporation.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2232-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2232-82, S.D. 1, and be recommitted to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senators Kuroda, Machida, Soares and Yee.

SCRep. 261-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 25 to 33, S.R. Nos. 41 to 49 and Stand. Com. Rep. Nos. 251-82 to 260-82 on Wednesday, March 10, 1982; and

Gov. Msg. Nos. 104 to 177 and Stand. Com. Rep. Nos. 262-82 to 267-82 on Thursday, March 11, 1982.

Signed by all members of the Committee.

SCRep. 262-82 Ways and Means on S.B. No. 2255-82

The purpose of this bill is to repeal the existing income tax rates and schedules and adopt new tax rates and schedules for individuals based on the zerobacket amounts adopted by the 1981 regular session and to provide schedules for estates and trusts.

In 1981, the Legislature enacted Act 208, Session Laws of Hawaii 1981, which adopted the zerobacket method of computing state income tax liability. This was to conform to the federal method which was adopted in 1976. The zerobacket amounts were set at \$1,000 for joint returns, \$800 for single individuals and heads of households, and \$500 for married individuals filing separately.

Under the zero bracket method, the zerobacket amounts must be incorporated into the tax schedules. Adoption of these changes will enhance individual compliance with the income tax laws as the computation will be similar to the federal method. As determined under Act 208, this revision of the tax schedules results in no loss of revenue. Your Committee finds that this bill is necessary to the Department of Taxation to enable them to carry out the intent of Act 208 and the income tax law.

Your Committee has corrected two typographical errors in the bill as received on page 3, line 11 and page 5, line 13. The bill has also been amended by adding an amendment to section 23552, Hawaii Revised Statutes, which deals with the method of computing the tax on joint returns. The use of zerobacket amounts requires that allowance for their use be made in this section. Your Committee has also added a new section 2 to allow for the various bills in the Legislature which may pass amending section 2352.3, Hawaii Revised Statutes, to save the substantive amendments made in this and such other bills.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2255-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2255-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 263-82 Ways and Means on S.B. No. 2256-82

The purpose of this bill is to permit taxpayers to compute additional withholding allowances on the basis of the zero-bracket amount (which is now applicable for computing the state income tax) rather than the old ten per cent standard deduction. It further provides that calculations resulting in a remainder of onehalf or more shall be counted as an additional withholding exemption.

This bill further permits the director of taxation to adopt by rule under chapter 91, the rules and regulations promulgated by the U.S. Secretary of Treasury or a delegate of the Secretary relating to the provisions of subtitle C, Chapter 24 (with respect to collection of income tax at source on wages), of the Internal Revenue Code operative in this section.

Your Committee is in support of this measure because it represents one more provision to conform the state income tax law to the Internal Revenue Code provisions and ease the burden of compliance for state taxpayers. In addition, it is believed that adopting federal regulations will assist the department in enforcing compliance with these provisions.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2256-56, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 264-82 Ways and Means on S.B. No. 2257-82

The purpose of this bill is to require that the personal representative or other person or fiduciary of a decedent's estate file a complete inheritance and estate tax return within eighteen months from the date of the death of the decedent together with payment of the taxes due on the return.

Under the present law, the personal representative of a decedent's estate is required to file an inheritance tax return, but is not specifically required to complete the return by computing the tax liability. Consequently, many inheritance tax returns are submitted incomplete with only an inventory of bequests and the tax department's staff must spend a lot of time computing taxes before it can commence with its auditing function.

This bill is a procedural measure which conforms the Inheritance Tax Law to other Hawaii tax laws by requiring that the taxpayer file a complete return and pay the taxes due at the time the return is filed.

Your Committee has amended the bill to make it clear that the return must be complete and the tax must be computed on the return.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2257-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2257-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 265-82 Ways and Means on S.B. No. 2258-82

The purpose of this bill is to eliminate the three-year depreciable life span required of capital goods sold to a licensed leasing company for lease to others and to redefine capital goods to mean goods which have a depreciable life.

The preferential wholesale rate of 0.5 per cent under the general excise tax law is allowed sales of such capital goods to licensed leasing companies for lease to others.

Your Committee notes that with the adoption of the federal Economic Recovery Act of 1981, all old rules relating to the depreciation of capital goods were changed. This means that for goods placed in service before 1981 there are different depreciation rules than for those goods placed in service during 1981 and thereafter. By deleting the reference to three years in the law, every person will be treated the same no matter how they depreciate their goods under the old or new depreciation rules.

Your Committee understands and intends that as used in this bill depreciable life means that period of time determined under the Internal Revenue Code provisions no matter what provisions apply to the particular capital goods in question.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2258-82, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 266-82 Government Operations and Intergovernmental Relations
on S.B. No. 2321-82

The purpose of this bill is to make hotels subject to the park dedication law.

Currently, hotels are the only category of real estate projects exempt from the park dedication law which requires subdividers to provide land, money, or a combination of land and money to the county to be used for parks and playgrounds.

Since both visitors and residents of the state enjoy the city's parks, it is inequitable for hotels to be exempt from this law. Accordingly this bill eliminates the present inequity in the park dedication law by deleting the exemption for hotels.

Your Committee feels that the removal of the hotel exemption would eliminate the present inequity in the law and assist in the beautification of tourist destination areas.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Government Operations and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2321-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2321-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 267-82 (Majority) Ways and Means on S.B. No. 1434

The purpose of this bill is to limit the yearly profit for the gas, electric, and telephone companies to a fixed percentage.

Senate Bill No. 1434 was introduced as a short-form bill. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may properly be held on its substantive provisions.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1434, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1434, S.D. 1, and be recommitted to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Henderson and Yee.
Senator Anderson did not concur.

SCRep. 268-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. No. 34, S.R. No. 50, Gov. Msg. No. 178 and Stand. Com. Rep. Nos. 269-82 to 318-82 on March 12, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 269-82 (Joint) Agriculture and Consumer Protection and Commerce on S.B. No. 2871-82

The purpose of this bill is to amend chapter 421, Hawaii Revised Statutes, relating to agricultural cooperative associations, to allow agricultural cooperatives to treat members and nonmembers differently and to allow payment of higher interest rates to members for capital or operating loans.

Under this bill, agricultural cooperative associations may charge differential rates on goods and services sold to its members, may treat members and nonmembers the same or different with respect to patronage returns, and may pay members interest at a rate higher than eight per cent for capital or operating loans.

Your Committees find that these amendments will afford advantages to cooperatives due to their unique financing arrangements and applicable tax laws, and thus act as an incentive to encourage cooperative membership.

Your Committees received favorable testimony from the Board of Agriculture and the College of Tropical Agriculture and Human Resources of the University of Hawaii, which both recommend passage of this bill.

Your Committees have made nonsubstantive, technical amendments to this bill.

Your Committees on Agriculture and Consumer Protection and Commerce are in accord with the intent and purpose of S.B. No. 2871-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2871-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 270-82 (Majority) Ways and Means on S.B. No. 57

The purpose of this bill is to raise the present marriage license fee to establish and maintain a special fund for the prevention and treatment of spouse and child abuse.

The bill would amend Section 572-5, Hawaii Revised Statutes, by increasing the present marriage license fee from \$8.00 to \$15.00, \$7.00 of which would be placed into the spouse and child abuse special fund.

Your Committee strongly concurs with the intent of the bill, i.e. to preserve the vitality of spouse and child abuse programs despite funding uncertainty in the human services area, by establishing a steady and reliable source of financing.

However your Committee amended the bill to eliminate provisions establishing a special fund. Although it is the intent of your Committee that the additional funds generated

by the increased license fees should be made available for financing spouse and child abuse programs, it does not find it is necessary to establish a special fund and to statutorily earmark revenue for that purpose.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 57, S.D.1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 57, S.D. 2.

Signed by all members of the Committee.
Senators Anderson, Abercrombie and Cayetano did not concur.

SCRep. 271-82 Ways and Means on S.B. No. 2187-82

The purpose of this bill is to amend section 142-41, Hawaii Revised Statutes, by deleting reference to the \$1 fee for application for registration of a livestock brand, and to allow the Department of Agriculture to establish the fee rate by rule adopted pursuant to chapter 91.

This bill allows the Department of Agriculture to set the fee for registering for livestock brands by rules adopted under the Administrative Procedure Act rather than being fixed by a statute which would have to be amended from time to time through the lengthy and expensive legislative process.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2187-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 272-82 Ways and Means on S.B. No. 2311-82

The purpose of this bill is to provide the director of finance with the added option of selecting any depository for the deposit of securities for the protection of public funds.

This bill permits depositories doing business in the State of Hawaii to serve as holders for such securities, instead of restricting such holders to banks in the continental United States as is the present practice.

Your Committee received testimony in support of this bill from the Department of Budget and Finance. The department's testimony stated they have no objection to this arrangement.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2311-82, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 273-82 Ways and Means on S.B. No. 2312-82

The purpose of this bill is to permit the investment of state funds in any savings account and repurchase agreement rather than restricting investments only to bank savings accounts and bank repurchase agreements as provided in the present law.

At the hearing on this bill, the director of finance recommended that investments in savings accounts be limited to federally insured financial institutions and investments in repurchase agreements be limited to federally insured banks and savings and loan associations authorized to do business in the state in order to insure safe investments. Your Committee is in agreement with this recommendation and has amended the bill accordingly.

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

Signed by all members of the Committee.

SCRep. 274-82 (Majority) Ways and Means on S.B. No. 2456-82

The purpose of this bill is to require every person authorized to collect rent in this state under written agreement to send a copy of that agreement to the Department of Taxation and to place in the agreement notice of such filing.

It has long been a concern of this Legislature that many out-of-state owners of rental property are not paying the required general excise tax to the state. Collection is a problem in this area since the nonpaying individuals must first be identified. This bill will alert the Department of Taxation of the identity of such an individual which will enable the department to begin collection proceedings if necessary. The requirement that the individual be notified that a copy of the agreement will be filed with the department will in itself convince numerous individuals to pay the required general excise tax without any action on the part of the department.

Your Committee heard testimony from the Department of Taxation which is in favor of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2456-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Anderson, Henderson and Yee did not concur.

SCRep. 275-82 (Majority) Ways and Means on S.B. No. 2891-82

The purpose of this bill is to allow General Motors dealerships in the state to file claims for use tax refunds prohibited by the general statute of limitation applicable to such tax refunds.

Your Committee finds that for many years, General Motors dealerships in the state as well as General Motors Overseas Distribution Corporations made use tax payments on vehicles imported into the state. The Department of Taxation has since made the determination that the dealerships are not liable for the tax and are entitled to use tax refunds. However, because of the statute of limitation applicable to use tax refunds, use tax refunds can only be made for the three-year period preceding the department's determination. This bill would waive the statute of limitation on claims for refund of use taxes paid by General Motors dealerships for a one-year period and allow these dealerships to claim refunds for use tax payments made from 1968 to 1977.

Your Committee has amended this bill by making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2891-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2891-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.
Senators Abercrombie and Cayetano did not concur.

SCRep. 276-82 Government Operations and Intergovernmental Relations on
S.B. No. 2452-82

The purpose of this bill is to establish earthquake-resistant building requirements for the State of Hawaii.

Presently, all state buildings are required to meet earthquake resistance standards for seismic probability zone three. (The higher the seismic probability the greater the probability of earthquake activity). Your Committee finds that all buildings, three stories or more in height should be subject to zone three standards.

Testimony, which emphasized the importance of earthquake-resistant building requirements, was submitted by Dr. Augustine Furumoto, Professor of Geophysics and Seismologist at the Hawaii Institute of Geophysics, University of Hawaii at Manoa; Dr. Norby Nielsen, Civil Engineer, Environmental Center, University of Hawaii at Manoa; Dr. Doak C. Cox of the Environmental Center, University of Hawaii at Manoa; and Mr. William Phillips, co-author with Dr. Furumoto and Dr. Nielsen of "A Study of Past Earthquakes, Isoseismic Zones of Intensity, and Recommended Zones for Structural Design for Hawaii".

Based upon their data, first published in 1973 and updated since that time, they recommend that all of Hawaii be upzoned to zone three. Finding that Hawaii is situated in one of the most seismically active areas in the world, they report that within a radius of less than one hundred miles, thirteen earthquakes with magnitudes larger than six have occurred within five years, and within one hundred and ten years three earthquakes with magnitudes larger than seven have occurred. Even San Francisco does not measure up to this density of earthquakes. Although these earthquakes have occurred in the ocean or in uninhabited

areas, a major earthquake in Hawaii is frighteningly more probable than most people suspect.

Dr. Furumoto, commenting on a study by Mr. Robert Estill, presented evidence indicating a belt of earthquakes, extending thousands of miles and running through Molokai, called the Molokai Seismic Zone. He also pointed out the existence of a fault closer to Honolulu, which was detected by ocean bottom seismographs and which is named the Diamond Head Fault because of its geographical location.

All evidence points to great and frequent seismic activity in Hawaii and your Committee strongly agrees with and has adopted the recommendations of Dr. Furumoto, Dr. Nielsen, Dr. Cox, and Mr. Phillips.

Your Committee has amended the bill by: (1) changing the section title to read "earthquake-resistant building requirements", rather than "earthquake-proof building requirements". Since virtually no building can be made completely earthquake-proof, "earthquake-resistant" would better serve the purposes of the bill; (2) changing the kinds of buildings affected by this bill to three-story buildings rather than four since most three-story buildings are made of materials not conducive to earthquake resistance; and (3) deleting reference to the Modified Mercalli Scale of 1931 since it represents earthquake intensities rather than a scale of seismic-probability zones.

Your Committee on Government Operations and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2452-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2452-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 277-82

Human Resources on S.B. No. 2527-82

The purpose of this bill is to amend Section 386-2, Hawaii Revised Statutes, to grant a hanai child or any other person toward whom the employee had assumed the duties and responsibilities of a parent, the same rights as other children as defined in this section.

As the present statute now exists, these dependents who, because of the employee's failure to initiate formal adoption proceedings, are not treated as children of the employee. Your Committee is aware that the concept of "hanai" is an integral part of Hawaii's tradition, which is currently used interchangeably in describing children "adopted" by custom.

Your Committee received testimony from the Hawaii Insurers Council who are in favor of including "hanai" child, but opposed to include any "other person". They testified that by including any "other person" in this section, it would be an unfair penalty to the employer and consumer, and is not within the intent of the Workers' Compensation Law.

Your Committee has amended this bill to delete "or other person toward whom the employee, prior to the personal injury, had assumed the duties and responsibilities of a parent" to support the intent of the Workers' Compensation Law.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2527-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2527-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 278-82

Human Resources on S.B. No. 2895-82

The purpose of this bill is to clearly maintain that persons filling emergency appointments in the service of the state shall not be entitled to earn sick leave pay under Section 79-8, Hawaii Revised Statutes (HRS).

Presently, the law on sick leave with pay provides for the earning, use and accumulation of sick leave credits by all employees and officers in the service of the state with the exception of teachers, educational officers, and cafeteria managers employed in public schools, and the instructional staff of the University of Hawaii.

By law, HRS Section 76-31(c), emergency appointments are made to temporarily fill civil service positions to prevent the stoppage of essential public business and when

it is not practicable to ascertain whether there is an eligible list from which the positions may be filled. These appointments are not to exceed ten working days, and only for good cause may the appointments be extended for a period of thirty calendar days.

Your Committee on Human Resources heard testimony from the Department of Personnel Services stating that sick leave benefits are not intended to apply to persons who are hired for a short-term emergency situation. Their employment is intended to meet the need for immediate services to prevent stoppage of essential public business. Their absence from work does not fulfill the purpose of providing emergency services, and therefore should not be compensated.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2895-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 279-82 Human Resources on S.B. No. 2643-82

The purpose of this bill is to amend section 87-22.5, Hawaii Revised Statutes, to change the term "employees" to "employee-beneficiaries", and to return any savings accrued from the Children's Dental Plan to the public employers who contribute to the fund.

Your Committee received testimony from the administrator of the Hawaii Public Employees Health Fund to change the term "employees" to "employee-beneficiaries" as a housekeeping amendment to comply with the intent of the Health Fund Law, Chapter 87, Hawaii Revised Statutes. The term "employee-beneficiaries" was inadvertently deleted in Chapter 87-22.5, HRS.

Your Committee concurs with the intent of the housekeeping amendment and the original intent of this section. Therefore, your Committee is amending this bill to restore the deleted portion whereby the surplus from the Health Fund would remain with the Dental Plan since the funds are already committed to it and can be used to purchase benefits or offset Children's Dental Plan rate increases in the future years.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2643-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2643-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 280-82 Human Resources on S.B. No. 2600-82

The purpose of this bill is to amend Section 89-4, Hawaii Revised Statutes, which would clarify the implementation process of Act 180, relating to the deduction of regular dues and service fees for collective bargaining in public employment.

Presently, upon receiving a written statement from an exclusive representative specifying the amount of regular dues required of its members, the employer shall deduct this amount from the payroll of every member employee and remit the amount to the exclusive representative only upon written authorization of the member employee.

Your Committee on Human Resources heard testimony from several unions who represent public employees stating that this bill is essentially a housekeeping measure which would eliminate a tremendous amount of paperwork and administrative costs which would occur if every member or nonmember must authorize the deduction of regular dues or service fees. As currently written in the statute, written authorization obtained by the state of all members and nonmembers is a redundant function and the original intent was to make it mandatory to obtain written authorization from new employees covered by collective bargaining units.

Your Committee has further determined that the original intent of this bill is to provide for the termination of payroll deductions of both members and nonmembers when the employee organization is no longer the exclusive representative. Accordingly, your Committee has amended this bill by deleting the phrase "of regular dues" because it does not give equitable consideration to members and nonmembers.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2600-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2600-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 281-82 Human Resources on S.B. No. 2530-82

The purpose of this bill is to amend Section 386-78, Hawaii Revised Statutes, to permit the Department of Labor and Industrial Relations to initially approve compromises in regard to claims for compensation under the Workers' Compensation Law.

Your Committee has found that under the present law, the Department of Labor and Industrial Relations is prohibited from approving any compromise when a worker gives up his right to reopening his case or to future medical benefits. Only the Labor and Industrial Relations Appeals Board is authorized to approve such compromises and hold numerous formal proceedings before the approval.

This bill will permit the Department of Labor and Industrial Relations to initially approve any compromise when a worker gives up his rights to reopen his case or to future medical benefits, providing the appeals board reviews the department's position. The enactment of this bill will simplify and clarify the present law as the Department of Labor and Industrial Relations will be able to conduct an investigation before the approval.

Your Committee received testimony favoring this measure from the Department of Labor and Industrial Relations, the Inter-Industry Study Council, Inc., and Hawaiian Electric Company.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2530-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 282-82 Human Resources on S.B. No. 2249-82

The purpose of this bill is to amend Section 346, Hawaii Revised Statutes, which would assure a child receiving public assistance a means of support from his legal parents notwithstanding parental differences concerning custody and visitation.

Child support and parental rights of visitation and custody matters are clearly separate issues which are frequently combined. Absent noncustodial parents currently may refuse to pay child support owing the state using denial of visitation by the custodial parent as a defense. This refusal to pay support in an attempt to coerce visitation is not reasonable nor is it in the best interest of the child. This bill will require matters of visitation in child custody and child support cases be handled as separate issues in public assistance cases.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. 2249-82, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 283-82 Human Resources on S.B. No. 103

The purpose of this bill is to bring the Hawaii Civil Service Law, Chapter 76, Hawaii Revised Statutes, in conformance with the principle of equal rights. The specific amendments include the addition of marital status as another prohibited basis of discrimination in addition to sex, age, religion, color, ancestry or politics as now identified in the law.

Your Committee received testimony from the director of the Department of Personnel Services which generally supported the bill. The director testified that 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 prohibited basis of discrimination. Your Committee agrees with the testimony prosecuted by the director, that by including marital status in the statute, a new protected class will be created.

Your Committee also consents with the substitutions of the masculine gender with a neuter gender contained in the bill.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 103, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 284-82 Human Resources on S.B. No. 2183-82

The purpose of this bill is to correct the procedure for the reporting of retaliatory acts committed by a long-term care facility or any of its employees and to stiffen the punishments for any such violations.

Your Committee received testimony from the Department of Social Services and Housing supporting the intent of the bill. Your Committee has found that the original intent of the existing statute was not to have the Executive Office on Aging determine whether a violation has occurred but rather to have the executive office report any alleged violations to the proper authorities. Accordingly, your Committee agrees with the bill, mandating that the police or the Office of the Prosecuting Attorney should have the responsibility of further investigating any alleged violations reported by the Executive Office on Aging.

Your Committee has amended the bill by deleting the proposed language which would have stiffened the existing provisions providing for punishment of any violations. The proposed language would have made each retaliatory act a separate offense as well as providing that sentences for each offense be consecutive. Finally, the proposed language would also forbid any imposition of suspended sentences or probation. Your Committee has found that since the present law was enacted in 1979, no violations have been reported and as such the existing penalties as provided for in the current statute are adequate.

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 S.B. 2183-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2183-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 285-82 Education on S.B. No. 2350-82

The purpose of this bill is to require any pupil found to be responsible for an act of vandalism, or that pupil's parents or guardian, to make monetary restitution for the full amount of damages caused.

Under the present law, pupils, parents, or guardians may agree in writing to be monetarily responsible, for up to two thousand dollars, for an act of vandalism. This bill would require the Board of Education to collect restitution for the full amount of damage.

School vandalism is costly to Hawaii taxpayers and even partial figures indicate costs of almost \$1 million per year for the last four years as a result of vandalism. Your Committee finds that this situation cannot be tolerated and that the pupils responsible for vandalism, or their parents or guardians, rather than taxpayers, should pay for such costs.

Your Committee heard testimony in support of this measure from the Hawaii State Teachers Association, the Hawaii Crime Commission and the Prosecuting Attorney of the City and County of Honolulu.

Your Committee notes that in November 1981, the United States Supreme Court held that parents may be held financially responsible for any vandalism caused by their children at public schools. Further, in upholding a New Jersey statute, the Court also let stand the concept that states may include unlimited monetary liability in such statutes.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2350-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 286-82 Education on S.B. No. 2825-82

The purpose of this bill is to exempt public school facilities under the jurisdiction of the Department of Education from the noise pollution provisions of chapter 342 and to require the Board of Education to adopt rules to prevent, control, and abate excessive noise within the public schools or any facility or building under the jurisdiction of the

Department of Education.

Your Committee heard extensive testimony in support of this measure from the Department of Education, Hawaii State Teachers Association, Roosevelt High School PTSA, the Roosevelt High School athletic director and principal, and numerous Roosevelt High School students. Your Committee also heard testimony from the Department of Health and Citizens Against Noise expressing concern over the bill in its present form.

Ms. Joan Hayes-Currie of Citizens Against Noise, outlined that organization's concern regarding the repeal of any section pertaining to the Department of Health's jurisdiction over noise pollution. She also indicated the various harmful effects of noise on an individual and the specific situation involving the residents who live adjacent to Roosevelt High School.

The spokesperson for the residents indicated that an agreement with the school had been worked out; however, on specific occasions at least some residents have made complaints to the Department of Health on the level of noise. The fact that any agreement between a school and surrounding residents can be altered or abrogated by complaints to the Department of Health has prompted your Committee to consider this measure. Your Committee finds that the social benefits of school activities which may cause noise justify standards different from those applied to noise from other sources.

Your Committee finds that this measure is an attempt to realistically address and balance the normal operations of a school and the rights of surrounding residents. Your Committee further finds that the approach outlined in this measure can address that delicate balance. This bill does not attempt to subvert the intent or purpose of chapter 342, relating to noise pollution, which your Committee does find to be an essential part of our state laws relating to environmental quality.

In the course of testimony on this measure, Ms. Hayes-Currie noted that a new section should be added to this bill which would require the Department of Accounting and General Services to include noise prevention in the design of all public and school facilities. Your Committee finds that such an amendment is extremely desirable and, perhaps, could have averted the situation which occurred at Roosevelt High School. In light of this, your Committee has amended the bill accordingly.

Your Committee has also amended the bill by mandating the Board of Education to adopt rules to prevent, control, and abate excessive noise prior to September 1, 1982 and making schools exempt from the noise pollution provisions of chapter 342 only upon adoption of such rules.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2825-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2825-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 287-82

Economic Development on S.B. No. 2214-82

The purpose of this bill is to amend existing law to allow the Board of Land and Natural Resources to extend the term of any intensive agricultural, aquaculture, mariculture, or special livestock lease to the extent necessary to qualify the lease for mortgage lending or guaranty purposes with any private lending institution qualified to do business in the State of Hawaii.

Under the current statute, the terms of leases preclude loans made by private lending institutions. In an effort to maximize diversified agriculture, your Committee finds that lease term extension ought to be provided under Section 171-36, Hawaii Revised Statutes.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2214-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 288-82

Economic Development on S.B. No. 2217-82

The purpose of this bill is to amend existing law in order to allow the Department of Land and Natural Resources to grant permits for the collection of threatened species if done for scientific or propagation purposes. Currently, such collection for these purposes is prohibited.

Your Committee finds that allowing the collection of threatened species for scientific or propagation purposes ensures the viability of Hawaii's natural environment.

Your Committee is in accord with the intent and purpose of S.B. No. 2217-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 289-82 Economic Development on S.B. No. 2218-82

The purpose of this bill is to amend existing law to provide that all property, including aircraft, vehicles, or vessels, used or possessed in violation of title 12 and rules and regulations promulgated thereunder, be declared a public nuisance and be subject to seizure by any enforcement officer of the Department of Land and Natural Resources or by any police officer.

The bill further provides that upon conviction of the person having possession of such property for a violation of any provision of such laws or rules and regulations, the property may be declared by the court to be forfeited to the state.

Additionally, any property so forfeited may be retained and utilized by the Department of Land and Natural Resources or, if not needed or required by the department, shall be sold at public auction in the judicial circuit in which it was seized.

Your Committee is in accord with the intent and purpose of S.B. No. 2218-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 290-82 Economic Development on S.B. No. 2260-82

The purpose of this bill is to amend existing law to allow an employee of the state qualified to appraise lands to estimate the value of a remnant or portion thereof which is surplus to state highway requirements and which is in the inventory of such surplus remnants as of December 31, 1981.

The current statute allows for an independent appraiser to assess the value of the remnant or portion thereof, taking into consideration the limited market for the remnant and the resulting enhancement to an abutting owner's property by the addition of the remnant.

Your Committee finds that the state through a qualified appraiser, should also have the authority to determine the value of such remnants.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2260-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 291-82 Consumer Protection and Commerce on S.B. No. 2233-82

The purpose of this bill is to establish the maximum number of years a license may be suspended and to prohibit a licensee whose license has been revoked from applying for a new license for at least two years from the date of revocation.

Presently, boards and commissions do not set the duration for disciplinary action taken under this section. Testimony from the Department of Regulatory Agencies and the Department of Agriculture indicates that this may lead to inconsistent or unreasonable disciplinary action, does cause confusion, and may result in unnecessary litigation by licensees.

Your Committee finds that the bill will establish practicable and reasonable guidelines for all boards and commissions.

Your Committee has amended the bill by correcting a typographical error in punctuation on line 1, page 3 to conform to the present statute.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2233-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2233-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 292-82 Consumer Protection and Commerce on S.B. No. 2646-82

The purpose of this bill is to amend section 671-36 by deleting the specific underlying liability limits required to participate in the medical malpractice patients' compensation fund and adding a proviso that the Insurance Commissioner by rules will adopt the required underlying liability limits.

Presently, to participate in the patients' compensation fund, health care providers and health care facilities are required to carry the following underlying insurance amounts:

\$100,000 per claim; \$300,000 policy aggregate for individual physicians or surgeons.

\$100,000 per claim; \$1,000,000 policy aggregate for hospitals and other health care providers.

Recent experience shows the present underlying limits to be too low. No private insurers will write excess insurance with these low underlying limits. The usual underlying limit required by private insurers is \$300,000 or \$500,000 per claim.

This bill allows the Insurance Commissioner to establish the required underlying limits by rules instead of having a statutory underlying limit requirement. In this manner, the Commissioner will be able to change the required underlying limits, depending upon the financial condition of the fund. The corresponding surcharges to reflect the changes will be determined by a consultant actuary.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2646-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 293-82 Ecology, Environment and Recreation on S.B. No. 2211-82

The purpose of this bill is to prevent "midnight dumping" by hazardous waste transporters by making the generator of this waste responsible for the disposal rather than placing the responsibility upon the transporter.

Current law would be amended to conform the state definition of the ownership of hazardous waste with the federal definition. The state definition presently makes the transporter responsible for disposal procedures for both solid and hazardous waste. This amendment would enhance coordination between federal and state hazardous waste management programs.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2211-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 294-82 Ecology, Environment and Recreation on S.B. No. 2958-82

The purpose of this bill would allow the sale of all species of fish taken with a spear beyond the existing statutory cut-off date of December 31, 1983.

Current law has enabled the fish market in the state to expand, providing the consumer with the opportunity to purchase previously unavailable fish such as kumu, uhu, kole, and nohu. Cyrus K. Tamashiro, vice president of Tamashiro Market, Inc., advised the Committee in testimony presented at the hearing that prices of fish in Hawaii are "direct functions of the supply of and demand for each particular fish" and the continuation of this Act would ensure a better supply of fish and lower prices in the marketplace.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. 2958-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 295-82

Transportation on S.B. No. 2765-82

The purpose of this bill is to increase the amount of the performance bond required under any contract for the sale and delivery of in-bond merchandise at Honolulu International Airport.

Your Committee heard testimony from the Department of Transportation and Duty Free Shoppers, Limited, in support of the bill. Under present procedures the existing bond requirement of two months' rental is not sufficient for the orderly preparation, advertising and award of major contracts such as the in-bond concession contract. The department further stated that there are other major concessions at the airport that should be required to furnish larger performance bonds. Your Committee has thus amended the bill to provide for a bond of not less than two months' rental and other charges, if any, required under the contract.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2765-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2765-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 296-82

Transportation on S.B. No. 2333-82

The purpose of this bill is to amend Section 290-41, Hawaii Revised Statutes, by requiring tow companies to contact the police before towing a vehicle from a private parking lot or private property. It would allow the police to ascertain whether or not they have any investigative interests in a vehicle before it is towed.

Your Committee heard supporting testimony from the Department of Transportation, the Honolulu Police Department, the Honolulu City Council, the Hawaii State Association of Counties and the Hawaii Automotive and Retail Gasoline Dealers Association. Under present procedures, tow companies are required to contact the police department within 24 hours after they have towed a vehicle from private property. This bill would change the requirement so that the police would be called prior to towing. Because many abandoned vehicles have been used in the commission of crimes, the police department should have the first opportunity to take custody of these vehicles.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2333-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 297-82

Transportation on S.B. No. 2326-82

The purpose of this bill is to correct inconsistencies in the Motor Vehicle Safety Responsibility Act, Section 287, Hawaii Revised Statutes.

Your Committee heard supporting testimony from the Honolulu City Council and the Office of the Administrative Director of the Courts. Section 287-1, 287-7, and 287-18 are amended to correct the inconsistencies which exist in Sections 287 and 294 relating to motor vehicle financial responsibility. Section 287-3 is amended to transfer the burden of furnishing operating records to the Traffic Violations Bureau of the district courts. The Judiciary requested a change in the proposed amendment to 287-3 in order to clarify the authority of the Traffic Violations Bureau to furnish traffic abstracts and to raise the fee for this service from 50 cents to \$2.00. Section 287-17 is amended to correct a conflict with the bankruptcy laws and a violation of the Supremacy Clause. Section 287-20 is amended to restrict the application of this section by including adjudications of driving under the influence of intoxicating liquor.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2326-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2326-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 298-82 Ways and Means on S.B. No. 642

The purpose of this bill is to provide that the clearance required for the transfer of securities shall not apply to securities of a corporation incorporated in Hawaii when such securities are registered in the name of a nonresident decedent who was not a resident of a foreign country.

It further provides that in determining whether the nonresident decedent was not a resident of a foreign country, a Hawaii corporation and its transfer agents may conclusively rely upon an affidavit as prescribed by the director of taxation.

The Department of Taxation supports the enactment of this measure since it would save the transfer agent and the Department of Taxation considerable time in handling the estate of deceased persons. It would eliminate the needless paperwork and workload pertaining to nonresidents who would ordinarily not be taxable for Hawaii purposes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 642 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 299-82 Ways and Means on S.B. No. 732

The purpose of this bill is to provide for appropriations from state bonds.

Your Committee has amended S.B. No. 732 to authorize the issuance of general obligation bonds to finance projects proposed in the supplemental appropriations bills for the executive and judicial branches of government.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 732, as amended herein, and recommends that it be recommitted to the Committee on Ways and Means, for the purpose of holding a public hearing thereon, in the form attached hereto as S.B. No. 732, S.D. 1.

Signed by all members of the Committee except Senators Young and Henderson.

SCRep. 300-82 (Majority) Ways and Means on S.B. No. 2201-82

The purpose of this bill is to eliminate the ceiling of \$6,000 currently imposed on the Department of Hawaiian Home Lands for the employment of agricultural and aquacultural experts.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2201-82, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Henderson.
Senator Kawasaki did not concur.

SCRep. 301-82 Ways and Means on S.B. No. 2202-82

The purpose of this bill is to conform the Hawaii Revised Statutes with a section of the Hawaiian Homes Commission Act, 1920, as amended, by reflecting the increase in the membership of the commission provided in that section by an earlier Legislature.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2202-82, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 302-82 Ways and Means on S.B. No. 2205-82

The purpose of this bill is to enable county and state hospitals to deposit patients' funds outside the state treasury in order that the patients can have easier access to the funds for their use.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2205-82 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 303-82

Ways and Means on S.B. No. 2246-82

The purpose of this bill is to provide that all reports and records of reports concerning elderly abuse and neglect are confidential and shall not be disclosed unless authorized.

Act 28 of the Regular Session of 1981 statutorily established an elderly abuse or neglect program. The elderly abuse or neglect statute is patterned after the child abuse or neglect statute. In enacting Act 28, however, the Legislature did not include a provision making reports and records of reports of elderly abuse or neglect confidential, as is the case with reports and records of reports of child abuse or neglect.

Your Committee feels that a provision making reports and records of reports of elderly abuse or neglect confidential is necessary if the program is to be maximally effective. Some persons are hesitant in reporting incidences of suspected elderly abuse or neglect because they fear retaliatory action on the part of the suspected perpetrators. Making these reports and records of reports confidential may encourage these persons to report suspected instances of elderly abuse or neglect.

Your Committee has made the following amendments to the bill:

(1) The term "elderly abuse and neglect" has been changed to "elderly abuse or neglect" to conform to the terminology used throughout chapter 349C, Hawaii Revised Statutes (HRS).

(2) The provision prohibiting disclosure of reports and records of reports except as provided under section 346-10, HRS, has been deleted. Section 346-10, HRS, refers to the confidentiality of information obtained under chapter 346, HRS, and appears to apply only to applicants and recipients of public assistance or social services. Since information concerning elderly abuse or neglect is obtained under chapter 349C, HRS, and since reports and records of reports of elderly abuse or neglect may apply to other than public assistance or social services applicants or recipients, your Committee feels that the reference to section 346-10, HRS, is inappropriate.

(3) Instead, your Committee has revised the language of the proposed new section concerning confidentiality and authorized disclosures. The revised language is patterned after the confidentiality and disclosure provisions concerning reports and records of reports of child abuse or neglect under section 350-1, HRS. One major difference, however, is made. Under the revised language of this bill, the director of social services is required to adopt rules concerning the confidentiality and authorized disclosure of reports and records of reports of elderly abuse or neglect. Under section 350-1, HRS, the director of social services is allowed, but not required, to adopt rules. Your Committee feels that the revised language is sufficient to provide for the confidentiality of reports and records of reports of elderly abuse or neglect, yet allow disclosures for pertinent purposes.

(4) A Ramseyer clause and an effective date have been added.

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. 2246-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2246-82, S.D. 2.

Signed by all members of the Committee except Senator Henderson.

SCRep. 304-82

Ways and Means on S.B. No. 2319-82

The purpose of this bill is to amend the law relating to liquor licenses by requiring all applicants for new licenses, transfers of licenses, and renewals of licenses to present to the Liquor Commission a signed certificate from the director of taxation of the state and from the Internal Revenue Service showing that the applicant does not owe the state or federal governments any delinquent taxes, penalties, or interest.

Your Committee is in agreement with the Retail Liquor Dealers Association of Hawaii, which presented testimony indicating that requiring such a signed certificate from all applicants for renewals of liquor licenses would create a massive and unnecessary burden on the Department of Taxation.

Your Committee therefore deleted section 3 of the bill relating to renewals of licenses and made other nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2319-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2319-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 305-82 (Majority) Ways and Means on S.B. No. 2514-82

The purpose of this bill is to exempt from the general excise tax amounts received by corporations, trusts, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes, as provided in section 237-23(a)(6), Hawaii Revised Statutes, from annual sales of fundraising products.

Presently, the activities of nonprofit organizations such as hospitals, fraternal organizations, and other nonprofit organizations operated for religious, charitable, scientific, educational, community, and social welfare purposes are exempt from taxation under the general excise tax law. However, any activity of these nonprofit organizations in which the primary purpose is to raise income for the furtherance of such exempt activities is currently subject to the general excise tax. Because annual fund raising sales are deemed not within the charitable activities of such nonprofit organizations, the revenues from these sales are subject to the general excise tax. This bill would exempt from the general excise tax amounts received by these nonprofit organizations from annual fund raising sales.

Your Committee heard testimony from representatives of various private nonprofit organizations in favor of the bill.

Your Committee has amended the bill as follows:

(1) By clarifying that annual sales are those held only one period during the year not exceeding one month.

(2) By adding a proviso to the exemption to provide that the sale shall not be held at the place occupied by the organization to carry out its religious, charitable, scientific, or educational functions.

(3) By making nonsubstantive, technical and language amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2514-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2514-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 306-82 Ways and Means on S.B. No. 2523-82

The purpose of this bill is to establish December 31 as the annual injury cost reporting date instead of bi-annually on June 30 and December 31. It also requires the "stretching out" of assessment notices from May 1 to August 15 with payment due on September 30 instead of June 30 and it converts six temporary positions to three permanent positions.

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. 2523-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2523-82, S.D. 2.

Signed by all members of the Committee.

SCRep. 307-82 Ways and Means on S.B. No. 2548-82

The purpose of this bill is to exempt those computer services which are done for persons outside the state who in turn transmit or sell the services to others.

The exemption for computer services is sought because of the peculiar nature of this high technology business. The sale of processed computer information, in the form of printed reports or magnetic reports, is capable of two interpretations. Such a business could be characterized as a sale of "products" or it could be characterized as a "service

business". If it is treated as a sale of products, then all interstate sales are exempt from the Hawaii gross excise tax. Currently, however, this type of business is being treated by the State Department of Taxation as a sale of services and therefore subject to the four per cent tax. This impacts unfavorably on the competitive status of local computer businesses vis a vis mainland competitors, and, if continued, will force the relocation of existing businesses to more favorable jurisdictions.

Your Committee has amended this bill by adding a definition of computer services as products as used in this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2548-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2548-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 308-82 Ways and Means on S.B. No. 2627-82

The purpose of this bill is to allow the county prosecuting attorneys to utilize the Organized Crime Act.

The bill provides that the prosecuting attorneys of each county as well as the State Attorney General may combat organized crime within their jurisdictions using civil as well as criminal actions.

Your Committee has reorganized certain sections of the bill to facilitate future amendment, and made other technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2627-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2627-82, S.D. 2.

Signed by all members of the Committee.

SCRep. 309-82 Ways and Means on S.B. No. 2799-82

The purpose of this bill is to increase the current inheritance tax exemptions for the decedent's surviving spouse and beneficiaries and to annually index these exemptions to the state's cost of living to enable the decedent to at least pass a modest family home on to the decedent's heirs.

Presently, chapter 236, Hawaii Revised Statutes, provides that all property which passes by will or by the intestate laws of the state, from any person who dies seized or possessed of the same while a resident of the state, or upon the property of nonresidents of the state if the property has its situs within the state, is subject to an inheritance tax on the transfer or passing of such property. The inheritance tax is imposed on the fair market value of the property at the date of the decedent's death. Property or income passing to a surviving spouse is exempt to the extent of \$100,000. Property or income passing to any direct line beneficiary (the decedent's father, mother, child, grandchild, or legally adopted child) is exempt to the extent of \$50,000. In all other cases, the exemption is \$5,000.

Your Committee finds that these inheritance tax exemptions have not adequately protected the decedent's surviving spouse or any direct line or other beneficiary from the recent inflation in home and property values. While home and property values have skyrocketed to extremely high levels in recent times, your Committee finds that these inheritance tax exemptions have not accordingly been increased. This has had the effect of making the decedent's surviving spouse or any direct line or other beneficiary pay unnecessary inheritance taxes on increased home and property values arising entirely from inflation. In order to protect the decedent's surviving spouse or any direct line or other beneficiary from the recent inflation in home and property values, your Committee finds that the present inheritance tax exemptions should be increased in the following amounts:

- (1) From \$100,000 to \$150,000 for the decedent's surviving spouse;
- (2) From \$50,000 to \$75,000 for any direct line beneficiary; and
- (3) From \$5,000 to \$10,000 for all other beneficiaries.

Your Committee further finds that in order to provide adequate tax relief for any future inflation in home and property values and to eliminate the necessity of amending yearly inheritance tax exemptions, these increased inheritance tax exemptions should

be annually indexed to the state's cost of living .

Your Committee heard testimony from the Department of Taxation in favor of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2799-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading .

Signed by all members of the Committee .

SCRep. 310-82 Ways and Means on S.B. No. 2866-82

The purpose of this bill is to allow the Hawaii Housing Authority to issue \$75 million in taxable revenue bonds to finance the acquisition of fee title to leasehold properties converted under the Land Reform Program .

The Department of Social Services and Housing submitted testimony indicating the lack of financing for conversion loans will ultimately jeopardize the viability of the Land Reform Program . Further, many of those conversions effected through agreements of sale will be subjected to significant interest rate increases prior to maturity, resulting in rates that are well above current market; these conditions may easily result in defaults .

The Hawaii Housing Authority has explored available alternative financing sources . The use of taxable bonds as proposed in this bill is one alternative . The bill establishes a program similar to the Hula Mae program, but which differs in that (1) it uses the proceeds of taxable bonds; (2) an eligible borrower is a lessee who qualifies to purchase the fee interest under chapter 516, Hawaii Revised Statutes; and (3) there are no income or asset limitations .

Your Committee has amended the bill by:

(1) Deleting the definition in section 516-91, Hawaii Revised Statutes, reading " 'Priority Borrowers' means persons or families whose income is less than the limits provided in chapter 356-206, Hawaii Revised Statutes, when a loan under this part is made for the purchase of the fee title to leasehold property of the priority borrower's principal residence ."

(2) Deleting a subsection to section 516-95, Hawaii Revised Statutes, reading "At least fifty per cent of the principal amount of loans made pursuant to this part shall consist of loans to priority borrowers ."

(3) Technical or nonsubstantive corrections have also been made .

The purpose of the first two amendments is to remove income limits to the fee title acquisition loan program .

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2866-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2866-82, S.D. 2 .

Signed by all members of the Committee .

SCRep. 311-82 Ways and Means on S.B. No. 2903-82

The purpose of this bill is to repeal the subsection of the conveyance tax law which makes it unlawful for any state officer or employee to reveal information contained in a certificate of conveyance .

All testimonies received by your Committee on this bill was favorable . The City and County of Honolulu noted that the removal of the confidentiality requirement would allow the real property tax assessors to disclose all relevant data used to assess properties . Such disclosure would serve to substantiate assessments since the taxpayers would have access to the data used by the assessors . Other testimony noted that the information contained in certificates of conveyance such as the names of sellers and buyers, location and description of properties, and the sale prices, is available from other sources such as real property tax records and title records contained in the Bureau of Conveyances . Accordingly, your Committee believes the confidentiality requirement has no useful purpose .

Your Committee has made technical, nonsubstantive amendments .

Your Committee on Ways and Means is in accord with the intent and purposes of S.B. No. 2903-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2903-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 312-82 (Majority) Ways and Means on S.B. No. 2983-82

The purpose of this bill is to require the appointment of the Tax Review Commission on or before July 1, 1982, instead of 1980, and to appropriate moneys for the operation of the commission.

Currently, there are no members on the Tax Review Commission. Thus, the constitutional mandate requiring the appointment of a commission to evaluate the state's tax structure is not being met. This bill is necessary to reconstitute the commission, and the director of taxation has testified in support of this measure for this reason.

Your Committee has made the following amendments to the bill:

(1) The language requiring the appointment of the commission on or before July 1, 1982 has been deleted. Instead, July 1 of every fifth year after July 1, 1980 has been inserted as the date by which each new commission must be appointed.

(2) New language has been added which requires the governor to make appointments "forthwith" when the commission has vacancies.

(3) Section 232E-3, Hawaii Revised Statutes, has been amended by requiring the commission's evaluation to be submitted thirty, instead of one hundred twenty, days prior to the convening of the second regular session after the members of the commission have been appointed.

(4) Section 232E-3, Hawaii Revised Statutes, has been amended further by adding a proviso requiring the initial commission or commission which replaces the initial commission to submit the evaluation thirty days prior to the Regular Session of 1984.

(5) An appropriation of \$300,000 has been inserted.

(6) The effective date of the bill has been changed from July 1, 1982 to the date of the bill's approval.

In addition, other technical, nonsubstantive amendments have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2983-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2983-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Senators Abercrombie, Cayetano and Kawasaki did not concur.

SCRep. 313-82 Ways and Means on S.B. No. 1308

The purpose of this Act is to appropriate funds to be expended by the State Department of Transportation to develop comprehensive standards governing the intrastate highway transportation of hazardous materials.

Your Committee has amended the substance of the bill to provide for grant funding, expended by the State Department of Health to the counties to assist in financing the federal share of planning and design costs of wastewater treatment facilities.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1308, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1308, S.D. 2, and be recommitted to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Cayetano, Young and Saiki.

SCRep. 314-82 Judiciary on H.B. No. 2319-82

The purpose of this bill is to designate Kona as a second permanent site for the circuit court in the third circuit.

Your Committee received testimony from the Administrative Director of the Courts which indicated that Hilo is presently the only permanent site for the circuit court in the third circuit. This bill will provide a permanent site for the third circuit court judge approved by this Legislature during the 1981 session by Act 133.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2319-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 315-82 Judiciary on S.B. No. 2280-82

The purpose of this bill is to provide for a mandatory minimum prison term of two years for the cultivation of marijuana having a weight of 2.2 pounds or 20 or more marijuana plants.

Your Committee heard testimony about the widespread proliferation of marijuana cultivation throughout the state. Testimony indicated the sophistication and magnitude of these large-scale operations.

Your Committee amended the bill to include the cultivation, harvesting and growing of marijuana plants or the processing of marijuana compounds or substances within the ambit of promoting a detrimental drug in the first degree.

Your Committee further amended the bill by deleting reference to a mandatory minimum term of imprisonment and by providing that the offense be a class C felony.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2280-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2280-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 316-82 Judiciary on S.B. No. 2376-82

The purpose of this bill is to delete reference to Section 707-740, Hawaii Revised Statutes, in Section 701-108, relating to time limitations. Section 707-740 was repealed by Act 213, Session Laws of Hawaii 1981.

Your Committee is in accord with the intent and purpose of S.B. No. 2376-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 317-82 Judiciary on S.B. No. 2401-82

The purpose of this bill is to amend section 350-1 of the Hawaii Revised Statutes, relating to child abuse and neglect, to facilitate the reporting of child abuse and neglect.

The Department of Social Services and Housing testified in favor of this bill which broadens the law to include a wider range of persons who are required to report child abuse and minimizes the need to repeatedly amend the law to include others who may not fall within its scope. The bill also facilitates accountability for reporting and more clearly specifies the persons who should report child abuse and the reporting procedures to follow.

Testimony in support of the bill was also received from the Child and Family Service, the Region IX Child Abuse Project, the Police Department of the City and County of Honolulu, and the Oahu Children's Protection Services Center Advisory Committee.

Your Committee adopted the recommendation of the Honolulu Police Department by including the police department as an agency in addition to the Department of Social Services and Housing, which can be designated to receive suspected child abuse and neglect reports. Your Committee finds that it is already a common practice within the community to make child abuse reports to the police. Moreover, the police are available on a 24-hour basis to respond to after-hour or emergency calls.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2401-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2401-82, S.D. 2.

Signed by all members of the Committee.

SCRep. 318-82 Judiciary on S.B. No. 2668-82

The purpose of this bill is to provide that any person charged with a felony may be denied bail where the defendant is on probation, under suspension of sentence, or is under the conditions of a deferred acceptance of guilty plea and to provide for a speedy disposition of those cases.

Under the present law, bail is denied when the offense charged is punishable by imprisonment for life not subject to parole, where the defendant has been previously convicted of a serious crime within the ten-year period immediately preceeding the date of the offense charged, or where the defendant is already on bail or parole on a felony charge. This bill will expand the scope of bail denial to include those circumstances in which the defendant is charged with a serious crime and is on probation, under suspension of sentence, or under the conditions of a deferred acceptance of guilty plea.

The bill further provides that, except for the cases of other persons denied bail, the proceedings of a case of any person denied bail shall be given precedence over all other cases in which the defendant is charged with a lesser offense than the person denied bail.

Your Committee has amended this bill to specify that the defendant's previous criminal offense of which he or she is presently on parole, probation, suspended sentence or deferred acceptance of guilty plea must have been a felony to deny bail. In addition, the bill was amended by changing "shall" to "may" to give the court discretion in giving precedence over all cases with a lesser offense where the defendant has been denied bail.

Your Committee also made a minor technical amendment which has no substantive effect.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2668-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2668-82, S.D. 1, and be placed on the calendar year for Third Reading.

Signed by all members of the Committee.

SCRep. 319-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 35 and 36, S.R. No. 51 and Stand. Com. Rep. Nos. 320-82 to 362-82 on March 15, 1982 at the 11:00 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 320-82 Consumer Protection and Commerce on S.B. No. 2138-82

The purpose of this bill is to clarify statutory provisions relating to cancellation or non-renewal of no-fault policies.

Recent circuit court decisions have interpreted section 294-9, when read in conjunction with section 431-488.1, to mean that a no-fault policy which has expired is considered to be automatically renewable on a retroactive basis, even if renewal notices were previously sent by the insurer and the policyholder failed to remit appropriate premium payment prior to the expiration date of the policy.

In view of these decisions, there is concern within the insurance industry that, even after a policyholder fails to respond appropriately to an insurer's renewal notice by the expiration date of the policy, a thirty-day cancellation notice must then be sent. This in effect provides thirty days of free coverage after the expiration of the policy, thereby potentially affecting the premium rates of all insured motorists.

This bill corrects this inequity by excluding from the operation of section 294-9 policies which expire by reason of lapse of the policy term and non-renewal by the policyholder after thirty-day prior notice to the policyholder.

Your Committee has amended the bill by substituting the phrase "upon that expiration date" for "automatically" on page 2, line 13, of the bill to avoid any ambiguity of reference in the latter term.

A technical amendment with no substantive effect was made by substituting "the" for "such an" on page 2, line 11, in conformance with recommended drafting practices.

Your Committee has also amended the bill by repealing rather than amending section 431-448.1. The purpose of this amendment is to eliminate a provision almost identical to but less comprehensive than section 294-9.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2138-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2138-82, 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. 321-82 Consumer Protection and Commerce on S.B. No. 2178-82

The purpose of this bill is to amend section 408A-29 to permit industrial loan companies to use the same premium formulas currently used by savings and loan associations.

When chapter 408A was enacted in 1977, part of the intent was to correlate the thrift rates and practices of industrial loan companies with those of savings and loan associations. Since then, however, the rules and regulations governing the premium practices of savings and loan associations have been amended, resulting in a disparity between the premiums offered by savings and loans and industrial loan companies. For example, under the present law, savings and loans can give savers a premium worth \$20 for new passbook accounts over \$5,000. Industrial loan companies are limited to a \$10 premium.

This bill would reestablish parity between the thrift practices of industrial loan companies and savings and loan associations by simply allowing industrial loan companies to utilize premiums as an advertising or promotional expense rather than as an interest payment on thrift accounts.

Your Committee has made a technical amendment to the bill in the title of the section affected. The purpose of this amendment is only to conform the bill to present statutory language.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2178-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2178-82, 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. 322-82 Consumer Protection and Commerce on S.B. No. 2235-82

The purpose of this bill is to provide public notice through recordation in the Bureau of Conveyances that the planning, design and supervision of new construction work on certain buildings was not prepared by persons licensed under chapter 464, Hawaii Revised Statutes, which regulates, among others, professional engineers and architects.

Chapter 464 generally provides that only licensed architects and engineers can plan, design and supervise construction of buildings or structures where the safeguarding of life, health or property is involved. However, section 464-13 presently provides, among other things, that the provisions of chapter 464 do not apply to work in respect to any privately owned or controlled one-storied building, the estimated cost of which does not exceed \$40,000, nor to any privately controlled two-storied building, the estimated cost of which does not exceed \$35,000. In effect, unlicensed persons can design and supervise construction if the cost of construction falls within the limits specified.

The provisions of this bill would amend section 464-13 to require that when the exemption from the provisions of chapter 464 described above is applied to work costing more than \$5,000, the fact of the exemption be noted and recorded in the Bureau of Conveyances. This recordation requirement would provide public notice that the work done was not designed or supervised by design professionals, i.e., licensed architects or engineers.

Your Committee finds that the public interest would be served by requiring public notice of the fact that certain construction work was not performed by design professionals. Prospective purchasers of a building would be able to determine if any additions or improvements were made to a structure and if additions or improvements were designed and construction supervised by licensed professionals.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2235-82 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. 323-82 (Joint) Agriculture and Consumer Protection and Commerce
on S.B. No. 2696-82

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

Your Committees received testimony from citizens, cooperative members, and farmers in favor of the concept of cooperatives and passage of this bill.

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

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

Your Committees on Agriculture and Consumer Protection and Commerce are in accord with the intent and purpose of S.B. No. 2696-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2696-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senator Yee.

SCRep. 324-82 Public Utilities on S.B. No. 2509-82

The purpose of this bill is to make the Water Carrier Act more responsive to economic uncertainty and by doing so, to protect the interests of the public and also to reduce deliberations of the Public Utilities Commission.

Your Committee finds that existing circumstances warrant a review and revision of the Water Carrier Act. Although the "file and suspend procedures" of the existing law are fundamentally sound, economic conditions have changed drastically since the Act became law in 1974.

The bill adds language to the policy section of the Water Carrier law which recognized the need for transportation by means of water carrier and provides guidelines to insure

continued service for the public interest. The bill states that "reasonable" rates shall provide for a "a fair return on the property actually used or useful to the carriers in providing such services". Further, the bill amends Section 271G-16(e), Hawaii Revised Statutes, to conform this Section with the amended provision in Section 271G-2, Hawaii Revised Statutes.

Your Committee has amended the bill to delete that language which would have placed into effect proposed changes in rates, fare or charges immediately after appropriate notification has been given, subject to a refund provision should any portion of the increase be found not justified after completion of any hearing. Your Committee is in accord with the intent of this section, that is, to provide a reasonable means to reduce the "regulatory lag". However, in reviewing the testimony provided, the Committee concludes that this provision would be both difficult to administer and could lead to regulatory confusion.

In preserving the existing "file and suspend" procedure and recognizing the need to address the concern of "regulatory lag", your Committee has amended the bill to allow a maximum seven per cent rate increase without suspension in any given twelve month period. Further, your Committee has included a proviso clause which limits any rate case application, filed within such twelve month period, to an additional seven per cent or less, establishing a fourteen per cent maximum "ceiling" in any twelve month period. Your Committee believes that this "ceiling" for application filed within the twelve month period addresses any concerns of a water carrier "pyramiding" its rates over and above the maximum seven per cent no suspension increase. Furthermore, to provide for the clear administration of this new subsection, it is declared that each such twelve month period shall not in any case overlap and therefore, each twelve month period shall be considered "separate and distinct". Further, as a regulatory safeguard, the Public Utilities Commission may "upon objection" of any interested person and upon reasonable notice enter into a hearing concerning any rate adjustment allowed without such suspension.

In light of testimony, your Committee has decided to retain the "clear and convincing" standard relative to the nature of the evidence the water carrier must submit to the Commission.

Finally, your Committee is in accord with two housekeeping provisions. First, that language included in Section 271G-17(e), Hawaii Revised Statutes requiring a second public notice is redundant in that notice is currently required under Section 271G-17(b), Hawaii Revised Statutes, and therefore, should be deleted and second, that the pro forma statement of account which is filed with a proposed new rate schedule, be filed according to the rules or regulations of the Public Utilities Commission.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. No. 2509-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2509-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 325-82 Judiciary on S.B. No. 2377-82

The purpose of this bill is to correct an inadvertent omission of the word "intentionally" in Section 707-734(1)(b) of the Hawaii Penal Code.

Your Committee is in accord with the intent and purpose of S.B. No. 2377-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 326-82 Judiciary on S.B. No. 2565-82

The purpose of this bill is to extend the injunctive remedy available under the nuisance abatement law, to cover gambling offenses and violations of the laws pertaining to massage and to cruelty to animals.

The present nuisance abatement law which allows a court to issue a temporary injunction or order of abatement to prevent the continuation or recurrence of a nuisance, applies to offenses relating primarily to prostitution and pornography. Your Committee agrees that the law should be expanded to also enjoin illegal gambling activities, massage law violations, and cruelty to animals.

Your Committee has made several technical, nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2565-82, as amended herein, and recommends that it pass Second Reading in the form attached

hereto as S.B. No. 2565-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 327-82 Judiciary on S.B. No. 2566-82

The purpose of this bill is to provide the state a right to appeal in criminal cases where the constitutional rights of the defendant will not be violated by the appeal.

The original bill provided that the only ground for the state to appeal in all criminal cases would be where the constitutional rights of the defendants will not be violated by the appeal. It also eliminated the other enumerated grounds for appeal.

Your Committee amended the bill by restoring the enumerated situations when the state may appeal a criminal case.

Your Committee also made technical, nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2566-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2566-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 328-82 Transportation on S.B. No. 2181-82

The purpose of this bill is to exclude unions from those organizations that are required to provide a driver improvement program for drivers of heavy vehicles employed through them on a casual basis.

Your Committee heard supporting testimony from Operating Engineers Local Union No. 3 which operates as a job placement center rather than an employer and thus feels that it should not have to bear the cost of such a program. The Department of Transportation, the General Contractors Association of Hawaii, the Construction Industry Legislative Organization and the Hawaii Trucking Association testified in opposition to the bill. Excluding all unions from the driver improvement program would mean that members of such unions as the teamsters who might be casual drivers would have no opportunity to benefit from such a program.

Your Committee is aware that the purpose of the present statute is to improve traffic safety by requiring that all regularly employed and casual drivers of heavy vehicles take an annual driver improvement course. Since everyone testifying on the bill supports this requirement, your Committee asked the Department of Transportation to meet with all the interested organizations and provide language which will address the concerns of the Operating Engineers without jeopardizing driver improvement programs for casual drivers.

Your Committee has amended the bill with language recommended by the Department of Transportation and agreed upon by all interested parties. For purposes of only the subsection concerned in this bill, the word "organization" will not include any labor union with a job placement center. An employer, then, will have the option of turning down any driver sent by a job placement center who has not qualified within the past year under a driver improvement program.

Your Committee on Transportation is in accord with the intent and purpose of S.B. 2181-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2181-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Toyofuku and Soares.

SCRep. 329-82 Transportation on S.B. No. 2334-82

The purpose of this bill is to provide a penalty provision for Chapter 290, Hawaii Revised Statutes, relating to abandoned vehicles.

Your Committee heard supporting testimony from the Honolulu Police Department, the Honolulu City Council, and the Hawaii Automotive and Retail Gasoline Dealers Association. Under present law, there are no penalties listed under this chapter; therefore, any infraction by any tow company, private property owner, or any of their representatives

is not subject to any penalty. This bill provides a fine for violation of this chapter of not less than \$25 nor more than \$500.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2334-82 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 Toyofuku.

SCRep. 330-82 Judiciary on S.B. No. 2146-82

The original purpose of this bill is to repeal Article VI, Section 3, of the Constitution of the State of Hawaii and to propose an amendment to Article VI to provide for the appointment of all justices and judges of the courts of the state and to provide that tenure of such justices and judges be subject to approval by the electorate.

The bill has been amended by deleting the original provisions and replacing them with new provisions.

The amended purpose of the bill is to propose amendments to Article VI, Section 3, of the State Constitution to provide that the appointment of judges of the district courts be subject to appointment by the Governor with the consent of the Senate as is presently required for all other justices and judges of the state and that reappointment of justices and judges be subject to consent of the Senate.

Your Committee finds the present process for initial appointments requiring gubernatorial appointment with the consent of the Senate provides a more equitable balance among the three branches of government. The bill has been amended to include the appointment of judges of the district courts within the present initial appointment process.

Your Committee finds that under the present situation, it is conceivable for a justice or judge to serve several consecutive ten-year terms without having a public review of their performance. Your Committee has addressed this concern by adding an additional review for reappointment by the Senate, the initial confirming body.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2146-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2146-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Anderson and O'Connor.

SCRep. 331-82 Judiciary on S.B. No. 2575-82

The purpose of this bill is to amend section 84-17, Hawaii Revised Statutes, to include justices and judges of the courts of the state under the requirements of financial disclosure of the State Ethics Commission.

Your Committee heard testimony that 24 states require financial disclosure from judges, of which 10 states have authorized their state ethics commission to oversee these disclosures.

Testimony from the State Judiciary indicated a concern in retaining the independence of the Judiciary as a separate branch of government. Your Committee is cognizant of a possible infringement on this independence by placing the justices and judges under the purview of the State Ethics Commission which is administratively attached to the Legislative Auditor's office.

Your Committee recognizes the Judiciary's code of ethics as set forth under its Code of Judicial Conduct. However, upon examination of such, your Committee finds that the code does not totally embrace the constitutional guidelines for financial disclosure, nor does it mandate conformance by the judges. Presently, there is no requirement for a public financial disclosure.

It is the finding of your Committee, based on the above considerations, that in keeping with the Constitution to preserve the integrity and high standards of our government, financial disclosure should prevail throughout the three branches of government as well as in the State's political subdivisions. To ensure this concern, your Committee has deleted the provisions of this bill and has replaced them with a proposal to amend Article XIV of the Constitution to include justices and judges. Your Committee finds that this is a more appropriate method. By proposing an amendment to the Constitution, it will also retain the independence of the judicial branch of government as well as provide judicial scrutiny presently absent.

The proposed constitutional amendment allows the Judiciary to conform its code of ethics to the constitutional guidelines and to administer its code, just as it presently permits the state's political subdivisions.

The proposed constitutional amendment also allows for public disclosure of the judges' financial interests. Your Committee finds nothing wrong with this, as public financial disclosure preserves the integrity and high standards in our government as affirmed by our State Constitution.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2575-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2575-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 332-82

Judiciary on S.B. No. 2831-82

The purpose of this bill is to improve the laws relating to annulment, divorce, and separation by 1) broadening the power of the Family Court to issue restraining orders; 2) authorizing the Family Court to appoint masters; 3) creating the concept of "a species of common ownership"; 4) restructuring and renumbering the existing section 580-47, Hawaii Revised Statutes; 5) clarifying that the Court may bifurcate a divorce; 6) allowing the automatic termination of spousal support upon remarriage and requiring notice of remarriage; 7) and bringing section 580-56, Hawaii Revised Statutes, into correlation with the statutory provisions of chapter 560.

The Family Law Committee of the Hawaii Bar Association and the Family Court of the First Circuit testified in support of this bill which essentially clarifies and reinforces existing statutes and Family Court practices as well as introduces the concept of "species of common ownership" into Hawaii law.

Section 1 of this bill amends section 580-10, Hawaii Revised Statutes, relating to restraining orders, by deleting the existing language which is too narrow to cover current Family Court practices, and grants the Family Court the power to issue restraining orders generally, to cover various matters. The proposed language allows the Court to issue an order restraining the parties to a divorce from prematurely disposing of their property, without having the parties incur the expense and expend the time for an application and appearance at Court.

This portion of the bill also establishes clearly the authority underlying the Family Court's practice of appointing a master in certain cases, which often greatly economizes on judicial time.

Section 2 and subsection (b) of section 4 of the bill creates "a species of common ownership" in all property acquired by either party during the marriage, which vests upon the filing of a complaint for divorce. Adoption of this "species of common ownership" theory is intended to create a defense against a claim by the Internal Revenue Service that a transfer or uneven division of jointly held property incident to a divorce can be deemed a sale and result in the imposition of a tax on the gain, pursuant to the U.S. Supreme Court case of United States v. Davis. Under this case, the transferor is taxed on a gain even though nothing is received in hand or he receives a smaller fraction of the property. This new language does not recreate community property in Hawaii nor does it recreate dower or curtesy.

Sections 3 through 9 of the bill repeal the existing section 580-47, Hawaii Revised Statutes, then restructure and renumber it into separate, shorter sections with separate section headings.

In addition, section 4 of the bill adds new language to clearly authorize the Family Court to bifurcate a divorce action. This would resolve any doubts about the power of Family Court to exercise its discretion in this manner.

Section 10 of the bill provides for automatic termination of subsequent support payments when the recipient spouse remarries, unless the continuation of payment is specifically ordered. Upon remarriage the recipient spouse would be required to give notice of the remarriage to the Family Court and to a former spouse who is obligated to make payments. This would more equitably distribute the burden of taking action when the payment of spousal support should be stopped.

Section 11 of the bill brings section 580-56 relating to property rights following dissolution of marriage, into conformance with the statutory changes made when chapter 560, relating

to the Uniform Probate Code, was adopted. The provision also would allow more time in which to resolve issues reserved over the division of property.

Your Committee has amended section 1 of this bill by deleting the word "income" which was inadvertently inserted in subsection (a) of section 580-10, and substituting the words "living expenses."

Your Committee has amended section 2 of the bill pertaining to the species of common ownership theory to clarify that this provision does not limit the discretion of the Court to make orders regarding property.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2831-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2831-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Anderson and O'Connor.

SCRep. 333-82 Human Resources on S.B. No. 68

The purpose of this bill is to amend the Employment Security Law to provide that unemployment benefits shall not be charged to an employer under certain circumstances where the employer may be considered not responsible for a former employee's separation from employment.

Your Committee finds that under the present law, 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 job, left work voluntarily for good cause not attributable to the employer 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.

This bill provides that an individual's unemployment benefits shall not be charged to the account of the base period employers with whom the individual separated from during the base period or the three-month period immediately preceding the benefit year under one of the following circumstances:

- 1) Left the individual's work voluntarily without good cause,
- 2) Was discharged for misconduct connected with the individual's work, or
- 3) Left the individual's work voluntarily for good cause not attributable to the employer.

This bill does not deny or take away benefits from anyone who loses their job through no fault of their own, nor penalizes a base period employer who was not responsible for the former employee's job separation. It does, however, properly place the charging of unemployment benefits paid to an individual on the employer who was responsible for an individual's joblessness.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 68 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 334-82 Human Resources on H.B. No. 786

The purpose of this bill is to require that the income and resource of an immigration sponsor be considered for the support of a resident alien for up to three years immediately following the arrival of the resident alien into the United States, unless the alien becomes disabled or blind after entry into the United States, is a refugee, or has been granted political asylum.

Your Committee heard testimony from the Department of Social Services and Housing (DSSH) stating the proposal is consistent with a recently enacted federal law in the Aid to Families with Dependent Children (AFDC) Program which deems the income and assets of an immigration sponsor as available toward the support of the resident alien. This bill makes the alien sponsor's responsibility for support legally enforceable.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 786 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 335-82

Human Resources on S.B. No. 2602-82

The purpose of this bill is to amend Chapter 76-102, Hawaii Revised Statutes, by specifying that each department shall permit its employees who are excluded from collective bargaining to attend informational and educational meetings conducted during working hours by duly recognized government employee organizations.

Presently, employees of the State of Hawaii excluded from collective bargaining, have been denied permission to attend informational and educational meetings conducted by the recognized governmental employee organizations.

The need for such meetings are essential if informed and responsible decisions are to be made on the part of the excluded employee. This bill would allow the excluded employee to attend meetings providing education and information which employees covered by collective bargaining units currently are entitled to.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2602-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 336-82

(Majority) Human Resources on S.B. No. 2890-82

The purpose of this bill is to add a new section to the Collective Bargaining in Public Employment Law, Chapter 89, and the Hawaii Employment Relations Act Law, Chapter 377, Hawaii Revised Statutes.

Under this bill, both Chapters 89 and 377, Hawaii Revised Statutes, are amended by adding new sections addressing religious exemption from support of employee organizations and religious exemption from labor organization memberships, respectively.

This bill will provide that any employee who is a member of and adheres to established teachings of a bona fide religion or sect historically holding conscientious objection to joining or financially supporting employee organizations or labor organizations, shall not be required to do so. An employee may be required in a contract between the employer and employee organization or labor organization in lieu of periodic dues and initiation fees, to pay sums equal to the dues and initiation fees to a nonreligious, nonlabor organization charitable fund exempt from taxation under section 501(c)(3) of title 26 of the Internal Revenue Code, chosen by the employee from a list of at least three funds designated in the contract or if the contract fails to designate any funds, then to any fund chosen by the employee. If an employee eligible for religious exemption under this section requests the employee organization or labor organization to use the grievance-arbitration procedure on the employee's behalf, the employee organization or labor organization is authorized to charge the employee for the reasonable cost of using the grievance-arbitration procedure.

Your Committee on Human Resources finds that this bill is consistent with the federal law enacted by the 95th Congress, H.R. 3384 (1977), which provides for the same religious exemption. Your Committee also heard testimony from several labor organizations who have resisted efforts in the past to exempt religious objectors and now agree that employers and unions have a duty to make reasonable accommodations to the individual religious needs of their employees.

Your Committee has made technical, nonsubstantial amendments to this bill.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2890-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2890-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 337-82

Human Resources on S.B. No. 2913-82

The purpose of this bill is to amend section 386-98, Hawaii Revised Statutes, by increasing the penalty for making a false or misleading statement or representation under the Workers' Compensation Law.

Your Committee finds that under the present law, the penalty for false representation does not provide any deterrent for those who attempt to gain workers' compensation benefits under false representation. The proposed amendment shall find anyone who wilfully makes a false or misleading statement or representation for the purpose of obtaining workers' compensation benefits guilty of a misdemeanor, and upon conviction, shall be punished by a fine not to exceed \$1,000, and/or imprisonment not to exceed one year, and forfeit all of his rights under the workers' compensation law. In addition, the Attorney General is required to investigate complaints made under this section.

Your Committee has amended this bill by deleting "or misleading statement or" because of the vague implications in the judgment of misleading statements.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2913-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2913-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 338-82 (Majority) Human Resources on S.b. No. 2528-82

The purpose of this bill is to amend Section 386-41, Hawaii Revised Statutes, to extend funeral expenses to a maximum of ten times the weekly benefit rate and would extend burial expenses to five times the maximum weekly benefit rate.

Your Committee finds that the present law provides benefits for funeral expenses not to exceed \$1,000 and burial expenses not to exceed \$500. The last amendment to this section for funeral and burial expenses occurred in 1971 and has remained at this level ever since. The increase proposed in this bill will allow for proper services, which are a necessity, and will bring the allowances more in line with the current average cost of a funeral and burial.

Your Committee received testimony favoring this measure from the Department of Labor and Industrial Relations, Hawaii Insurers Council and Hawaii Independent Agents Association.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2528-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 339-82 Consumer Protection and Commerce on S.B. No. 2879-82

The purposes of this bill are to clarify the definition of credit card and to distinguish credit card agreements from overdraft lines of credit,

Presently most banks permit customers to gain access to their checking account by using a credit card in their automated teller machines. When there is insufficient money in the checking account and the account has overdraft line of credit, the machine will dispense cash to the customer by activating the overdraft facility. Use of a credit card causes overdraft lines of credit to come within the purview of the eighteen per cent per year limitation. Overdraft lines of credit, however, are subject to a twenty-four per cent interest maximum,

Testimony received from the Hawaii Consumer Finance Association and the Hawaii Bankers Association indicates that lenders offering overdraft lines of credit want to be assured that there is no legal confusion between the two services.

This bill would clarify that overdraft lines of credit, even if activated by credit card, are not credit card agreements and therefore these overdraft lines of credit are subject to the twenty-four per cent rather than the eighteen per cent maximum interest rate.

Your Committee finds that an overdraft line of credit is a revolving personal loan attached to an individual's checking account, and should be distinguished from extensions of credit obtained through credit card agreements.

Your Committee amended this bill by rewriting paragraph (2) for purposes of clarity and making technical non-substantive changes to conform the bill to recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2879-82, as amended herein, and recommends that it pass Second

Reading in the form attached hereto as S.B. No. 2879-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Kuroda, Machida and Soares.

SCRep. 340-82 Consumer Protection and Commerce on S.B. No. 2477-82

The purpose of this bill is to clarify the jurisdiction of the Motor Vehicle Repair Industry Board by amending the definition of the term "repair of motor vehicles" in Chapter 437B, Hawaii Revised Statutes, to include the modification of motor vehicles.

Under present law, the term "repair of motor vehicles" does not specifically include modification to a motor vehicle. Therefore, this type of service may be beyond the jurisdiction of the Motor Vehicle Repair Industry Board.

By including the modification of motor vehicles in the definition of "repair of motor vehicles," this bill would provide the Motor Vehicle Repair Industry Board with jurisdiction over motor vehicle services such as converting gasoline engines to LPG (Liquid Propane Gas), automatic transmissions to manual, and standard ignitions to electronic.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2477-82 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 Uwaine, Kuroda, Machida and Soares.

SCRep. 341-82 Consumer Protection and Commerce on S.B. No. 2418-82

The purpose of this bill is to establish a new licensing classification of "journeyman industrial electrician".

The creation of the journeyman industrial electrician's license is based on a situation that has developed over the years in which a number of "electrical" workers have gained their experience in industrial situations, such as with the Board of Water Supply, the sugar companies, and the pineapple canneries. This experience, however, does not meet the Board of Electricians and Plumbers' journeyman electrician requirements of trade experience due to its limitation to switchboards, automatic controls, substations, and so forth.

In order for these industrial electricians to be promoted, they are usually required to obtain a journeyman electricians' license. This license, however, would authorize them to perform a wide range of electrical operations including many in which they have had little or no experience. It is therefore difficult for them to even qualify to take the exam for such a license. This situation works a hardship on the industrial electrician.

This bill would correct that situation by setting up a new classification for the journeyman industrial electrician and allow these persons to advance in their specialized field without having to get training and experience in residential and commercial work.

It is the intent of your Committee that this bill should not, in any manner, prohibit journeyman electricians from continuing to do residential, commercial, and industrial work.

Your Committee has amended this bill by adopting the recommendations of the Board of Electricians and Plumbers, the Hawaii Building and Trades Council, and the Construction Industry Legislative Organization to add the following:

- (1) In SECTION 1, a new definition, item (11) "supervising industrial electrician", has been added.

The purpose of this amendment is to correlate this bill with the current "supervising electrician" licenses presently in use by the Board of Electricians and Plumbers in relation to other "journeyman" classifications.

- (2) In SECTION 3, a new corresponding definition, item (10) "supervising industrial electrician", has been added. The purpose of this amendment is to set forth minimum eligibility requirements for the supervising industrial electrician examination.
- (3) SECTIONS 4 and 5 of this bill amend sections 448E-9 and 448E-11 to align existing language with proposed changes.

Your Committee has also amended this bill in numerous instances for purposes of specificity and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2418-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2418-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Kuroda, Machida and Soares.

SCRep. 342-82 Consumer Protection and Commerce on S.B. No. 2398-82

The purpose of this bill is to allow members of the Board of Dispensing Opticians to be reappointed to successive terms.

Presently, a board member cannot be reappointed to succeed himself on the Board of Dispensing Opticians. This bill would allow members of the Board of Dispensing Opticians to be reappointed to successive terms.

Your Committee received testimony from the Board of Dispensing Opticians supporting this bill. The board indicated that section 26-34 (regarding the selection and terms of members of boards and commissions), which allows board and commission members to be reappointed to no more than two successive terms on the same board with membership not to exceed eight consecutive years, would be more appropriate than the present law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2398-82 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 Uwaine, Kuroda, Machida and Soares.

SCRep. 343-82 Consumer Protection and Commerce on S.B. No. 2397-82

The purpose of this bill is to change the qualifications for Board of Cosmetology members.

Presently there is a statutory requirement that no two members of the board may be graduates of the same school or practitioners of the same system or method. This bill would repeal this requirement.

Your Committee heard testimony from the Board of Cosmetology indicating that this requirement is no longer appropriate or necessary since cosmetology systems or methods are basically the same throughout the industry.

Your Committee has amended section 2 of the bill to delete the phrase "New material is underscored" as the bill adds no new material to the existing statute.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2397-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2397-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Kuroda, Machida and Soares.

SCRep. 344-82 Consumer Protection and Commerce on S.B. No. 2237-82

The purpose of this bill is to delete the specific months when dental hygienist examinations must be given by the Board of Dental Examiners.

Presently, dental hygienist graduates must wait two months after their graduation to take the examination in August. This bill would incorporate the recommendation made by the Board of Dental Examiners and allow the board to schedule the semiannual examinations in its discretion.

Your Committee has amended the bill by correcting minor technical errors which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2237-82, as amended herein, and recommends that it pass Second

Reading in the form attached hereto as S.B. No. 2237-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Kuroda, Machida and Soares.

SCRep. 345-82 Consumer Protection and Commerce on S.B. No. 2234-82

The purpose of this bill is to repeal the statutory authorization of fees payable to the members of the Board of Cosmetology and the Boxing Commission.

Under present law, members of the Board of Cosmetology and the Boxing Commission are each entitled to a fee of \$10 for each meeting attended. In addition, the secretary of the Board of Cosmetology is allowed a salary of \$150 per year. However, none of the other 28 boards and commissions under the jurisdiction of the Department of Regulatory Agencies is allowed statutory fees or salaries for its members.

This bill would eliminate these archaic provisions of pre-statehood law which gave nominally preferential treatment to the Board of Cosmetology and the Boxing Commission and would provide consistent treatment of all 30 boards and commissions. All board and commission members will thereafter receive only reimbursement for actual expenses incurred in the discharge of their duties.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. 2234-82 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 Uwaine, Kuroda, Machida and Soares.

SCRep. 346-82 Consumer Protection and Commerce on S.B. No. 2231-82

The purpose of this bill is to allow charitable organizations to file Internal Revenue Service Form 990 in lieu of audited financial statements.

Presently, charitable organizations which raise more than \$10,000 for the preceding year are required to file audited financial statements with the Department of Regulatory Agencies. This requirement places an undue financial burden on charitable organizations because the costs of audits by certified public accountants may range from \$3,000 to hundreds of thousands of dollars each year.

Your Committee heard testimony from the Department of Regulatory Agencies that the Internal Revenue Service and the National Association of State Charity Officials have developed Form 990, which all charitable organizations must file with the Internal Revenue Service. Form 990 requires substantially all the information contained in an audited financial statement. Allowing charitable organizations to file Form 990 with the Department of Regulatory Agencies instead of audited financial statements would alleviate the financial burdens attendant to the latter while still insuring that the organization's financial condition is open for public review.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2231-82 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 Uwaine, Kuroda, Machida and Soares.

SCRep. 347-82 Consumer Protection and Commerce on S.B. No. 2878-82

The purpose of this bill is to allow banks to disburse cash to holders of credit cards at locations other than authorized banking offices.

Your Committee heard testimony that certain credit card companies are offering a new service which allows holders of credit cards to more readily obtain cash by use of credit cards. The service would allow a card holder to obtain cash against the credit card at participating businesses such as hotels, airlines, or car rental agencies if the card holder is utilizing the services of the business. This added feature of credit cards would be particularly helpful to tourists visiting the state.

This bill authorizes banks to process such cash disbursements at participating businesses by amending section 403-53, Hawaii Revised Statutes, which limits the number of branch

banks allowed any one bank, to specifically state that the providing of such services shall not be considered as maintaining a branch office. Without the amendment, each participating business at which a credit card holder receives cash could be considered a branch of the bank processing the transaction and the bank would be in violation of section 403-53.

Your Committee amended this bill by substituting the word "law" for the word "provision" on line 15, page 1, and adopting the recommendation of the Hawaii Bankers' Association to correct the word "each" to read "cash" on line 7, page 2. In addition, a technical amendment was made on lines 11 through 13, page 2, to conform this bill to the present statute.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2878-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2878-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Machida, Soares and Yee.

SCRep. 348-82 Consumer Protection and Commerce on S.B. No. 2382-82

The purpose of this bill is to provide protection to a dental patient from unnecessary exposure to X-rays.

Under present law dentists are not required to protect a patient from unnecessary exposure to X-rays. This bill requires dentists to protect a patient from unnecessary radiation to vital organs with a lead apron. Furthermore, it allows the Board of Dental Examiners to establish minimum specifications concerning the use of the lead apron.

Your Committee heard testimony from the Department of Health and the Board of Dental Examiners that the bill, as presently written, clarifies the parts of the body to be protected.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2382-82, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Uwaine, Machida and Soares.

SCRep. 349-82 Consumer Protection and Commerce on S.B. No. 2144-82

The purpose of this bill is to require that all prescription drugs have an expiration date of potency printed on the label.

Your Committee finds that expired drugs have the potential to be harmful or toxic. This bill would assist the consumer in determining whether a drug would be ineffective or dangerous.

Your Committee has adopted the recommendations of the director of health to amend the bill by substituting the words "principal labeler" for "packer, or distributor" and by deleting the requirement of a notation regarding the probable effect of opening the container on potency. The director's testimony on the latter amendment was that such information would be of dubious value to the consumer. Since the pharmacist will ordinarily have repeatedly opened and shut the stock bottle from which the prescribed drug is taken, the consumer's opening of the container will have little added impact on the expiration of potency. Furthermore, with the large amount of required information currently crowding the label, adding this notation may even be detrimental to the over-all goal of consumer information and protection.

The Committee on Health to which this bill was first referred was consulted on these amendments and has, via its chairman, given its prior concurrence.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2144-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2144-82, S.D. 2.

Signed by all members of the Committee except Senators Uwaine, Machida and Soares.

SCRep. 350-82

Consumer Protection and Commerce on S.B. No. 2872-82

The purpose of this bill is to increase the allowable dividend rate for preferred stocks issued by banks from six per cent to twelve per cent a year.

Your Committee finds that the present financial climate of volatile and high interest rates makes the six per cent dividend limit on bank preferred stock obsolete. Raising the limit to twelve per cent would provide investors with a yield that is competitive with other types of money market investments.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2872-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2872-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Machida, Soares and Yee.

SCRep. 351-82

Education on S.B. No. 2353-82

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

Your Committee heard testimony in support of this measure from the State Librarian, the Librarians Association of Hawaii, Ms. Lois Tyles, the Hawaii Federation of Business and Professional Women's Clubs, and various individual librarians.

Your Committee also heard testimony in support of the concept of job-sharing from the Hawaii Government Employees Association.

Your Committee finds that the job-sharing pilot project in the public schools has been effective in achieving the objectives of a job-sharing program and consequently that a similar project should be instituted in the public library system.

It is the intent of your Committee that in implementing this project, consideration be given to the compatibility of employees on individual job-sharing teams, particularly in positions that require a large degree of coordination and cooperation.

Upon review of this bill by your Committee, the following amendments have been made:

- (1) Allowing the job-sharing of individual positions by two permanent employees as well as by a permanent employee and a newly hired person;
- (2) Specifying the minimum requirements to mean "educational" requirements rather than the length of employment experience; and
- (3) Deleting from page 4, line 20 to page 5, line 6 language derived from Act 150, Session Laws of Hawaii 1978, to entitle public school job sharers to health benefits and exclude newly hired job sharers from the collective bargaining law. Because public library job sharers will work a twenty-hour work week and, therefore, would be entitled to health benefits and would be within the collective bargaining law under the applicable statutes which make coverage dependent upon hours worked per week, the deleted language is unnecessary in this bill.

Your Committee has also amended the bill by requiring the Legislative Auditor to submit a status report in 1983 and 1984, and by making grammatical and technical changes which have no substantive effect.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2353-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2353-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ajifu, Saiki and Soares.

SCRep. 352-82

Government Operations and Intergovernmental Relations on
S.B. No. 2858-82

The purpose of this bill is to include within the definition of "standard bar" premises where music for and dancing by the patrons are provided.

Under present law establishments which rent their facilities for parties and serve liquor at those functions are unable to allow music and dancing under their standard bar licenses. Restaurants with standard bar licenses similarly are unable to provide dancing facilities.

Your Committee has amended the bill by deleting section 1 and amending section 2 with the entire repeal of exception (2) thereunder. Your Committee finds that the latter will better accomplish the purpose of this bill than the new language proposed in the original bill and that still applicable building and fire codes will safeguard the public at these facilities.

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

Your Committee on Government Operations and Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2858-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2858-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ushijima and Soares.

SCRep. 353-82 Agriculture on S.B. No. 2435-82

The purpose of this bill is to identify important agricultural lands pursuant to the mandate of Article XI, Section 3 of the State Constitution.

Your Committee has amended this measure to provide for the placement of all lands zoned for agriculture under the jurisdiction of the Department of Agriculture. Your Committee finds that the consolidation and integration of agricultural land use practices and policies with one government agency is a desirable goal.

Your Committee on Agriculture is in accord with intent and purpose of S.B. No. 2435-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2435-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Henderson, Holt and Yamasaki.

SCRep. 354-82 Economic Development on S.B. No. 2908-82

The purpose of this bill is to repeal Chapter 221, Hawaii Revised Statutes, which establishes the Commission on the Year 2000 and its functions.

Your Committee finds that the commission had been inactive since July 1, 1981 because no funds had been appropriated by the General Appropriations Act of 1981. In the absence of any funding, repeal of Chapter 221 is warranted.

Your Committee conducted research into the functions of the commission and concluded that repealing the Commission was necessary. Although the commission purports to "help Hawaii plan and prepare for the year 2000", research papers, and surveys were contracted out to either public or private agencies. In effect, the commission performed as a purveyor of contracts to other agencies to conduct studies which the commission considered relevant to its charge.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2908-82 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. 355-82 (Majority) Economic Development on S.B. No. 2914-82

The purpose of this bill is to repeal Chapter 224, Hawaii Revised Statutes, which establishes the Commission on Population and the Hawaiian Future and its functions.

Your Committee finds that there is a need for cognizance of the future. Indeed, it behooves the Legislature to consider the future ramifications of its actions. So too, the executive branch ought to consider the impact its present actions will have upon the future of the state. To do otherwise would be a dereliction of responsibility and the violation of a public trust.

To enhance the state's efforts to be cognizant of the future, the Commission on Population and the Hawaiian Future was established. Since its inception in 1973, the commission

was seen as filling the need for supplying information and conducting studies to fulfill an extremely diverse set of responsibilities.

Each of these responsibilities can be performed by the agency which is responsible for each particular area of study. The plethora of planners in the various departments ought to be, if they are not already, cognizant of population fluctuations and its ramifications upon their particular departments operations. Similarly, the Department of Planning and Economic Development ought to be cognizant of the population projections and recommend appropriate actions to each department, the governor, and the Legislature.

Your Committee further finds that the Commission on Population and the Hawaiian Future has contracted major studies to the East West Center, Survey and Marketing Services, and other groups who have demonstrated expertise in the relevant areas. Furthermore, the population projections and estimates are prepared by the state statistician.

In effect, the commission functions as a distributor of state funds to other agencies to undertake studies to provide secondary and tertiary data on population. The agencies which gather the data and marshal the data into relevant studies also have the ability to analyze the data and make policy recommendations upon that data. The commission itself did not undertake any major studies nor did it make any major recommendations as a result of fulfilling any of its myriad responsibilities.

In view of your Committee's findings of facts, namely: that other agencies, both public and private are contracted to do major studies and surveys; that this fact is indicative that the expertise for population and related issues lies in agencies other than the Commission on Population and the Hawaiian Future; that other state departments and agencies are fulfilling the responsibilities of the commission; and, that the responsibilities of the commission are being fulfilled and would be fulfilled regardless of whether the commission existed; it is the firm recommendation of your Committee that the Commission on Population and the Hawaiian Future be repealed.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2914-82 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.
Senators Machida and Uwayne did not concur.

SCRep. 356-82 Human Resources on S.B. No. 2531-82

The purpose of this bill is to amend Section 383-7, 386-1, 392-5 and 393-5, Hawaii Revised Statutes, which would exclude coverage for a vacuum cleaner dealer performing services solely by way of commission.

The present laws require every employer to provide wage-loss and medical benefits for all eligible employees. However, a conflict between state and federal laws in regards to vacuum cleaner dealers has existed. The federal government has issued a ruling (Revenue Ruling 55-734; Doc #7851109) declaring vacuum cleaner dealers are not employees under the federal law while under state laws no such exemption exists for these dealers. Therefore, due to the federal ruling, employers make no contributions to federal unemployment insurance and are not required to withhold federal income tax or social security tax.

Under state labor laws the dealer is not considered an independent contractor and therefore the employer must make contributions to the state unemployment fund and is required to withhold state income tax.

Additionally, the current status of the law has created confusion under the state taxation laws. Because the salesperson is treated as an independent contractor under federal laws and an employee under the state, all commissions he receives are subject to a four percent tax and must be paid by the company. Thus, recordkeeping requirements for employers are difficult and has created a state of confusion as to the status of independent contractors.

The inclusion of vacuum cleaner dealers as independent contractors will remedy the confusing status of independent contractors as well as conform to present federal laws regarding vacuum cleaner dealers as independent contractors.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2531-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2531-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 357-82

Human Resources on S.B. No. 2593-82

The purpose of this bill is to provide temporary disability insurance coverage for employees who are on leaves of absence, with or without pay, authorized by the employer.

Present law does not provide coverage for persons under those circumstances. However, since employees on authorized leaves of absence are still considered by their employers to be employees, your Committee finds that temporary disability insurance protection should be extended to them.

This bill amends four sections of chapter 392, Hawaii Revised Statutes, to accomplish this purpose: section 392-1 by amending the definition of "employment" and "employed" to include leaves of absence; section 392-6 by making the language in the definition of "individual in current employment" compatible with that change; section 392-7 by specifying the means of determining the "average weekly wage" for persons on leaves of absence; and section 392-21 by clarifying that persons on leaves of absence do come within the declared policy of the chapter.

Your Committee has amended the bill by deleting from the proposed further definition of "employment" and "employed" references to termination, discharge, resignation, and severance or other compensation. Present law, statutory and decisional, already covers those definitions as they relate to termination, discharge, or resignation.

Your Committee has also amended page 1, line 9 of the bill by deleting the word "being". This was done for consistency with the existing language of the statute and has no substantive effect.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2593-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2593-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 358-82

Consumer Protection and Commerce on S.B. No. 2236-82

The purpose of this bill is to ensure that licensed contractors maintain applicable workers' compensation insurance, liability insurance, and required bond, or be subject to an automatic suspension.

Under present law, the Contractors License Board must conduct a formal hearing to prevent a licensee from operating without meeting the insurance and bonding requirements for licensing. Because the formal hearing process is cumbersome and costly, six to twelve months may pass before the board can conduct a hearing. Meanwhile, the licensee continues working without the required insurance or bond thereby exposing workers and the general public to the potential losses because of a licensee's lack of coverage.

This bill will remedy the problem by providing for automatic suspension effective upon the lapse of any of the required coverages and for the further disincentives of higher reinstatement fees and forfeiture of certain fees for delayed reinstatement. On the other hand, the bill provides the licensee with the right to obtain a hearing on the suspension.

Your Committee heard testimony from the Contractors License Board indicating that this bill would require licensees to be more cautious in maintaining continued coverage rather than waiting to re-establish coverage after the delayed hearing process. Your Committee also heard testimony in support of the bill from the Mason Contractors Association of Hawaii and the Hawaii Flooring Association.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2236-82 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 Henderson, Saiki and Soares.

SCRep. 359-82

Consumer Protection and Commerce on S.B. No. 2143-82

The purpose of this bill is to enhance the consumers' ability to purchase prescription drugs safely and economically.

The substitution of equivalent drug products has raised the medical profession's concern about the possible risks associated with substitution. This bill provides safeguards to the public by increasing the labeling requirements for generic drugs and by limiting the scope of drugs which may be placed on the formulary of equivalent drug products.

This bill also expands the definition of "dispenser" to include persons under the direct supervision of, as well as, physicians, osteopaths, dentists, and pharmacists themselves. The resulting reduction of personnel expenses should result in lower drug costs to the public.

The bill further amends the law to authorize the Department of Health to charge fees to persons receiving the formulary of equivalent drug products.

Your Committee, with the prior concurrence of your Committee on Health, has adopted the recommendation of the Director of the Department of Health by amending this bill to further narrow the range of drugs which can be included in the formulary by deleting language starting with the word "The" on page 2, line 11 of S.D. 1, and ending with the word "equivalence" on page 2, line 20. The purpose of this amendment is to prevent drugs not approved by the Food and Drug Administration from being contained in the formulary.

Your Committee also adopted the Director of the Department of Health's recommendation that the words "and distributing" be added after the word "producing" on page 3, line 12 of this bill. The purpose of this amendment is to include the significant costs of distributing the formulary (fiscal, postage, handling) in the authorization to set a fee charged to persons receiving the formulary.

Your Committee has also amended this bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2143-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2143-82, S.D. 2.

Signed by all members of the Committee except Senators Henderson, Saiki and Soares.

SCRep. 360-82

Consumer Protection and Commerce on S.B. No. 2232-82

The purpose of this bill is to regulate the merger of a corporation's subsidiaries.

Presently, subsidiaries of a parent corporation merge under general statutory provisions relating to mergers. The merger of subsidiary corporations, however, because of the very nature of their "familial" relationship should be more carefully regulated.

This bill would require a corporation's subsidiaries to follow procedures similar to those relating to mergers between a parent corporation and its subsidiary.

It should be noted that this bill only applies to situations where the parent corporation owns at least ninety per cent of the outstanding shares of each class of stock of the subsidiaries to be merged.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2232-82, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Henderson, Saiki and Soares.

SCRep. 361-82

Consumer Protection and Commerce on S.B. No. 2152-82

The purposes of this bill are to require the manager or board of directors of a horizontal property regime to keep monthly statements indicating any unpaid assessments for common expenses and to make these statements available for examination by all apartment owners.

Presently, there is no statutory requirement that the manager or board of directors keep monthly statements of any unpaid common expense assessments. This bill will correct this deficiency by requiring such a statement and making the statement available to apartment owners. Thus, the owners will have more complete knowledge of the building's financial standing.

Your Committee has amended the bill by deleting the phrase "against each apartment owner". Your Committee concurs with the testimonies of realtor Beverly Muir, Danny

Lee of the Hawaii Association of Realtors, and William Van Allen of the Hawaii Council of Associations of Apartment Owners that the delinquent assessment records should preserve the confidentiality of each apartment owner. To further preserve confidentiality, your Committee has further amended the bill by requiring the disclosures to represent the total current delinquent amount.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2152-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2152-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Henderson, Saiki and Soares.

SCRep. 362-82 Consumer Protection and Commerce on S.B. No. 2313-82

The purpose of this bill is to permit a savings and loan association to hold its annual meeting at any time during the year and to dispense with the meeting altogether upon the unanimous written consent of all members entitled to vote.

As the law is currently written, savings and loan associations are required to hold annual meetings during the months of January, February, or March. This bill provides savings and loan associations with greater flexibility in scheduling annual meetings and also in dispensing with the meetings.

Your Committee has made technical, non-substantive amendments to page 1 of the bill to conform with the single-paragraph format of section 407-61 as it presently reads and to page 4, line 2 to correct a typographical error.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2313-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2313-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Henderson, Saiki and Soares.

SCRep. 363-82 Consumer Protection and Commerce on S.B. No. 2239-82

The purpose of this bill is to provide for internal consistency in the provisions of the Landlord-Tenant Code.

Act 235, Session Laws of Hawaii 1981, amended section 521-64(b), Hawaii Revised Statutes, to increase the amount which a tenant may deduct from his rent for repairs of conditions constituting a health or safety violation from \$200 to \$300. However, section 521-64(d), which allows a tenant to deduct from his rent not more than \$200 for repairs of conditions in material noncompliance with section 521-42(a) (which requires the landlord to supply and maintain fit and habitable premises) or the rental agreement, was left unchanged.

This bill amends section 521-64(d) to increase the amount allowed to be deducted under that section to \$300 to make the amount consistent with the deduction allowed under section 521-64(b).

Further, Act 235 amended section 521-64(c), which sets time limits for the landlord to perform certain repairs, by adding a proviso that requires the landlord, in any case involving repairs to electrical, plumbing or other facilities necessary to provide sanitary and habitable living conditions, to "commence affirmative good faith efforts to make repairs" within three business days of receiving notification of a defective condition. As to other repairs covered by section 521-64(c), the landlord is required to "commence repairs" within a given period of time.

This bill amends the proviso added by Act 235 to require the landlord to actually "commence repairs" within three business days after notification.

Your Committee has amended the bill by adding a new section 2 which amends section 521-71, Hawaii Revised Statutes. That section presently requires a landlord before terminating a month to month tenancy because of voluntary demolition of the dwelling unit or conversion to a condominium, to give ninety days prior notice of the anticipated termination. The amendment proposed by this bill would increase the notification period to one hundred twenty days and would make the period consistent with section 521-38 which provides for a one hundred twenty day notification period for tenants under

rental agreements under similar circumstances.

Your Committee has also amended the bill by making technical amendments which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2239-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2239-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Henderson, Saiki and Soares.

SCRep. 364-82 Consumer Protection and Commerce on S.B. No. 2238-82

The purpose of this bill is to allow the Board of Dental Examiners discretion in the scheduling of the semiannual examinations in dentistry and to recognize the National Board of Dental Examiners (NBDE) examination as a substitute for the theory portion of the state examination.

Presently, the board is required to hold examinations in February and August of each year. As a result, dental school graduates must generally wait two months after graduation to take the examination. This bill would allow the board to schedule examinations at dates more convenient to dental school graduates.

Current law also provides that the board may accept passing of the NBDE examination in lieu of taking the theory portion of the state examination. Since both theory examinations are identical, this bill would require recognition of an applicant's having passed the NBDE examination.

Your Committee has adopted the recommendations of the state Board of Dental Examiners by amending the bill as follows:

(1) Discontinuing entirely the administration of the theory portion of the state dentistry examination and instead requiring all applicants to have taken the NBDE examination. Presently, most dental school graduates take the examination administered by the NBDE.

(2) Requiring applicants to submit with their examination applications proof of having passed the NBDE examination. This amendment would provide the means by which the board can determine applicant qualification in the theory of dentistry.

(3) Changing the term "prosthetic" in the description of the practical exam requirements to "laboratory" and requiring the board to mail notices of the examination requirements to all applicants. These amendments are made to conform the laws to current board policies and practices.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2238-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2238-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Henderson, Saiki and Soares.

SCRep. 365-82 Consumer Protection and Commerce on S.B. No. 2638-82

The purpose of this bill is to require any seller, lessor, broker, or agent of real property located in certain designated hazardous areas to provide timely notification to prospective buyers, lessees, or tenants thereof.

The bill delineates these hazardous areas as property two miles within the geometric center of any civilian airport, property within the boundaries of the Air Installation Compatibility Use Zone of any military airport, property within special flood areas as designated in Flood Insurance Administration maps, and property within the anticipated inundation areas of Civil Defense Tsunami Inundation maps.

This bill would provide prospective buyers, lessees, and tenants with timely notification of possible nuisances or hazards within these areas prior to occupying or acquiring interests in such property. A penalty is provided for violation of these notice requirements.

Your Committee has amended the bill by changing the effective date to January 1, 1983. This amendment would provide sufficient lead-time for affected parties to implement

the provisions of this bill. Your Committee is aware of the need for large-scale maps of these four designated areas and is confident the affected parties will make them available to the general public prior to the effective date of this bill.

Your Committee has also amended the bill by deleting from page 1 the numbering within the proposed section -1. The purpose of this amendment is to avoid confusion when referring to the paragraphs on page 2 which use the same numbering designations.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2638-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2638-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Henderson, Saiki and Soares.

SCRep. 366-82 Consumer Protection and Commerce on S.B. No. 594

The purpose of this bill is to streamline the regulation of cemeteries and mortuaries.

Your Committee has amended this short form bill to insert substantive provisions. The bill, in S.D. 1 form, would amend chapter 441, Hawaii Revised Statutes, by:

(1) Requiring the submission of an annual audited financial statement by any cemetery operating a perpetual care cemetery and by any mortuary authority or pre-need funeral authority which engages in pre-need sales or holds money in trust for future funeral services. Presently, any pre-need funeral or cemetery authority operating a perpetual care cemetery is subject to an annual inspection by the director of the Department of Regulatory Agencies ("DRA") of its books, records and papers. This bill would provide the DRA with more accountability from the cemetery industry and is a reasonable alternative to increasing the bond requirements of cemetery and mortuary authorities;

(2) Deleting reference to the licensure of mortuaries in appropriate sections. The nature of a mortuary's business is different from that of a cemetery or pre-need funeral authority. Unlike a cemetery or pre-funeral authority, the business of a mortuary does not entail risks of misappropriation of funds, since a mortuary provides services and products prior to billing its customers. Furthermore, substantial safeguards are provided by the disclosure requirements under sections 441-22.5 and 441-22.6;

(3) Specifying that only mortuaries holding more than \$5,000 in pre-need funeral funds to post a bond. Currently, all mortuary authorities are required to post a \$50,000 bond. This bill would only require mortuaries with more than \$5,000 in pre-need funeral funds to post a bond;

(4) Requiring cemetery, pre-need funeral, and mortuary authorities to obtain an annual independent actuarial study of their pre-need trust funds. Presently, the DRA must depend solely on bonds posted by the industry to insure that proper service is being rendered by the industry. This amendment, along with an annual audit of trust funds, would provide the director of the Department of Regulatory Agencies the needed information to ensure the financial integrity of cemetery and mortuary authorities;

(5) Providing trust administrators with the authority to administer pre-need and perpetual care trust funds. Presently, administrators are not required to inquire into the propriety of the expenditures made by a cemetery authority regarding perpetual care or pre-need services. This bill would give administrators the authorization and responsibility to inquire into the propriety of cemetery authority expenditures to protect the public from the potential economic harm resulting from mismanagement of pre-need trusts and perpetual care funds.

(6) Deleting the provision authorizing cemetery authorities the right to approve perpetual care fund investments. Presently, an administrator may need approval from its respective cemetery or mortuary authorities to invest funds. This bill would provide administrators with the authority to act independently of cemetery or mortuary authorities to insure not only the best possible yield on investment funds, but to also insure the safety of the capital to be invested.

(7) Requiring trust administrators to determine whether the income from trusts should be added to the corpus. Presently, the law is silent regarding the disposition of income from trusts. This bill would allow the trust administrator, based on the findings of its annual audit and actuarial study to determine whether the income from trusts should be added to the corpus.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 594, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 594, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Henderson, Saiki and Soares.

SCRep. 367-82 Consumer Protection and Commerce on S.B. No. 2386-82

The purpose of this bill is to protect buyers of and investors in securities involving undivided interests in out-of-state real property by requiring more disclosures on the prospectus, by limiting the exemptions on transactions, and by making certain deposits in escrow mandatory.

Your Committee finds that the offer and sale of securities involving undivided interests in out-of-state real property pose special hazards for the public. Because the property is for all practical purposes not subject to inspection and because of the perhaps undue attractiveness of real property investments, engendered by this state's experience with the skyrocketing values of realty, Hawaii is especially susceptible to the unscrupulous among dealers in these securities.

This bill seeks to provide greater information by which the people of this state can judge the worth of these securities. Requiring in the prospectus a description and a commissioner-approved appraisal of the real property would be a practical substitute for inspection. Also requiring disclosure of the organizational structure of the issuer would better inform the public about the value of the security relative to the value of the realty. In order to further prevent the offer or sale of questionable securities of this type, the bill also would make mandatory, instead of discretionary, the deposit in escrow of any securities of this type issued for certain intangible assets.

Your Committee heard testimony that other measures to be taken under the bill may have unintended consequences for other types of securities. Your Committee has accordingly amended section 2 of the bill by excepting these securities from, rather than repealing, the exempt transaction in section 485-6(9).

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2386-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2386-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Henderson, Saiki and Soares.

SCRep. 368-82 Economic Development on S.B. No. 2389-82

The purpose of this bill is to prevent any liquor from being labelled, designated, or sold using the word "50th State", "Maui", or "Kauai" unless such liquor is wholly or partially manufactured in the state.

Your Committee recognizes that signifying that a product is from the 50th State, Maui, or Kauai may have a significant positive effect upon its marketability.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2389-82, 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 Yamasaki.

SCRep. 369-82 Economic Development on S.B. No. 2356-82

The purpose of this bill is to permit only major water storage tanks ancillary to agricultural practices to be built within certain agricultural lands.

Your Committee finds that water storage tanks may need to be placed in agricultural districts in order to serve the lower residential districts. Sometimes it is necessary to place tanks on hills, high up on agricultural lands in order to best utilize gravitational force.

Your Committee therefore amends the bill to remove the phrase "ancillary to agricultural practices".

Your Committee finds that this amendment would allow water storage tanks to be placed in the most advantageous spots.

Your Committee on Economic Development is in accord with the intent and purposes of S.B. No. 2356-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2356-82, S.D. 2.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 370-82 Economic Development on S.B. No. 2907-82

The purpose of this bill is to repeal Chapter 222, Hawaii Revised Statutes, which establishes the Hawaii Research Center for Futures Study and its functions.

Your Committee finds that the Center is the research arm of the Commission on the Year 2000 which has been without funding since July 1, 1981. The Center has been inactive since July 1, 1975, because no funds had been appropriated by the General Appropriations Act of 1975 nor had there been any funds appropriated in subsequent years. In the absence of any funding, repeal of Chapter 222 is warranted.

Your Committee conducted research into the functions of the Hawaii Research Center for Futures Study and concluded that repealing the Center was necessary. No major studies have emerged from the Center, and the Commission on the Year 2000 has contracted research papers and surveys out to various public and private agencies.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2907-82 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 Yamasaki.

SCRep. 371-82 Economic Development on S.B. No. 2906-82

The purpose of this bill is to repeal Chapter 223, Hawaii Revised Statutes, which establishes the Quality Growth Policy.

Your Committee finds that the elements of the Quality Growth Policy have been incorporated into the State Planning Act. Given the redundancy of the statute, it is your Committee's recommendation that it be repealed.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2906-82 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 Yamasaki.

SCRep. 372-82 (Majority) Economic Development on S.B. No. 2720-82

The purpose of this bill is to amend the Hawaii State Planning Act.

The amendments have three purposes: ensure in unequivocal language that the objectives, policies, and priority guidelines contained in Chapter 226 are guidelines; ensure in unequivocal language that the functional plans, whose adoption is provided for in this Chapter, are guidelines; and, to ensure in unequivocal language, that home rule is preserved through the planning process.

Throughout the review of the functional plans, your Committee was concerned about the legal standing of the functional plans; i.e., do the plans have the force and effect of law. The Department of Planning and Economic Development, as well as other departments have iterated on countless occasions, both public and private, that the plans are merely guidelines. The mere fact that they are adopted by concurrent resolution, as opposed to enactment into law, would seem, *prima facie*, to give credence to their iterations. Ostensibly, this question on the legal standing of the plans, with regard to whether they would require mandatory conformance by all state agencies was resolved. Under the assumption that the plans were mere guidelines, your Committee began an intensive review of the functional plans. Having the functional plans under study, a review of the Hawaii State Planning Act was held in abeyance. During the interim, however, while the functional plans were being re-drafted, your Committee commenced to analyze the Hawaii State Planning Act. Herein, the concerns of your Committee were confirmed. There is specific language in the Hawaii State Planning Act which would severely inhibit and contravene legislative prerogative, especially with regard to budgetary deliberations.

Contrary to the exhortations of the various departments, and other interested parties who urged adoption of the plans, your Committee found that the functional plans, adopted pursuant to Chapter 226, Hawaii Revised Statutes, impose mandatory conformance by the various agencies of the state, e.g., the Legislature, the Land Use Commission, and the Board of Land and Natural Resources. Even to the extent that the functional plans are living documents subject to revision, the mere fact that it intrudes upon legislative prerogative is cause for amending the Hawaii State Planning Act. Your Committee foresees critical problems arising as a direct result of allowing the Hawaii State Planning Act to remain unamended, thereby elevating the functional plans to a status which requires mandatory conformance.

Requiring the Legislature to conform to a specific set of actions to accommodate shifting situations and problems is offensive to good sense. As the branch of government directly responsible for the formulation of policy, the Legislature ought to be afforded the maximum latitude in pursuing solutions to the problems at hand. As a corollary responsibility, the Legislature ought to be, or at least cause itself to be, cognizant of the recommended solutions put forth by sound planning efforts. The cognizance of recommended solutions is clearly distinct from the mandatory conformance to such solutions. In this light, the functional plans, and the goals, objectives, and priorities ought to remain as guidelines to the Legislature for its consideration. The amendments made in this bill ensure and preserve the Legislature's prerogatives.

In no way do your Committee's amendments preclude the Legislature from considering the priorities expressed in the functional plans. Similarly, it is impossible to deduce that the amendments made by your Committee preclude the various state agencies from considering the priorities set forth in the functional plans. The Legislature and the various state agencies have the choice of conforming to the goals, objectives, and priority directions of the Hawaii State Planning Act, and the functional plans, but they ought not to be mandated to do so. The amendments preserve this choice.

To the issue of home rule, it is again offensive to good sense to require that the counties be mandated to conform to functional plans which have not been adopted. Your Committee finds that the counties are undergoing substantial efforts to devise or revise general plans and development plans. Testimony received from every county supported your Committee's actions to ensure the preservation of home rule within the context of state planning. It is the direction of your Committee, however, that the counties give due consideration to the goals, objectives, and policy guidelines of the State Planning Act in their deliberations.

Your Committee has amended the bill to ensure that to state, county, and private agencies, the elements of the Hawaii State Planning Act, Chapter 226, Hawaii Revised Statutes, and the state functional plans adopted pursuant to that Chapter are guidelines for consideration through each agencies' decision making deliberations. Due consideration ought to be given to the guidelines, but they shall not be construed to effect mandatory conformance. All references to mandatory conformance have been deleted. In their stead, consideration for each element of the State Plan and the functional plan has been substituted. Similarly, all references requiring mandatory conformance of the county general plans and development plans to the State Plan and functional plan have been deleted.

Priority directions have been renamed as priority guidelines to ensure the status of the same.

The references in the bill which specify the contents of the county general plan and development plan (Section 226-58, Hawaii Revised Statutes) are intended to specify that those elements of planning are rightfully delegated to the counties. These sections are not intended to mandate the counties to compose their plans accordingly.

Your Committee has made the foregoing amendments to dispel any trepidation regarding the legal standing of the functional plans. Whether such trepidation was founded or unfounded, it was a major obstacle to the adoption of the functional plans. The actions of your Committee will enable the review of the state functional plans to proceed with celerity and dispatch.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2720-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2720-82, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Machida did not concur.

SCRep. 373-82

(Majority) Tourism on S.B. No. 2710-82

The purpose of this bill is to clarify what accommodations in hotels are specifically assigned to respective guests and what liability the hotelkeeper has for losses of guest property.

Present law uses the term "bedroom" when referring to guest accommodations. Since a bedroom may technically constitute only a portion of the guest's room or suite, there is some confusion with potentially significant consequences. For example, notices of certain provisions of chapter 486K, including limits on hotelkeeper liability, are required to be posted in each "bedroom". The bill seeks to remedy this technical ambiguity by substituting "guest accommodation" wherever "bedroom" appears in the chapter.

Current law also makes the hotelkeeper liable for losses of certain guest property if it "appears" that the keeper was negligent or at fault. This standard not only is ambiguous and discordant with legal principles but is also unfair as a determinant of liability; the hotelkeeper should pay for those losses only if actually negligent or at fault. This bill amends section 486K-5, Hawaii Revised Statutes, to make hotelkeepers liable for losses of personal property covered by that section only if actually negligent or at fault.

Your Committee heard testimony from the Hawaii Hotel Association that there are additional problems with the limits of hotelkeeper liability. Act 83, Session Laws of Hawaii, Regular Session 1981, was enacted in response to guest failure to make use of hotel vaults and the resultant risk of property crimes when guest valuables were left in individual rooms. Pre-Act 83 law exempted hotelkeepers from liability if a vault was available, its availability was conspicuously posted, and the guest nevertheless failed to place the valuables in the safe, and limited hotelkeeper liability for property placed in the safe to \$500.

The purpose of Act 83 was to limit the liability of hotelkeepers who provide another means for safekeeping of guest valuables--security boxes in the individual guest accommodations. The testimony indicated, however, that because of other changes effected by Act 83 hotelkeeper liability is unclear and perhaps even unlimited.

Moreover, your Committee upon review of section 486K-4(b) relating to security boxes finds that the section is vague and ambiguous as to the liability of a hotelkeeper for losses in rooms where a security box is provided. No differentiation of the liability for losses is made as to valuables placed or not placed in the security box and no specific liability of the hotelkeeper is specifically set forth in the section although the section states that the keeper has no liability if a notice is posted explaining the keeper's liability for losses from the security box.

In view of the foregoing your Committee has amended the bill by adding a new section amending section 486K-4, to place a \$500 limit of liability for losses from a hotel's safe or vault and clarify the liability of a hotelkeeper when a security box is provided in the rooms of guests.

Under the proposed amendment, when a security box is provided within the room of a guest the hotelkeeper is not liable for any loss of valuables not placed in the security box. If the guest sustains losses of valuables placed in the security box, the hotelkeeper, if negligent, is liable for up to \$500.

The foregoing limitation of liability is effective only upon proper posting of a notice explaining the liability of a hotelkeeper when a security box is provided.

In addition, your Committee has amended the bill to limit any liability of a hotelkeeper for losses of guest personal property under section 486K-5 to \$500.

Your Committee has also amended the bill by adopting the recommendation of the Hawaii Hotel Association to create a new definition of bedroom instead of substituting the term "guest accommodation" for that term throughout the chapter.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 2710-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2710-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 374-82

Health on S.B. No. 2206-82

The purpose of this bill is to authorize the Department of Health to establish rules and

regulations regarding the administration of prophylaxis for the prevention of blindness in the newborn at childbirth.

Currently there are no standards regarding the application of preventive health measures to prevent blindness in newborn infants.

Your Committee finds that ophthalmia prophylaxis has been found to be an effective health practice that involves the instillation of an acceptable prophylactic agent in the eyes of the newborn infant, and ranks as one of the most successful treatments in ophthalmology.

Your Committee adopted the recommendation of the Department of Health by deleting the reference to the use of silver nitrate, as one method of prevention. The determination of acceptable agents should be made by the department, rather than by statutory designation because of the changes in technology and knowledge regarding diseases and prophylaxis.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2206-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2206-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 375-82 Health on S.B. No. 2518-82

The purpose of this bill is to update the State Health Planning and Development Agency (SHPDA) functions and procedures in light of recent federal and judicial developments.

Present law requires SHPDA to perform appropriateness reviews at least every five years. The Federal Register, January 26, 1982, however, indicates that the Department of Health and Human Services (DHHS) has promulgated a regulation which no longer mandates state appropriateness reviews or reviews of proposed uses of federal funds. Moreover, with dwindling federal funding of health planning and development programs these no longer necessary reviews cannot continue to sap SHPDA resources. Thus, the bill makes such reviews discretionary.

Current law also defines "expenditure minimum", upon which the applicability of Certificate of Need (CON) requirements depends, as \$150,000 which may be adjusted only for inflation. Federal changes in this amount have also been announced by DHHS. Accordingly, this bill discards the outdated figure.

Present law has recently been interpreted by the First Circuit Court to require for purposes of judicial review final decisions by SHPDA on CON applications within 90 to 150 days after agency review has begun. The Brown Schools of Hawaii, Inc. vs. SHPDA, et al., Civ. No. 66748. The effect of this ruling is to remove administrative reconsideration and review of a SHPDA denial since such post-decision review may well take longer than 90 to 150 days. This bill remedies the situation by substituting post-decision review procedures for present statutory language.

Your Committee has amended the bill by allowing the discretionary appropriateness reviews to be made no more frequently than once every five years and by deleting the discretionary reviews of proposed uses of federal funds. Your Committee made these changes because neither is now required by federal law.

Your Committee adopted the recommendations of the Administrator of SHPDA and the Hospital Association of Hawaii and amended the bill by raising the CON thresholds from \$150,000 to \$600,000 for capital expenditures, \$400,000 for major medical equipment, and \$250,000 for operating costs for new services, to meet federal recommendations. This amendment would limit the number of CON reviews and thus enable SHPDA to further conserve its resources.

Your Committee deleted the word "such" from page 6, line 13 of the bill as introduced in conformance with recommended drafting practices. Technical changes in the bill format were also made to accommodate these amendments by your Committee.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2518-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2518-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 376-82

Health on S.B. No. 2923-82

The purpose of this bill is to eliminate the requirement that couples applying for marriage licenses first take blood tests for syphilis and rubella.

The ostensible purpose for requiring these two tests before marriage is to control the spread of syphilis and to alert women who plan to bear children to their lack of immunity to rubella.

Two hundred five cases of syphilis were reported in 1980; however, only seven of those involved females, whereas 95 per cent of the incidents occurred among homosexual males. Given the data regarding the incidence of syphilis in Hawaii, it is difficult to imagine any reason for requiring the 23,712 people who were married in 1980 to undergo testing at their expense. The Department of Health has testified in support of the removal of the premarital test for syphilis noting that not a single case of that disease was detected through such testing that would not have been found otherwise in the past 5 years.

Changes in societal values and attitudes regarding marriage and children also make the logic of requiring tests for syphilis at the time of marriage highly questionable. The number of unmarried persons living together has increased steadily, along with the percentage of children born out of wedlock from 9.4 per cent of all childbirths in 1969 to 16.4 per cent of such births in 1979. In 1979, one out of every ten children was born out of wedlock; by 1980, the rate was one out of every six children. Moreover, many children are conceived before marriage. This data leads to the inescapable conclusion that the effectiveness of the premarital testing requirement for syphilis is significantly compromised by the declining importance of marriage in today's society.

The premarital test requirement is made even less defensible by the fact that the law already requires all pregnant females to undergo medical screening for syphilis. Thus, requiring a couple applying for a marriage license to pay approximately \$15 for a mandatory premarital syphilis test is not only superfluous, but wasteful. There is little benefit to the State of Hawaii and to the couples involved.

Even though rubella, once rampant in nearly epidemic proportion has been virtually eradicated in Hawaii, the Department of Health estimates that 15 per cent of the women of child-bearing age are still susceptible to the disease and predicts this percentage will decrease to a reasonably small number by 1984.

However, your Committee is aware that premarital rubella testing fails to reach a significant number of women and strongly urges the Department of Health to pursue other avenues for reaching a larger segment of the population of women of childbearing age.

Your Committee decided to adopt the Department of Health's recommendation to wait until the "sunset clause" on the rubella test takes effect in June, 1984 instead of repealing the law this year and the bill has been amended accordingly.

Your Committee has also made nonsubstantive, technical amendments to the bill to conform to recommended drafting style.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2923-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2923-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 377-82

Health on S.B. No. 2636-82

The purpose of this bill is to ensure that women who are scheduled to undergo mastectomies shall have first been provided with information concerning medically viable alternative forms of treatment for breast cancer.

Breast cancer is the most prevalent form of cancer among women in Hawaii, with over 300 new cases reported each year, and mastectomies are by far the most predominant form of treatment for breast cancer in Hawaii and elsewhere in the United States. However, in recent years, a small but growing number of physicians have begun to treat breast cancer through more conservative methods which preserve all or most of the breast.

The problem, as indicated by testimony heard and received by your Committee, is that not all women are being provided with information concerning alternative procedures to treat breast cancer, and as a consequence, mastectomies are performed because patients believe the mastectomy is the only mode of treatment.

This bill, of course, is neutral with respect to whether a mastectomy or some other alternative form of treatment should apply to any particular breast cancer patient. This is a matter for medical determination and final decision on the part of the patient. The vital safeguard that this bill provides, however, is that the patient's decision shall be as informed as possible, in advance of the performance of the mastectomy.

Nothing in his bill affects the provision of section 671-3(c), Hawaii Revised Statutes, which provides that informed consent need not be obtained from a patient or patient's guardian when the circumstances dictate that emergency treatment or emergency surgical procedure may need to be rendered.

Without changing the intent and purpose of the bill, the bill has been amended to provide that the standards of medical practice established by the board of medical examiners shall be consistent with the requirement for informing the patient of all medically viable alternatives in the treatment of breast cancer.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2636-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2636-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 378-82 Health on S.B. No. 2682-82

The purpose of this bill is to ensure that all psychiatric facilities afford in-patients certain rights in accordance with section 334E-2, Hawaii Revised Statutes.

Currently, licensed psychiatric facilities have the option of affording patients the rights enumerated in section 334E-2 by determining reasonableness in view of the circumstances and availability of resources. This bill provides that all psychiatric facilities must, rather than may, afford in-patients these rights.

The bill provides additional rights including the right of freedom from reprisal, a written treatment plan, the right to participate in the planning of the treatment plan, the right to refuse treatment, the right to refuse to participate in experimentation, visitation rights, confidentiality of and access to their records.

Further, this bill requires the Department of Health or the Office of the Ombudsman to investigate grievances submitted by any patient in a psychiatric facility. Additionally, the legal guardian or legal representative would be able to exercise the rights on behalf of the patient if the patient were incapable of doing so himself.

Your Committee heard testimony from the Department of Health, the Mental Health Association and the Office of the Public Defender in support of this bill.

Your Committee decided it would be unwise not to have these rights qualified by reasonableness and therefore amended the bill to include the clause "all the rights of in-patients are to be qualified by reasonableness in view of the circumstances". This amendment was inserted in section 1 of the bill as a new subsection (b) and the other proposed new subsections were appropriately redesignated. The bill was also amended by requiring the Department of Health to report "in writing" its finding and recommendations to the originator of a complaint.

Your Committee also amended the existing section 334E-2(a)(16) by qualifying the right to work only if work is available at the facility and is part of the treatment plan. The bill was further amended by requiring the Department of Health to develop rules and procedures within one year of the enactment of this bill.

Your Committee made non-substantive technical amendments to conform the bill to recommended drafting style.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2682-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2682-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 379-82 Economic Development on S.B. No. 2973-82

The purposes of this bill are to increase the value of work which can be done in a Special Management Area with a minor permit, and to direct the Department of Planning and

Economic Development to undertake a study of the Special Management Area minor permits to evaluate the effectiveness of the total cost or fair market value criterion.

Your Committee finds that the present cut-off between minor and major permits of \$25,000 was set in 1975. The valuation was an attempt to distinguish between projects with significant impacts on the shoreline. Since that time, however, development costs have risen steadily, and \$25,000 is no longer considered an accurate cut-off for minor construction. Increasing the dollar amount to \$50,000 would correct the situation.

Your Committee has amended the bill to expand the scope of the study to include an assessment of how Chapter 205A, Hawaii Revised Statutes, and the counties' implementation thereof has affected development within the Special Management Area on the various islands. The Department of Planning and Economic Development has also been directed to assess future funding of the Coastal zone Management Program.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. 2973-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2973-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 380-82 Economic Development on S.B. No. 2915-82

The purpose of this bill is to repeal Chapter 218, Hawaii Revised Statutes which establishes the Office of the Marine Affairs Coordinator and its functions.

The prime purpose for establishing the Office of the Marine Affairs Coordinator was to provide for the integration and coordination of the various marine related affairs. Your Committee has found no evidence of any improved coordination or integration efforts which are attributable to the Marine Affairs Coordinator. The duties assigned to the Marine Affairs Coordinator are better delegated to the Department of Planning and Economic Development which is better staffed to develop ocean related programs important to Hawaii.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2915-82 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 Yamasaki.

SCRep. 381-82 (Joint/Majority) Transportation and Human Resources on
S.B. No. 2145-82

The purpose of this bill is to assure that private employers who encourage their employees to participate in ridesharing arrangements will not be held liable for injuries and that ridesharing participants will not be covered by workers' compensation laws between the place of residence and place of employment. The bill also provides that motor vehicles owned or operated by the state or counties may be used in ridesharing arrangements.

Your Committees heard testimony from the Department of Transportation and the Oahu Metropolitan Planning Organization supporting those sections of the bill which make it possible for private employers to encourage ridesharing among their employees without incurring liability for injuries or workers' compensation coverage. Questions about such liability have been a major impediment to employer-sponsored ridesharing programs in the past.

Both the department and the Oahu Metropolitan Planning Organization further testified that there are presently too many unanswered questions to proceed at this time with ridesharing arrangements using state or county vehicles. Further study needs to be done with respect to fleet management, liability of the state and participants, public perception of the concept, operation and maintenance costs and potential demand.

Your Committees have amended the bill to delete Section 5 which provides for the use of state and county vehicles in ridesharing arrangements.

Your Committees have made minor technical amendments to this bill.

Your Committees on Transportation and Human Resources are in accord with the intent and purpose of S.B. No. 2145-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2145-82, S.D. 1, and be placed on the

calendar for Third Reading.

Signed by all members of the Committees except Senators Kuroda, Anderson and Yee.
Senators Cayetano and Toyofuku did not concur.

SCRep. 382-82 Judiciary on S.B. No. 2379-82

The purpose of this bill is to give judges discretion to sentence a person to a term of imprisonment to run concurrently or consecutively.

Presently, the law requires a judge to sentence a person to terms of imprisonment to run currently, giving no discretion to judges. This requirement negates the deterrent and punishment aspects of sentencing and in so doing fails to deter similar future behavior on the part of the particular individual involved. The bill provides that judges have discretion to sentence a person to consecutive terms of imprisonment. Your Committee feels that judges will exercise their discretion in invoking consecutive terms of imprisonment when appropriate as in instances where the defendant committed multiple or subsequent offenses.

The bill further provides that the section in the current law dealing with consecutive terms of imprisonment for escape and crimes committed while imprisoned be deleted.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2379-82 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. 383-82 Judiciary on S.B. No. 2688-82

The purpose of this bill is to clarify with regard to the Office of Hawaiian Affairs (OHA) special election, the provisions for removing a person's name from the register of voters upon failure to vote.

Prior to 1981, registration of voters for OHA elections did not also operate as registration for the primary or general elections. This led to confusion among some voters who did not realize that registration for OHA elections was a separate process from registration for the other elections.

Consequently, in 1981 the Legislature changed the law to provide that a voter who registers for the OHA election is also registered to vote in the primary and general elections. Another change the Legislature made in 1981 was to amend section 11-17, Hawaii Revised Statutes, to provide for removal from the register, the names of persons who failed to vote at all in an election year, i.e., did not vote in the primary election, did not vote in the general election, and did not vote in the OHA election.

However, the present statutory language which allows removal from the register if the person did not vote in the OHA election and "in both" the general and preceding primary election can be construed to mean (1) that the person must vote in at least one of the two elections, or (2) that the person must vote in the general and preceding primary election in order to avoid being removed from the register if that person also failed to vote in the OHA election. This bill clarifies that a voter who did not vote in the OHA election need only vote in at least one of the two elections (either the primary or general) in order to avoid removal from the register.

Another ambiguity in the existing statute is the use of the language "failed to vote" as the basis for expunging a person's name from the register. "Failed to vote" can be interpreted to mean that a person could have voted but did not. As used in the present statute, it may be implied that a person must be a registered voter for all three elections before he can be considered a person who "failed to vote."

However, persons who registered to vote only for the OHA election prior to the 1980 elections and persons who register after the cut-off date for registration for the primary election are not eligible to vote in all three elections--OHA, primary, and general. Therefore, if the term "failed to vote" is interpreted to mean that the person must be eligible to vote and did not vote, the names of such persons could not be removed from the register even if they did not vote at all, because they have not "failed to vote" in all three elections.

This bill replaces the present language "failed to vote" with the new term "did not vote" to clarify the legislative intent that a person who registered only for the OHA election

or the OHA and general elections and who does not vote at all during an election year may be removed from the register.

Your Committee amended the bill by requiring that the clerk of each county maintain records by computer tapes of OHA registered voters to facilitate their identification as a separate category of voters.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2688-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2688-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 384-82 (Majority) Judiciary on S.B. No. 2271-82

The purpose of this bill is to provide that the defense of physical or mental disease, disorder, or defect excluding responsibility is an affirmative defense.

The defense of physical or mental disease, disorder, or defect excluding responsibility is a complete defense to an offense charged. Under the present law, the state has the burden of proof to prove beyond a reasonable doubt all the elements of the offense charged. Once the defendant raises the issue of insanity, the state has to prove beyond a reasonable doubt that the defendant was not insane at the time of the commission of the offense.

The bill adopts the position of the United States Supreme Court in Leland v. Oregon that making the insanity defense an affirmative defense is not unconstitutional and does not violate the Due Process Clause of the Fourteenth Amendment. The courts have indicated that insanity is not an element of any offense. Thus, the establishing of insanity as an affirmative defense does not relieve the state of its burden of proof of the elements of the offense. The Oregon Supreme Court in State v. Stockett, 278 Or. 637, 565 P.2d 739, 743 (1977) reiterated the U.S. Supreme Court:

"...the existence or nonexistence of legal insanity bears no necessary relationship to the existence or nonexistence of the required mental elements of the crime. For this reason, Oregon's placement of the burden of proof of insanity on Leland,...did not effect an unconstitutional shift in the state's traditional burden of proof beyond a reasonable doubt of all necessary elements of the offense."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2271-82 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 Cayetano did not concur.

SCRep. 385-82 Judiciary on S.B. No. 2659-82

The purpose of this bill is to require that service by publication on defendants in quiet title actions be made by publishing notices in an English language newspaper with statewide circulation when defendants are unknown or when known defendants do not reside within the state or cannot be served within the state.

Presently, notice is only required to be published in newspapers having circulation in the circuit in which the action has been instituted. Your Committee finds that while most quiet title actions occur on the neighbor islands, the majority of heirs to the lands claimed reside on Oahu. Your Committee also finds that in order to maximize proper notice, publication should be made in English language newspapers instead of foreign language newspapers as is allowed at present.

Your Committee has amended the bill to make technical, nonsubstantive changes to section 1 of the bill.

Your Committee has further amended the bill to change the law relating to adverse possession by requiring that anyone claiming land by adverse possession must show that he or she acted in good faith under claim of right or color of title.

Your Committee is aware that title by adverse possession frequently has its origin in a trespass, and that a great deal of unused land here in Hawaii has been acquired without any color of title. In some jurisdictions, the element of "good faith" has been found to be a necessary element of any claim or color of title relied upon in cases of adverse possession. However, in most other jurisdictions, "good faith" is said to be unnecessary. Your Committee

believes that "good faith" should be required on the part of any claimants and that the claimants must believe that they have some claim of right, title or interest in or to the lands, and that something must exist upon which such belief of claim is based.

Black's Law Dictionary, in part, defines "good faith" as an "intangible and abstract quality with no technical or statutory meaning." However, many courts have construed the term and in any case what is "good faith" in a person claiming property is a question for the jury. Accordingly, your Committee has not provided a definition for the term "good faith." That should be left for the courts.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2659-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2659-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 386-82 Judiciary on S.B. No. 2550-82

The purpose of this bill is to amend Chapter 134 relating to firearms and ammunition.

The bill mandates the police departments to waive fingerprinting and photographing of applicants for permits to acquire firearms, whose fingerprints and photographs are on file. Provisions also include the exemption of federally licensed firearms dealers from the ten-day waiting period for permits to acquire firearms. The police may grant a permit before the ten-day waiting requirement to persons who have previously obtained permits. Finally, the bill deletes requirements for minors to obtain permits for target shooting or hunting.

Your Committee amended the bill by deleting the provision which would mandate the police to waive subsequent fingerprinting and photographing of applicants who have previously obtained permits to acquire firearms. Your Committee finds that the police should retain the discretion to re-take fingerprints or photographs if they feel it is necessary.

Additionally, in maintaining the proper safety of the public from the use of firearms, your Committee finds that the provision to delete the requirements for minors to obtain permits for target shooting or hunting is not in keeping with last year's legislative intent of Act 239. Thus, your Committee deleted this provision from the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2550-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2550-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 387-82 Judiciary on S.B. No. 2147-82

The purpose of this bill is to strengthen the penalties for anyone convicted of driving a vehicle while under the influence of intoxicating liquor.

The bill provides that a person convicted of driving under the influence of intoxicating liquor for the first offense shall be sentenced to a fourteen-hour minimum alcohol abuse rehabilitation program, a fine between \$250 and \$1,000 or equivalent time in community service work, and forty-eight hours imprisonment or a ninety-day suspension of license. For an offense occurring within five years of a prior conviction, a sentence of 150 hours of community service work, a fine between \$250 and \$1,000, ten days imprisonment, and a suspension of license for one year shall be imposed. For an offense occurring within five years of two prior convictions, a period of imprisonment between thirty days and one year and permanent revocation of the driver's license, or voluntary commitment for ninety days to a live-in alcohol abuse treatment facility and a suspension of license for a period of five years shall be imposed.

In specifying a sentence of a certain number of hours of community service, it is your Committee's intention that the service be performed in assistance of a program which deals with some phase of the rehabilitation or care of victims of alcoholism, if such programs will accept help from those sentenced to community service.

The bill further provides that for a person convicted of driving while his license is suspended or revoked a fine between \$250 and \$1,000 and for the first conviction, a mandatory minimum term of imprisonment of ten days or for any subsequent conviction, a mandatory minimum term of imprisonment of thirty days shall be imposed.

Finally, the bill provides that the penalty for a person improperly refusing to submit to a blood or breath test shall be the permanent revocation of that person's driver's license instead of the current six month revocation. Your Committee amended the bill by deleting a permanent revocation but increasing the revocation period from the current six month period to a period of not less than twelve months.

Your Committee also made some technical, nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2147-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2147-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 388-82 Judiciary on S.B. No. 2419-82

The original purpose of this bill was to provide that no prisoner shall be released from incarceration to participate in a work furlough or similar program unless the minimum term of incarceration has been served, that moneys earned while working in such programs should be returned to the state for room and board expenses, and that notice of furlough actions be given to the prosecutors and police in the relevant jurisdiction.

Your Committee amended the purpose of the bill to provide that notice of furlough actions be given to the prosecutors and police and that moneys earned while working in furlough programs be first used to satisfy restitution, then to reimburse the state, and finally to be held in trust for the committed person. Your Committee further amended the purpose section of the bill by deleting surplusage.

Your Committee amended the bill to provide that the notice given to the county prosecutors and police chiefs be in writing at least 30 days prior to commencement of the work furlough, conditional release, or other such programs listing the conditions of such programs. This provision will give the police and county prosecutors time to determine the status of victims and witnesses affected by the release of the convicted defendant. Your Committee deleted the provision mandating that the appropriate prosecuting attorney be given the opportunity to express any concern.

Your Committee also amended the bill to provide that moneys earned from employment under such programs be first used to satisfy a restitution order and then to reimburse the state. Any moneys remaining shall be held in trust for the committed person.

Your Committee finally amended the bill by deleting the provision restricting a class A felon from participating in such programs until the minimum term of incarceration set by the Paroling Authority has been completed. This proposed restriction would have unduly infringed on the discretionary authority of the agencies involved.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2419-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2419-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 389-82 Judiciary on S.B. No. 2924-82

The purpose of this bill is to establish procedures whereby a person afflicted with a terminal condition may execute a declaration directing the withholding or withdrawal of life-sustaining procedures.

Your Committee finds that each individual has a right to accept or refuse the application of extraordinary life-sustaining procedures when suffering from a terminal condition. The provisions of this bill facilitate the exercise of that right of self-determination by establishing procedures and providing safeguards for the execution, revocation, recordation and enforcement of a declaration by a person afflicted with a terminal condition directing the withholding and withdrawing of life-sustaining procedures.

The procedures established in this bill for executing a declaration require that the declaration be made in writing, signed by or under the direction of the declarant, dated, and witnessed by at least two witnesses. The declarant must also have the document recorded at the Department of Health.

A declarant may revoke a declaration at any time upon written notice to the attending physician or Department of Health, which expresses the intent to revoke and is signed and dated.

An attending physician who has received notice of a qualified declaration but refuses to comply with the declaration is required to transfer the patient to another physician. A physician who fails to make such a transfer is subject to disciplinary proceedings for professional misconduct.

Medical personnel who in good faith act pursuant to the declaration will not be subject to criminal or civil liability or be guilty of professional misconduct.

The proposed chapter establishes criminal penalties for wrongfully tampering with a declaration or revocation of a declaration.

Further provisions of the bill clarify the effects of a declaration and the responsibility of the Department of Health regarding this proposed chapter.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2924-82, S.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 390-82 Judiciary on S.B. No. 2774-82

The original purpose of this bill was to allow for the state to be represented by the prosecutor at parole hearings determining minimum term of imprisonment and determining release on parole.

Your Committee heard testimony that the state is currently represented at the parole hearings by the Hawaii Paroling Authority. Testimony indicated that the only restriction to input of information at such hearings is based on relevancy of the information. Input by the prosecuting attorney at parole hearings is not denied if such information is relevant. Thus, your Committee amended the bill by deleting the provisions of representation by the prosecutor.

Your Committee further amended the bill by extending the Paroling Authority's period to determine the minimum term of imprisonment. Currently, the Paroling Authority must hold a hearing within six months after commitment to the custody of the Director of Social Services and Housing. The bill would extend that period to twelve months. Your Committee feels that the extension of time to twelve months will give the Paroling Authority additional time to obtain more information upon which they can base their decision.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2774-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2774-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 391-82 Judiciary on S.B. No. 2174-82

The purpose of this bill is to ban the sale and use of fireworks in this state.

Your Committee amended the bill to recognize that one of the unique features in our state today is its multi-cultural and multi-religious composition. Historically, certain cultures and religions have used fireworks in their ceremonial activities. These practices are found in their beliefs that the use of fireworks will ward off evil beings. Your Committee amended the bill to allow the use of fireworks for bona fide religious or cultural ceremonies.

Your Committee also amended the bill to allow the use of aerial fireworks for the state's celebration of our nation's day of independence.

The bill authorizes the counties or their authorized representative to grant and issue permits for only those occasions mentioned previously. Guidelines have been established to ensure the safety of property and persons in permitting special uses. The bill further allows the counties to request any additional information they may deem necessary in granting such use.

The bill allows the police and fire departments, transportation agencies and others to use flares or signals in the performance of their duties. Other exceptions include:

- The use and sale of blank cartridges for athletic and sports activities, firearms permitted under chapter 134, and explosives permitted under chapter 396; and
- The use of fireworks by defense organizations for defense purposes and the Armed

Forces or the employees of the United States Government who are authorized to handle explosives.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2174-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2174-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 392-82 (Majority) Judiciary on S.B. No. 2471-82

The purpose of this bill is to remove the power of the administrator of the Motor Vehicle Safety Responsibility Act to suspend the driver's license issued to a person who fails to pay judgment for damages arising from the ownership, maintenance or use of any motor vehicle.

Your Committee has reviewed the bill within the context of the Motor Vehicle Safety Responsibility Act (hereinafter referred to as "Act") and finds that the continued suspension and bar to the renewal of a driver's license is inequitable in certain circumstances. However, your Committee feels that the administrator of the Act should suspend the license of a person who fails to pay a judgment for damages arising from the ownership, maintenance or use of any motor vehicle.

Presently, the Act provides for the suspension of a driver's license where a person is killed or injured, or property damage to any one person exceeds \$300 in motor vehicle accident and (1) the driver or registered owner of the motor vehicle fails to deposit a security with the administrator as required in specified circumstances; (2) upon nonpayment of the judgment; or (3) upon the conviction of an offense which provides for the revocation or suspension of a license.

Where the license is suspended under the criminal provision, a license may be subsequently issued when the person furnishes and maintains proof of financial responsibility as defined in the Act. Where the license is suspended because of the nonpayment of a judgment, however, the license may be restored only if the judgment is satisfied in full or by installment agreement, or stayed, and the person gives proof of financial responsibility. Therefore, a person who does not have the resources to pay the judgment but consequently acquires adequate insurance coverage, is not allowed to drive indefinitely even though the proof of financial responsibility provision is satisfied.

The bill corrects this apparent inequity by providing for the reinstatement of a driver's license upon proof of financial responsibility in situations where the license was originally suspended because of the nonpayment of a judgment.

Your Committee has amended the bill to retain the power of the administrator to suspend the license of a person who fails to pay a judgment for damages arising from the ownership, maintenance or use of a motor vehicle. Your Committee finds that the administrator should retain this power since it is consistent with the original intent of the Motor Vehicle Safety Responsibility Act.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2471-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2471-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.
Senator O'Connor did not concur.

SCRep. 393-82 Judiciary on S.B. No. 2279-82

The purpose of this bill is to create judicial uniformity in sentencing for use of a firearm in the commission of a felony, and to severely punish those who are convicted of such a felony.

The bill provides for a mandatory minimum term of imprisonment of ten years for a person convicted of a class A felony and five years for a person convicted of a class B felony, where the person had a firearm in his possession and threatened its use or used the firearm while engaged in the commission of the felony.

The bill further provides for a mandatory minimum term of imprisonment of twenty years for a person convicted of a class A felony and ten years for a person convicted of a class B felony where the person is convicted of a second firearm felony offense.

Your Committee heard testimony that statistics and studies indicate that the use of firearms in the commission of criminal activities has progressively increased to the point where a significant percentage of felonies have involved the use of firearms.

Your Committee amended subsection (b) to replace the word "second" with the word "subsequent" to eliminate ambiguity. The word "subsequent" would account for all offenses after the first offense and would not be as restrictive.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2279-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2279-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 394-82 Judiciary on S.B. No. 2674-82

The purpose of this bill is to require the Director of Social Services to insure that each inmate serving a sentence of imprisonment spends at least forty hours per week in correctional programs.

Your Committee heard testimony that involvement in correctional programming is essential to inmates' preparation for return to society. However, your Committee is concerned about the current limitation of staffing, overpopulation and lack of program space in most facilities. Thus, your Committee amended the bill to provide that the Director of Social Services and Housing shall exert every effort to insure that each inmate spends a maximum amount of time on the programs.

Your Committee made a technical, nonsubstantive amendment to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2674-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2674-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Anderson and Yee.

SCRep. 395-82 (Majority) Judiciary on S.B. No. 2412-82

The purpose of this bill is to require the courts to provide a written opinion of its reasons for withholding a sentence of imprisonment.

Currently, the law provides that the court may exercise its discretion in withholding a sentence of imprisonment. There are enumerated grounds the court may consider in exercising its discretion. The bill provides that if a court withholds a sentence of imprisonment, the court shall provide a written opinion of its reasons for such action.

The bill also provides that one of the grounds that the court may consider in withholding a sentence of imprisonment be deleted. Your Committee feels that the fact imprisonment of the defendant entails excessive hardship to the defendant or his dependants should not be a factor in withholding a term of imprisonment.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2412-82 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 Cayetano did not concur.

SCRep. 396-82 Judiciary on S.B. No. 2449-82

The purpose of this bill is to protect the right to continue farming operations in the State of Hawaii by limiting the circumstances under which agricultural operations may be considered a nuisance.

According to the testimony and research presented to your Committee, this bill conforms to the legislation in 23 out of the 31 states which have enacted right to farm laws. This type of legislation protects the right of legitimate farmers to continue farming despite urban encroachment in their areas by providing that a court or other official cannot declare a farming operation a nuisance if certain specific conditions are met by the farming operation.

Your Committee has adopted the recommendations for changes to the bill proposed by the Department of Agriculture and the Hawaii Farm Bureau Federation. The findings

and purpose set forth in section 1 of the bill have been modified and inserted into the proposed new chapter as the first section.

The definition of "farming operation" has been amended to clarify that this chapter is intended to cover only commercial farming operations. It has also been amended to be more comprehensive in its description of farming operations.

A definition of "established date of operation" has also been added to the definition section of the proposed chapter.

References to Chapter 342, relating to air, water, noise, and solid waste pollution, have been added to the definition of "nuisance" and to section 4 of the proposed chapter. These changes in addition to other revisions in the language of section 4 clarify further the right to farm without being declared a nuisance.

Finally, section 5 of the proposed chapter allowing the court to order a losing plaintiff to pay for costs and expenses of a nuisance action, has been deleted by your Committee.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2449-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2449-82, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 397-82 Judiciary on S.B. No. 2522-82

The purpose of this bill is to provide a means for the Stadium Authority to enforce its rules for the maintenance, operation, and management of the Aloha Stadium, including rules regulating conduct, parking and traffic.

Presently, the Stadium Authority is unable to provide for the enforcement of the rules it has adopted. This bill would authorize police officers to arrest and issue citations for violations of stadium rules. Violation of any rule constitutes a petty misdemeanor.

Your Committee has made a technical amendment to this bill by deleting section 1 of the bill and subsection (a) of section 2 of the bill. In effect, this will reinsert subsection (4) back into section 109-2, Hawaii Revised Statutes. Your Committee feels that the existing language of subsection (4) of section 109-2 is adequate to empower the Stadium Authority to adopt necessary rules and is more appropriately placed in this section 109-2.

Other technical, nonsubstantive amendments have been made to the bill by your Committee.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2522-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2522-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 398-82 Judiciary on S.B. No. 2345-82

The purpose of this bill is to expand the conditions under which parental rights may be involuntarily terminated by including termination for child abuse situations, and to allow termination where a child has been judicially determined to be neglected or abused and has been removed from the parent's custody for at least one year.

Present law allows the Family Court to involuntarily terminate parental rights in certain limited circumstances, including the situation where a child has been removed from the parent's physical custody due to a court order based upon the court's finding pursuant to section 571-11(2)(A), Hawaii Revised Statutes, that the child has been neglected as to necessary care and support, or abandoned by the parent. This bill would permit termination of parental rights also in the situation where a child has been removed from the parent's physical custody due to a court order based upon the court's finding pursuant to section 571-11(2)(B), Hawaii Revised Statutes, that the child has been subjected to emotional deprivation or abuse as a result of parental failure.

Your Committee has amended this bill by deleting the proposed language "for at least one year" and reinserting the existing language "and in the foreseeable future." In order to terminate parental rights, the proposed language would require only a finding that the child has been removed from the parent's custody for a period of "at least one year" under a court order, due to parental neglect or abuse, and that the parent is "unable to provide now the care necessary for the well-being of the child." Your Committee

feels that since parental rights are such fundamentally important rights, they deserve the degree of protection presently afforded by requiring the Family Court to exercise its discretion and make a finding that a parent is "unable to provide now and in the foreseeable future the care necessary for the well-being of the child."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2345-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2345-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 399-82 Judiciary on S.B. No. 2573-82

The purpose of this bill is to amend Section 803-5, Hawaii Revised Statutes, to clearly specify that the element of probable cause is sufficient to justify an arrest without a warrant by a police officer.

Section 803-5 states that an officer may arrest without a warrant "such persons as may be found under such circumstances to justify probable cause." The Office of the Prosecuting Attorney testified before your Committee that the inclusion of the words "as may be found under such circumstances" has caused confusion within the courts. According to the Prosecuting Attorney, a circuit court has interpreted this language to mean that the defendant must physically be somewhere or in a particular situation at the time of arrest in order to establish probable cause.

Your Committee notes that the Hawaii Supreme Court has made numerous rulings where probable cause, itself, was sufficient to justify a warrantless arrest. (See State v. Lloyd, 61 Haw. 505; State v. Barnes, 58 Haw. 33; State v. Gustafson, 55 Haw. 65; State v. Chong, 52 Haw. 226; and State v. Teixeira, 50 Haw. 138.)

Your Committee also finds that the element of probable cause has been well defined by the courts. For example, in State v. Lloyd, the Supreme Court of Hawaii has ruled that:

Probable cause to arrest exists when the arresting officer has reasonable grounds to believe, from the facts and circumstances personally known to him, or of which he has trustworthy information, that the person has committed or is committing an offense.

Your Committee believes that the interpretation of the language contained in Section 803-5 by the circuit court is contrary to the intent of the statute. The bill clarifies the intent by deleting the phrase "as may be found under such circumstances to justify." The bill provides that a police officer may make a warrantless arrest when the officer has probable cause to believe that a person has committed an offense. This provision complies with the court rulings as well as clarifies the confusion.

Your Committee made technical, nonsubstantive changes to the bill.

Your Committee is in accord with the intent and purpose of S.B. No. 2573-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2573-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 400-82 (Majority) Judiciary on S.B. No. 2463-82

The purpose of this bill is to provide that any public utility company which publishes general first aid information without remuneration shall not be held liable for civil damages arising from the publication, except when the utility company is grossly negligent.

Your Committee amended the bill by making nonsubstantive, technical changes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2463-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2463-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.
Senator O'Connor did not concur.

SCRep. 401-82

Judiciary on S.B. No. 2756-82

The purpose of this bill is to provide that Admission Day holiday shall be celebrated on Tuesday, August 21, 1984 instead of the regularly designated third Friday of August. This holiday shall apply to the year 1984, only, in celebration of the 25th Anniversary of Hawaii's statehood.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2756-82, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 402-82

Judiciary on S.B. No. 2467-82

The purpose of this bill is to amend Sections 134-7, Hawaii Revised Statutes, relating to ownership of firearms and ammunition.

This bill prohibits persons against whom a complaint has been filed for the commission of a felony or any violent crime, or for the illegal sale of any drug, from owning or possessing firearms or ammunition. Currently, a person under indictment is prohibited from owning or possessing a firearm. Since indictment and complaint are equivalent forms of charging, the bill does not change the intent of the current law.

Your Committee has amended this bill by amending Section 134-8 to further prohibit the ownership, possession, sale or transfer of certain types of ammunition.

Your Committee is aware that technological advancements have made available for sale ammunition, commonly known as "KTW bullets" which are designed for its high penetration capabilities. These bullets have the ability to pierce effortlessly through several slabs of metal while retaining its lethality. These bullets are also very susceptible to ricocheting or exiting a person and fatally wounding another. Your Committee is also aware of the availability of bullets which are specially coated, usually with teflon, which are designed to explode upon impact.

Your Committee feels that these types of ammunition pose a serious threat to the safety of the general public and should, therefore, be banned.

Your Committee is in accord with the intent and purpose of S.B. No. 2467-82 and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2467-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 403-82

Judiciary on S.B. No. 2506-82

The purpose of this bill is to prohibit the use of badge, insignia, emblem, device, label, certificate, card or writing which may falsely convey that the person using it has the authority of a peace officer.

The bill provides that it shall be a misdemeanor for a person to knowingly wear, display, exhibit, or use or for a person to knowingly make, sell, loan, give or transfer to another, any badge, insignia, emblem, device, or any label, certificate, card, or writing which would deceive an ordinary reasonable person.

Your Committee amended the bill by deleting the word "ordinary." The standard of a reasonable person would be sufficient.

Your Committee further amended the bill by adding the phrase "except as used on emergency vehicles" to exclude other emergency vehicles from requiring to get the approval of the chief of police.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2506-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2506-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 404-82

Judiciary on S.B. No. 2505-82

The purpose of this bill is to prohibit the unauthorized use of blue lights on motor vehicles, motorcycles, motor scooters, bicycles and mopeds.

Your Committee heard testimony that there have been incidents where the citizenry of this state have been deceived by persons impersonating law enforcement officials. These deceptions resulted from the unauthorized use of blue lights which citizens have grown to respect and obey as representing law enforcement.

Your Committee amended the bill by deleting the phrase "except for law enforcement vehicles" and substituting the word "unless". This amendment would allow other vehicles to use blue lights where authorized and approved by the chief of police of the county in which the vehicle is operated.

Your Committee on Judiciary is in accord with the intent and purpose of S. B. No. 2505-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2505-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 405-82 Ecology, Environment and Recreation on S.B. No. 2343-82

The purpose of this bill is to clarify the hazardous waste management responsibilities of the Department of Health by current law to include language that explicitly enables the director of health to regulate and permit facilities which treat, store and dispose of hazardous waste. This bill would also allow the director of health to impose financial responsibility requirements on facilities which treat, store and dispose of hazardous wastes.

Current law does not include specific references to hazardous waste pollution in the state. Because of the nature of hazardous waste and the effects that such material would have upon the state's environment, proper procedures concerning the treatment, storage, transfer and disposal of this material are needed (as there is for garbage, refuse and other forms of discarded solid matter). Your Committee shares the concerns expressed by the Department of Health, and agrees that provisions which address this problem are required.

The Hawaii Sugar Planters Association, in testimony presented before the Committee, made several recommendations by adding or changing language in this bill. The Department of Health reviewed the HSPA suggestions and has advised your Committee of its agreement to having these changes made.

Your Committee has amended this bill by including solid waste pollution, including hazardous waste pollution, to the definitions under Section 342-1. Also, the definition for hazardous waste under Section 342-51 has been amended to conform to the federal definition as contained in the Resource Conservation and Recovery Act of 1976.

Your Committee has also amended this bill by correcting typographical errors contained in S.B. No. 2343-82.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2343-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2343-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 406-82 (Majority) Ecology, Environment and Recreation on S.B. No. 1893

The purpose of this bill is to provide for the establishment of cultural live-in parks within the state park system.

Your Committee received testimony from both the Office of Hawaiian Affairs and the Department of Land and Natural Resources on this subject and was advised of their support of the intent and purpose of this bill. Testimony was also received from Ahahui Ohana Moku Anuenuue, an organization that is working towards the establishment of a cultural live-in park so that Hawaiian traditions and culture may be preserved and perpetuated.

In recent years, people of Hawaiian ancestry have actively worked to preserve and protect the traditions, the history, and the culture of their heritage. It is important that the culture, tradition and history of the Hawaiian people is preserved for the appreciation and education of present and future generations of this island community.

The establishment of a cultural live-in park would be a step towards achieving this goal. It would provide a place where the community might gather to learn of traditional native Hawaiian technologies and activities, historic land use patterns, and family structure.

Your Committee has amended this bill to provide the Department of Land and Natural Resources with jurisdiction over the establishment of cultural live-in parks within the state park system and to provide for the organization, management and operation of such a program. The Office of Hawaiian Affairs would serve in an advisory capacity to the department in the establishment and management of live-in parks.

This bill has also been amended by elimination of all provisions which were to be included in chapter 10. Your Committee finds that the latter provisions were repetitious and not essential.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1893, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1893, S.D. 2.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 407-82 Housing and Hawaiian Homes on S.B. No. 2328-82

The purpose of this bill is to prevent the assessment of attorneys' fees against complainants who have unsuccessfully filed discriminatory housing charges with the Department of Regulatory Agencies.

Presently, in cases decided against a complainant, the respondent is entitled to recover attorneys' fees, not to exceed \$100, from the complainant. This provision discourages the reporting of unfair housing practices.

This bill would bring state law into conformance with the Federal Fair Housing Law, Title VIII of the Civil Rights Act of 1968.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2328-82, 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. 408-82 Housing and Hawaiian Homes on S.B. No. 2809-82

The purpose of this bill is to provide the director of regulatory agencies with the authority to exempt a subdivision from chapter 484 if the plan of promotion and distribution is primarily directed to local clientele.

Your Committee amended the bill by retaining the phrase "of one hundred or fewer lots, parcels, units, or interests from this chapter" in section 484-10(g) which had been deleted and by adding the following phrase: "provided that where the subdivision is subjected to approval by a county in Hawaii of construction plans and final approval, the subdivision shall automatically be exempt and no application for exemption need be submitted."

The purpose of this amendment is to avoid duplication between state and county agencies, both of which have regulations concerning subdivisions.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2809-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2809-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 409-82 Housing and Hawaiian Homes on S.B. No. 2494-82

The purpose of this bill is to provide a 180-day eviction notice requirement for elderly, handicapped, disabled, and low-income tenants in the event of displacement due to either demolition or conversion to condominium.

The bill extends the present 120-day eviction notice requirement for those tenants under a rental agreement and also extends the present 90-day eviction notice requirement for those tenants under a month-to-month tenancy.

The Office of Consumer Protection testified in favor of this bill but recommended adding a definition for "very low-income family" to the bill or making reference to an existing state statute rather than making reference to section 8 of the United States Housing Act of 1937. The office felt that it would facilitate its efforts to properly advise landlords and tenants of the eviction notice requirements.

Your Committee supports the recommendation made by the Office of Consumer Protection and finds that making reference to chapter 111, Hawaii Revised Statutes, is more appropriate than making reference to section 8 of the United States Housing Act of 1937 for the definition of "very low-income family".

Your Committee has amended the bill by designating that "very low-income family" be defined under chapter 111 and deleting reference to section 8 of the United States Housing Act of 1937.

Your Committee has further amended the bill by making a technical, nonsubstantive amendment.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2494-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2494-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 410-82 Housing and Hawaiian Homes on S.B. No. 2488-82

The purpose of this bill is to allow two or more unrelated elderly persons to live together in an elderly housing project.

Your Committee received testimony from the Consumers' Housing Task Force which pointed out that while there is no restriction on unrelated elderly sharing units in federally funded housing projects, this restriction exists in the statute on state-funded housing projects. Since many elderly live on fixed incomes, sharing lodging and food costs is often very helpful. In addition, much of the loneliness experienced by the elderly may be avoided if they are allowed to share their dwelling unit with other elderly persons.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2488-82, 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. 411-82 Housing and Hawaiian Homes on S.B. No. 2455-82

The purpose of this bill is to require the state land use commission to give priority to proposals which provide affordable housing over proposals for other residential development in proposals to reclassify agricultural lands to urban use.

While the conservation of agricultural lands is recognized as a high land use priority, in cases where agricultural lands are to be rezoned for urban use, primary consideration should be given to affordable housing projects.

The city and county of Honolulu department of housing and community development testified in support of this bill but suggested a change in the proposed definition of "affordable housing", which is defined in terms of the purchase price of the dwelling unit which relates to a percentage of the median family income.

The department recommended that the definition be amended so that it is determined by prices established by the Hawaii Housing Authority in the management of the state Hula Mae Program.

Your Committee adopted the recommendation of the city and county of Honolulu by amending the definition of "affordable housing" in section 2 of the bill to read as follows:

"For purposes of this section, "affordable housing" means dwelling units for which the purchase price is within the sales price limits for new and existing housing used by the Hawaii Housing Authority in the housing loan and mortgage programs under part II of chapter 356, in accordance with the federal Mortgage Subsidy Bond Tax Act of 1980, P.L. 96-499."

The purpose of this amendment is to conform the definition used in this bill with the existing definition used by the Hawaii Housing Authority in its Hula Mae Program.

Your Committee has also made nonsubstantive, technical changes.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2455-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2455-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 412-82 (Joint) Housing and Hawaiian Homes and Consumer Protection and Commerce on S.B. No. 2496-82

The purpose of this bill as received is to require disclosure of estimates of projected sales prices of condominiums. Your Committees have expanded the purpose to include further disclosures relating to initial sales of condominiums.

Testimony submitted by the president of the Real Estate Commission recommended that the requirement of disclosure of estimated sales prices be placed in the section on disclosure requirements of the chapter on Horizontal Property Regimes which would require the estimates be included in the Disclosure Abstract that each developer or declarant, in the case of conversions, must provide to each initial purchaser, rather than in the public reports. This recommendation was made due to potential administrative delays and legal problems that the possible need for supplemental public reports for changes in price schedules might create. The testimony also recommended clarification that these estimates be updated periodically and that subsequent changes will not require supplementary public reports; and that further disclosure include the name of the original sales agent and estimates of lease rent terms.

Pursuant to this testimony your Committees have amended the bill as follows:

- (1) Changed the section amended from section 514A-36, Hawaii Revised Statutes, Public reports and issuance fees, to section 514A-61, Hawaii Revised Statutes, Disclosure requirements;
- (2) Required that the estimates of projected sales prices be updated periodically as determined by commission rules, and not requiring supplementary public reports for subsequent changes in the estimates;
- (3) Requiring disclosure of the name of the original sales agent and of estimates of lease rent terms including amounts and time periods.

Your Committees on Housing and Hawaiian Homes and Consumer Protection and Commerce are in accord with the intent and purpose of S.B. No. 2496-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2496-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Anderson and Soares.

SCRep. 413-82 Housing and Hawaiian Homes on S.B. No. 2609-82

The purpose of this bill is to allow group living in residential areas of elderly, handicapped, developmentally disabled, and totally disabled persons; provided that the facility is properly licensed and provides housing for not more than eight such persons and two managers.

Testimonies in support of this bill were received from the lieutenant governor, the State Planning Council on Developmental Disabilities, the Consumers' Housing Task Force, the Housing Consensus Alliance, the Hawaii Association for Retarded Citizens, and the Commission on the Handicapped. They recognized the need for clarification of some issues but testified that this bill would provide a necessary service for special needs people.

There was some concern expressed by the Departments of Health and Social Services and Housing on the integration of the proposed program into existing care systems. Specific problems were identified:

1. The bill does not clearly specify the program intent of the group living facility and whether a social service or treatment component is required;

2. The bill does not address the specific conditions under which licensure is to be sought.

Your Committee has amended this bill as follows:

1. Adding a section defining the intent of the proposed program to read as follows:

"Findings and purpose. Present law limits the number of residents in special group homes to a level which is economically unfeasible. This Act, by allowing eight unrelated adults to live in a group home, will allow special needs people a chance to live independently in their own community."

2. Amending the sections requiring the director of health and the Department of Social Services and Housing to adopt rules for the licensing of care homes and adult family boarding homes, respectively, by adding a proviso that such rules in areas zoned for residential use shall allow group living, as defined by the bill as received.

3. Adding a new section to county zoning law disallowing any prohibition on such group living in areas zoned for residential use.

The purposes of these amendments is to address the questions brought up by the Departments of Health and Social Services and Housing and other possible objections.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2609-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2609-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 414-82 Housing and Hawaiian Homes on S.B. No. 2493-82

The purpose of this bill is to require fiduciaries which administer nonpublic pension funds to invest some of the funds in certain first mortgages on residential real estate.

In addition to requiring investment in residential real estate mortgages, this bill establishes certain criteria for such investments. The bill also provides that such investments shall be considered prudent provided that the investments are made with honesty and fidelity.

The Council of Presidents submitted testimony in support of this bill, noting that it will greatly strengthen the local finance markets for residential housing and it will keep local funds within the state, thereby reducing the need to go outside the state for capital.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2493-82, 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. 415-82 Housing and Hawaiian Homes on S.B. No. 2454-82

The purpose of this bill is to prohibit discrimination in real property transactions because of age or parental status.

Presently chapter 515 prohibits discriminatory practices in real estate transactions because of race, sex, color, religion, marital status, ancestry or physical handicap. This bill expands the chapter to protect several groups who are discriminated against because of age and parental status, particularly the elderly and parents of minor children.

Your Committee has amended the bill by making technical amendments which have no substantive effect.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2454-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2454-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 416-82

Judiciary on S.B. No. 2306-82

The purpose of this bill is to correct technical errors appearing in various portions of the Hawaii Revised Statutes (hereafter "H.R.S.") which have resulted in inconsistencies, redundancies, unnecessary repetition, and lack of clarity.

This bill, as received by your Committee, proposes amendment or repeal of twenty-seven separate and unrelated sections of the H.R.S. The proposals originate from the legislative directive contained in section 23G-20, H.R.S., which mandates the revisor of statutes to conduct a continual review of the laws of the state for the purpose of removing inconsistencies, redundancies, unnecessary repetition, and to improve their clarity.

Your Committee has made two amendments, which are discussed with the sections to which those amendments have been made.

Section 1 amends section 26-16, H.R.S., by changing reference to the number of members of the Board of Agriculture from seven to eight. The board does, in fact, consist of eight members. Your Committee has amended this section to make it clear that the chairperson of the Board of Land and Natural Resources is one of the eight members on the board, and not an additional ninth member.

Your Committee has declined to also amend the section by deleting the historical language in the last paragraph (proposed subsection (e)) of the section. Your Committee feels the inclusion of this proposed amendment may raise legal problems with respect to whether such a change to the existing law is within the scope of the title of the bill. As such, your Committee feels that such a change would be more appropriate in the form of a housekeeping bill submitted during the next session of the Legislature.

Section 2 amends section 26-17, H.R.S., pertaining to the Department of Hawaiian Home Lands by changing the stated number of commission members from seven to eight. L 1977, c 124, amended section 202(a) of the Hawaiian Homes Commission Act of 1920 to change the composition of the commission to eight members, but did not similarly amend section 26-17.

Section 3 amends section 39A-116, H.R.S., relating to special purpose revenue bonds to assist processing enterprises. The last paragraph of that section refers to a legislative determination that powers exercised by the Department of Budget and Finance pursuant to part IV of chapter 39A constitutes assistance to a "manufacturing enterprise". Section 3 changes the term to "processing" enterprise, thereby making the paragraph consistent with the rest of part IV.

Section 4 amends section 39A-208(b), H.R.S., pertaining to special purpose revenue bonds for utilities, by inserting the word "revenue" into the existing term "special purpose bonds". The context of the subsection indicates that the Legislature clearly intended to refer to "special purpose revenue bonds", and this bill corrects the omission.

Section 5 amends section 42-6(a), H.R.S., by deleting brackets placed around the reference to section 42-5(c) by the revisor of statutes. Section 42-6(a), as enacted in L 1981, c 207, required that requests for funds, grants, subsidies, or purchase of service agreements be "reviewed in accordance with section 42-5(d)", a non-existent subsection. Section 42-5(c) contains review procedures for requests. The revisor, by statutory authority, corrected the reference and indicated the correction by use of brackets.

Section 6 amends section 88-122 by deleting brackets placed around the word "year" in the last sentence of this section. L 1981, c 201 (which becomes effective on July 1, 1982), had amended this section but omitted the word "year". The revisor, under statutory authority, added the word and indicated the change by use of brackets. This section of the bill does not take effect until July 1, 1982, the date upon which the Act omitting the word also takes effect.

Section 7 amends section 134-7(c)(1), H.R.S., by adding a reference to section 712-1240. L 1981, c 239, amended section 134-7 relating to firearms. In so doing, Act 239 included the words "intoxicating compound as defined in section 712...". The H.R.S. does not contain a section 712, but the term "intoxicating compounds" is defined in section 712-1240.

Section 8 amends section 150-41, H.R.S., by deleting the reference to the \$35,000 appropriated out of general revenues to the seed distribution revolving fund. This provision is contrary to Article VII, section 11, of the state constitution, which provides that all appropriations from general obligation bond funds and general funds be for specified periods not to exceed three years. The section also updates the reference to the "college

of tropical agriculture" by referring to the "college of tropical agriculture and human resources".

Section 9 amends section 188-23(b), H.R.S., by deleting brackets placed around the words "Piscidia", "purpurea", and "Wikstroemia". The words are the names or parts of names of plant substances which cannot be used for purposes of taking fish, and were misspelled in L 1981, c 85, section 23, which enacted them. The revisor, by statutory authority, corrected the misspellings and indicated the correction by use of brackets.

Section 10 amends section 199-4, H.R.S., by deleting brackets placed around the word "may" in the first sentence of the second paragraph. In amending that sentence, L 1981, c 226, substituted the word "any" for the word "may" so that the sentence read: "An enforcement officer, upon arresting any person...any immediately take the person...". (emphasis added). The revisor corrected the reference to read "may" and indicated the correction using brackets.

Sections 11 and 12 amend sections 206J-3 and 206J-12, H.R.S., respectively, relating to the Aloha Tower Development Corporation. Section 206J-3 was amended by deleting brackets placed around "25'" in course 23 at the end of the property description. L 1981, c 236, substituted the designation for inches ("") in place of the designation for feet ('). Section 206J-12(a) was amended by deleting brackets placed around the words "board members". Act 236 had referred to the board members as "commissioners" in that subsection only. All other references to the members of the corporation's board of directors were to "board members". In both sections, the revisor, by statutory authority, corrected the references and indicated the corrections using brackets.

Section 13 amends section 286-5, H.R.S., by deleting reference to the director of transportation as a member of the highway safety council. L 1967, c 214, provided that membership on the council include the state highway safety coordinator and the director of transportation. L Sp 1977 1st, c 20, section 12, changed all references to the "state highway safety coordinator" to read "state director of transportation". As a result, membership on the council now contains two references to the director of transportation.

Section 14 repeals as functus, section 292-11, H.R.S., which establishes an odometer enforcement revolving fund. Your Committee has deleted this section of the bill upon the recommendation of the department of agriculture, which is attempting to consolidate the provisions of chapter 292, along with two other chapters.

The remaining sections of this bill are renumbered, and are discussed in their renumbered order.

Section 14 amends section 298-5, H.R.S., by amending the title of the section to fully reflect its contents, and by deleting brackets placed around the word "section" in the last sentence of subsection (d). Section 298-5 concerns subjects in two areas (1) special fees and charges for students in public schools; and (2) standards for public schools and groupings of students. The provisions relating to standards and groupings have been placed in a new subsection and reflected in the title of the section.

L 1978, c 84, amended section 298-5 to provide for the collection of moneys from students who lose, destroy, break, or damage school books. The revisor, by statutory authority, changed the word "act" to read "section", in part because section 298-5 was the only section amended by Act 84. The revisor indicated the correction using brackets.

Sections 15 and 16 amend sections 326-25 and 326-26, H.R.S., respectively, to change references to "leprosy" to "Hansen's disease". L 1981, c 185, amended chapter 326 by changing most of the references to "leprosy" contained therein to "Hansen's disease". The changes were not made in sections 326-25 and 326-26. Section 16 deletes the brackets placed around the words "Hansen's disease" by the revisor, who corrected the reference, and indicated the change using brackets.

Section 17 amends section 346-37(a), H.R.S., by substituting "financial assistance" for "money payments" in the first sentence. L 1979, c 52, section 5, substituted "financial assistance" for "money payments" throughout the chapter. L 1980, c 206, subsequently amended section 346-37, but in so doing, inserted the word "money payments" in subsection (a).

Section 18 amends section 353-17, H.R.S., by deleting an obsolete reference to section 326-8, which was repealed by L 1969, c 152, section 11, and by substituting the terms "Hansen's disease" and "Hansen's disease sufferer" in place of "leprosy" and "leprosy patient". L 1981, c 185, intended to change the references to "leprosy" and "leprosy patient" throughout the H.R.S. Most of the appropriate changes were made in chapter 326, but were not made in section 353-17.

Your Committee received testimony suggesting that the references to "Hansen's disease sufferer" be changed to "Hansen's disease patient". Your Committee has declined to incorporate this change because to do so would make the section inconsistent with chapter 326. This would be directly contrary to the purpose of this section, which is to make section 353-17, H.R.S., consistent with chapter 326.

Section 19 amends section 383-170, H.R.S., by deleting the brackets around "383-168(12)" which contains the definition of the term "exhaustee". The language had earlier referred to section 383-168(11) and thus did not reflect the effect of L 1977, c 148, which renumbered the paragraphs in section 383-168. The revisor, by statutory authority, corrected the reference and indicated the change using brackets. This section has also been substantially reorganized. By dividing the lengthy section into a series of subsections, future amendment will be facilitated.

Section 20 amends section 406-1 by substituting "406-1.5" in place of "406-2". L 1981, c 48, transferred the functions in section 406-2 (referred to in section 406-1), into a newly created section 406-1.5.

Sections 21 and 22 amend sections 408-8 and 408-14, H.R.S., respectively, by dividing them into subsections. Neither section is divided into subsections, but have numbered paragraphs in two separate places within the same section. This can lead to ambiguous or erroneous references--for example, a reference to section "408-14(1)" could mean either one of two identically numbered paragraphs.

Section 23 amends section 417-3, H.R.S., by deleting the reference to affidavits referred to in section 416-15. Section 416-15 (which required that certain affidavits be sworn to by officers of the corporations) was repealed by L 1980, c 259, section 3, but the reference to that section in section 417-3 was not.

Section 24 amends section 453-11, H.R.S., by substituting "section 710-1077" in place of "chapter 729". The section refers to punishment of witnesses who refused to testify in proceedings of the Board of Medical Examiners, and provides that they be punished for contempt under "chapter 729". Chapter 729 was repealed in 1972 by the adoption of the Hawaii Penal Code. Punishment for criminal contempt is now prescribed by section 710-1077.

Section 25 amends section 577-26(c), H.R.S., adding the word "abuse" after the word "drug". L 1978, c 1979, enacted section 577-26, relating to the counseling of minors on alcohol and drug abuse matters. However, the word "abuse" was not included after the words "alcohol" or "drug" in subsection (c).

Section 26 amends section 712-1211(1), H.R.S., by deleting brackets placed around the word "he", and by adding the word "a" in paragraph (b). In amending section 712-1211(1), L 1981, c 106, omitted the word "he" before "knowingly or recklessly" in the first sentence. The revisor, by statutory authority, corrected the sentence by reinserting the word "he" and indicated the change in brackets. Act 106 also omitted the word "a" from paragraph (b), thereby changing the phrase "in such a manner" to read "in such manner".

This bill also makes technical and nonsubstantive amendments throughout the respective sections.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2306-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2306-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Anderson and Yee.

SCRep. 417-82 (Majority) Consumer Protection and Commerce on S.B. No. 1127

The purpose of this bill is to help alleviate the shortage of rental apartments units in the state by limiting the number of apartment units which can be converted to condominiums.

There is a shortage of rental units in the state caused, in part, by the conversion of apartments to condominiums. Although renters are given the first right to purchase converted units, this right has been illusory because of high interest rates, increasing costs of real estate and inflation.

This bill would limit the number of residential apartments which may be converted in a given calendar year to a maximum of two thousand units based on the dwelling unit

vacancy rate at the time of the proposed conversion.

Your Committee finds that the housing needs of each county are unique and that the limitation should be imposed on a county by county, rather than a state-wide basis. Your Committee further finds that each county should be given the option of imposing its own limits. The bill has been amended to conform with these findings.

Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1127, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1127, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.
Senator Soares did not concur.

SCRep. 418-82 Consumer Protection and Commerce on S.B. No. 1630

The purpose of this bill is to require timesharing and vacation rental apartments to pay fifty per cent more in maintenance fees than residential apartments.

Presently, all condominium or mixed use apartment projects are assessed maintenance fees in proportion to the common interest appurtenant to their respective apartments. This bill would require specified apartments within a condominium to pay a more equitable share of the maintenance costs of the project. Specifically, timesharing and vacation rental apartments would be required to pay fifty per cent more in maintenance fees than residential apartments.

Further, this bill would also require project developers to provide the information published under section 514A-102 to all prospective purchasers. Presently, developers are only required to publish the information twice in a newspaper of general circulation.

For the purpose of requiring specified apartments within a mixed use project condominium to pay increased maintenance fees, your Committee has amended the bill by inserting the proposed language into section 514A-15 relating to maintenance fees instead of section 514A-102 which refers to announcements and publications.

Your Committee has also amended the bill by deleting the inclusion of "residential unit" in determining the type of project subject to section 514A-102.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1630, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1630, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 419-82 Consumer Protection and Commerce on S.B. No. 1281

The purpose of this bill is to allow and encourage the mass merchandising of insurance through employers or trusts and other associations.

This bill provides that payment of premiums by payroll deduction or through an association or trust does not constitute the collection of premiums and that the dissemination of information about such premium payment methods does not constitute solicitation. Accordingly, these methods of mass merchandising insurance will be exempt from certain regulation under chapter 431, for example, from licensure requirements.

The cost savings engendered by these mass merchandising methods are specifically provided for in sections 2 and 3, of the bill by allowing preferred rates for persons in or employees or members of firms, trusts, or corporations. However, this bill retains the prohibition of preferred rates for any such groupings made solely and expressly to obtain insurance.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1281 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, Henderson, Soares and Yee.

SCRep. 420-82

Consumer Protection and Commerce on S.B. No. 2176-82

The purpose of this bill is to allow industrial loan companies to retain the full amount of loan fees or points paid by borrowers who prepay their loans.

Your Committee heard testimony that loan fees or "points" for real estate loans are normally considered fully earned and non-refundable by all major financial institutions. Although the present practice is to retain the points, the present law is silent regarding situations where a loan is prepaid.

This bill would allow industrial loan companies to retain all points and fees even if the borrower pays off the loan before maturity.

Your Committee finds that borrowers who prepay their loans may be assessed fees and costs which together with interest charges (which include the loan fees) exceed the twenty-four per cent maximum.

Therefore, your Committee has amended the bill to authorize retention of the loan fees upon prepayment only to the extent that such retention does not cause the total cost of prepayment to exceed the twenty-four per cent maximum interest rate.

The bill has also been amended to require industrial loan companies to provide with every loan contract, a full and complete disclosure of all costs incurred by the borrower in prepaying the loan.

Your Committee has also amended the bill by making technical and language changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2176-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2176-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 421-82

Consumer Protection and Commerce on S.B. No. 2177-82

The purpose of this bill is to permit industrial loan companies to use the more economical and efficient method of extending rather than redocumenting loans that were made prior to May 31, 1980, and which mature between that date and July 1, 1985.

In 1980, pursuant to Act 197, Session Laws of Hawaii 1980, the ceiling on simple interest rates for industrial loan companies was raised from eighteen to twenty-four per cent. Borrowers who made or contracted for loans prior to the enactment of this law were protected by specific language prohibiting rate increases on these loans.

Under the present law, when borrowers want to extend their matured loans because of insufficient cash to pay the balance due at maturity, industrial loan companies are unable to do so unless the loan is completely rewritten and redocumented.

Redocumenting a loan is expensive and time consuming for both borrower and lender. Depending on the complexity and amount of the loan involved, this can take from one week to several months and may cost the borrower several hundred dollars. Furthermore, a complete redocumentation may not be possible at times because other mortgagees, lessors, or third parties may refuse to consent to such action. On the other hand, loan extensions require one or two days and may cost the borrower from \$10 to \$75 in additional expenses. The savings and convenience to both borrower and lender are material.

This bill would remedy this situation by allowing industrial loan companies to extend loans made or contracted for prior to May 31, 1980 and which mature between that date and July 1, 1985.

Your Committee notes that the effect of this law is not to allow industrial loan companies to charge any higher interest rates than they otherwise would charge. If a loan is rewritten and redocumented as required under the present law, or extended as provided for by this bill, the rate of interest would be subject to negotiation between the lender and borrower. This bill merely allows for a more economical method of refinancing a loan made prior to May 31, 1980.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2177-82 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2177-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 422-82 (Majority) Consumer Protection and Commerce on S.B. No. 2352-82

The purpose of this bill is to exempt certain government-employed speech pathologists and audiologists from licensing requirements while also ensuring that all speech pathologists and audiologists are qualified for their professions.

As the law is presently written, only private-sector speech pathologists and audiologists are required to be licensed. Government-employed counterparts have until December 31, 1984 to meet licensing requirements.

This bill proposes to grant licensure to any local or state government speech pathologist and audiologist engaged in the practice on December 31, 1984 as long as the person is in the employ of the respective government agency, in that capacity.

Your Committee heard testimony that, although licensing speech pathologists and audiologists was a progressive move, it would create an unnecessary and unfair hardship on those unable to comply with licensure requirements. Particularly, these are speech pathologists and audiologists who have experience to varying extents and post-baccalaureate education but not the required master's degree. Presently, these people number less than thirty statewide.

Your Committee amended this bill by changing the licensure cutoff date from December 31, 1984 to September 1, 1981. The purpose of this amendment is to "grandfather" currently employed practitioners who do not meet licensing requirements, and to prevent any new-hires from taking advantage of proactive grandfathering.

Your Committee holds to the standards of licensure which it endorsed and recommended in Act 242, Session Laws of 1981.

Your Committee has therefore further amended this bill to require that the Board of Speech Pathology and Audiology maintain accurate, up-to-date records of these exempted practitioners. The purpose of this amendment is to provide the public, in absence of a more practical method, accurate information regarding a speech pathologist and audiologist's licensure status. Furthermore, your Committee anticipates that by classifying licensed and unlicensed practitioners, the latter would be provided economic incentives for professional upgrading.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2352-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2352-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.
Senator Carpenter did not concur.

SCRep. 423-82 Consumer Protection and Commerce on S.B. No. 2388-82

The purpose of this bill is to revise chapter 514A, the Horizontal Property Regime Act, as it relates to amendment of the declaration; allocation of common expenses and profits when the declaration is silent thereon; warranties against structural and appliance defects; certain contents of the bylaws; charges, costs, and fees recoverable for violation of the declaration, bylaws, and other rules or in actions brought on association claims; and liability of grantees for accrued common expenses and assessments.

The provision of this bill relating to warranties would have mandated warranties against structural and appliance defects of greater duration than the one year of current normal practice. While the purpose of this provision is to protect the buyer, it may well escalate further the rising costs of home ownership. Your Committee has accordingly deleted item 8 of section 2 of the bill in order that further study can be done on how best to accomplish that purpose while minimizing adverse effects to the homebuying public.

Your Committee has made additional amendments to the original bill, as follows:

- (1) Deleted the proposed new language on lines 12 to 21, page 2 of the bill;

- (2) Added the words, "or bylaws", on line 7, page 3 of the bill;
- (3) Retained the words on line 9, page 5, "consistent with this chapter", proposed for repeal in the bill;
- (4) In item 4 of section 2 of the bill, deleted the proposed new language on lines 11 and 12, page 6 and inserted the sentence, "The amendment shall require the approval of only those owners whose parking stalls are affected;
- (5) In item 10 of section 2 of the bill, provided the specific staggered terms for boards of directors;
- (6) Deleted the proposed new language on lines 15 and 16, page 18 of the bill; and
- (7) Made technical, non-substantive amendments to accommodate the above changes, including the renumbering of items subsequent to the now deleted item 8 of section 2 of the original bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2388-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2388-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 424-82 Consumer Protection and Commerce on S.B. No. 2556-82

The purpose of this bill is to prohibit the future acquisition of time share properties and plans in the State of Hawaii. The bill also recognizes existing time share activities and provides for their continuation.

In its consideration of this bill, your Committee has drawn upon its extensive experience with and observation of time sharing and its related industry. The matter first received in-depth legislative attention in 1979, when versions of Senate Bill No. 1516, regarding the control and direction of time sharing, passed the Senate and the House, but differences could not be resolved in conference. The following year, Senate Bill 1516, with amendments, passed from the conference committee and became Act 186, Session Laws of Hawaii 1980. Act 186 mandated the counties to provide zoning requirements for the less traditional forms of transient visitor accommodation, set geographical limitations, required disclosures, bonding, and a five-day rescission period after signing of the contract.

Act 186 did not result in reduction of the abuses which had led in part to its adoption. To the contrary, complaints continued to flow to the Hawaii Visitors Bureau, the Department of Regulatory Agencies, the Better Business Bureau, and to legislators representing areas most heavily impacted by time sharing.

As a result in 1981, Senate Bill No. 67 was enacted as Act 81, Session Laws of Hawaii, Regular Session 1981. It contained provisions, which required those selling time share plans to be licensed under Chapter 467 as brokers and salesmen, regulated "reservation agreements," and required 24-point bold print disclosure statements on all time sharing sales offerings. Act 81 also modified certain controls, imposed by Act 186, because of constitutional considerations.

Without a protracted recitation of legislative history, your Committee avows that it has been and remains, thoroughly conversant with the many aspects of time sharing, as it has developed in the State of Hawaii. Your Committee recognizes that the industry is not devoid of merit and that responsible entrepreneurs have sought to function in a manner suitable to the desires and temperament of the residents of Hawaii and to the concerns of the Legislature, so frequently stated in the past.

An objective examination of the performance record of the time share industry taken as a whole, however, discloses a deeply disquieting pattern of evasion of legitimate controls, of rank opportunism, and of encroachment upon the privacy and interests of residents and visitors alike. The result has been a continuing litany of aversion, displeasure, and deep-seated concern. Visitors are offended by the repeated obstruction of their personal enjoyment of the many virtues and features of our island state, and have sought relief from the high pressure, slick operator techniques which, for many, have come to be indistinguishable from time sharing in Hawaii.

Residents of Hawaii, on the other hand, while similarly beset when they venture into tourist destination areas, are aware of the steady deterioration of the numbers of available

moderately priced rental dwelling units, which they attribute to the encroachment of condominium conversions made in an effort to capitalize on the burgeoning time sharing market. The impact of condominium development in support of the tourist industry was alluded to in the State Housing Plan, Technical Reference Document, Hawaii Housing Authority, DSSH, October, 1981, on page III-27, wherein was stated: "Further negative impacts should be limited by appropriate state and county actions to hold tourist condo project construction within reasonable bounds."

In the face of growing constituent concerns, overlaid by the legitimate doubts and objections of the visitors upon whom the state so heavily depends for its economic health, the Legislature is obliged to respond, as it did in 1980 and 1981, moving essentially in the field of zoning and land use management, accepting the fact that where the public interest prevails, the peripheral interest of the minority must be subordinated. The Legislature took its previous actions concurrently with repeated warnings to the time share industry that there would be reform or the likelihood of an outright prohibition. It was apparently to no avail. Compliance agreements within the time share industry were flaunted nearly as soon as they were made. Legislators became personally involved in the observation and reporting of violations of the law, for they were painfully aware that the "Paradise in the Pacific" image was being seriously eroded by the continuous clamorous, fast-buck hustle, and there was no readily evident, effective intra-industry policing of fractious peers who chose to evade the law.

Most recently, instances of concerted telephone sales campaigns directed to visitors in their hotel rooms have been reported. This action is one more flagrant violation of the law which requires the provision of written disclosure statements and the proffering of premiums and other promotional devices prior to the delivery of the sales presentation. Visitors seeking the luxury of time in the sand, sea, and sun have found such intrusion to be particularly disgusting.

These events, typical of the inexorably deteriorating condition, have combined to move your Committee to the present action, satisfied that virtually every comprehensive reasonable good-faith effort has been made over the past three years to introduce and maintain an acceptable level of control of time sharing. Your Committee is further satisfied that it has consistently placed the time share industry on notice that, short of the mandated reforms, stringent regulation would be imposed. This bill is the ultimate control, the prohibition of the future acquisition of time sharing properties and plans in the State of Hawaii, while allowing the continued existence of presently on-going time share activities.

Your Committee is satisfied beyond question that the earlier legislative actions, which might have succeeded had the industry as a whole responded adequately, represented an honest, earnest attempt to assert the controls demanded by the people of Hawaii, and that this measure is both necessary and lawful.

In this connection it should be observed that your Committee has been cognizant of and attentive to the several opinions of the Attorney General of the State of Hawaii on this and related matters, in particular the comment that the prohibition of an activity not of itself inherently unlawful may be taken only upon the establishment of a body of fact demonstrating that less stringent efforts at control, applied in good faith, have failed. As noted, your Committee is persuaded that such is the case in this instance, and that the action presented in this bill is a legitimate expression of overriding state interest contributing substantially to the public health and welfare. It is a measure addressed in part to the housing shortage, alluded to earlier in this report.

Your Committee has amended the bill to provide a more detailed findings and purpose section, believing it to be essential that a measure of this importance carry as a premise the legislative findings of fact and establishment of policy to justify the action mandated by the bill. This report is reflective of that language in the findings and purpose section of the amended bill.

Your Committee has also added a severability clause to the bill, made necessary by the fact that ongoing time sharing activities will be continued, and that therefore it is in the interest of the state to continue official oversight as provided by existing statute.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2556-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2556-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 425-82 Consumer Protection and Commerce on S.B. No. 2561-82

The purpose of this bill is to safeguard a condominium's funds against misuse or misappropriation by those persons handling the funds.

Currently, the bonding requirement for a managing agent is \$25,000, while self-managed projects are required to carry a \$10,000 bond. Your Committee finds that the current bond requirements are grossly inadequate, considering the hundreds of thousands of dollars management companies handle for its clients.

This bill proposes to require a \$100,000 fidelity bond for each of the managing agent's condominium management contracts. The bill further proposes that evidence of fidelity bonds be provided by the managing agent to the real estate commission. Self-managed projects would have their bonding requirement increased from \$10,000 to \$100,000.

Your Committee heard testimony that the proposed bonding requirements are too broad and arbitrary, and that as an alternative, a requirement based on the total number of units serviced by the managing agent multiplied by \$250 would be more equitable.

Your Committee, therefore, has amended this bill to reduce the bonding requirements to \$50,000 or \$250 for each unit serviced by a managing agent or association of apartment owners. The purpose of this amendment is to build flexibility into the bonding requirement so as to prevent undue hardship on projects with a small number of units.

Your Committee has further amended this bill to require self-managed projects to provide evidence of a fidelity bond to the real estate commission. The purpose of this amendment is to bring uniformity to bonding requirements for both agent-managed and self-managed projects.

The bill has been further amended by making certain clarifying language changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2561-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2561-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 426-82 Consumer Protection and Commerce on S.B. No. 2700-82

The purpose of this bill is to conform chapter 410, the Hawaii Credit Union Act, to the Federal Credit Union Act.

Since enactment of the Hawaii Credit Union Act in 1973, rapid changes in federal financial regulations have made it increasingly outdated. Therefore, this bill will accomplish a major modernization of chapter 410.

Your Committee heard testimony about the concerns of the Hawaii Credit Union League and the Hawaii Bankers Association. Upon consideration thereof, including a recommendation rejected by your Committee to raise the interest-rate ceiling from 18 per cent to 21 per cent, your Committee has amended the bill as follows:

- (1) The words, "and such other persons or organizations provided for in the articles of incorporation", on page 5, line 21, have been deleted;
- (2) Paragraph (5) on page 7 has been deleted;
- (3) The words, "in any form", on page 7, line 21, have been deleted;
- (4) Paragraph (5) on page 8 has been deleted;
- (5) The words, "accept demand deposits from any source, and issue notes or debentures", on page 8, lines 16-17, have been deleted;
- (6) The words, "this State, any state agency or political subdivision thereof", on page 34, lines 7-8, have been deleted;
- (7) Paragraph (4) on page 92 has been deleted;
- (8) Paragraph (10) on page 93 has been deleted;

- (9) The words, "A credit union", were substituted for "and" on page 45, line 20;
- (10) The sentence, "No loan shall bear an interest rate to exceed eighteen per cent per year on the unpaid balance; provided that interest rates on loans made or committed to before [June 5, 1980] shall not be affected", on page 45 has been retained instead of repealed; and
- (11) The effective date of the Act was changed to July 1, 1983.

Your Committee has also made technical, non-substantive changes to accommodate the above amendments, to comply with recommended drafting practices, and to correct typographical errors.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2700-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2700-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 427-82 Consumer Protection and Commerce on S.B. No. 2849-82

The purpose of this bill is to improve the regulation of secondhand dealers.

Testimony received from the Honolulu Police Department points to the rise in residential burglaries and the increase in the sale of stolen property to licensed secondhand dealers. The vagueness of the present statutory provisions have posed problems with respect to the recovery of goods from such dealers, as well as the prosecution of individuals who traffic in stolen property.

This bill would establish practicable and reasonable methods regarding recordkeeping and identification of articles received by secondhand dealers. Further, the bill requires dealers to retain all articles for a ten day period.

Your Committee has amended this bill by making the following substantive amendments:

- (1) The definition of "secondhand article" was amended by deleting the reference to "scrap" and by adding "stamps, coins, and bullion" as articles to be excluded from the definition.
- (2) The definition of "antique" was amended to provide that the item must be at least one hundred years old.
- (3) A provision was added to require that individuals who sell items to secondhand dealers provide an identification card which has a photograph.
- (4) The retention period for articles was increased from ten days to ten working days.
- (5) The right of the police to inspect a secondhand dealer's place of business, articles therein and records is clarified by specifying that the inspection is authorized for the purpose of identifying and recovering stolen property.

Your Committee has also made nonsubstantive, technical amendments. The bill was further amended by deleting specific designations of proposed sections, to permit the Revisor of Statutes to appropriately designate the sections.

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

Signed by all members of the Committee except Senator Kuroda.

SCRep. 428-82 Consumer Protection and Commerce on S.B. No. 2865-82

The purpose of this bill is to improve the procedures and powers of the Board of Medical Examiners with respect to disciplinary investigations and proceedings.

Presently, the board has numerous responsibilities regarding the regulation and review of the medical profession. In order for the board to better carry out its statutory duty of protecting the public interest, it has been suggested that the disciplinary and investigatory

functions of the board be handled by other means and methods. This bill attempts to improve the present procedures relating to those functions.

The bill enables the board by written order to delegate its investigatory and prosecutorial functions to the executive secretary of the board or the Department of Regulatory Agencies for the purpose of reducing the potential for bias in contested case hearings. Further, the board would also be able to delegate certain routine administrative tasks which do not require technical skill or expertise.

The bill also requires the director of the Department of Regulatory Agencies to appoint a medical advisory committee consisting of twenty-five physicians, for the purposes of assisting the board in its review of complaints against physicians referred for possible medical malpractice. Due to the technical nature of these cases, it is essential that the investigators assigned to review claims be able to consult with experts in the field of medicine.

Further, this bill provides for increased reporting of medical tort claims. Presently section 671-5, Hawaii Revised Statutes, requires every self-insured physician and every self-insurer providing professional liability insurance to a physician to report information on such claims to the Insurance Commission. However, there is a loophole in the law in that physicians who do not possess professional liability insurance are not required to report the information. This bill would close the loophole.

In addition, the bill requires court clerks to report any judgment or other determination of the court which finds that a physician is liable for any death or personal injury caused by professional negligence or the rendering of unauthorized professional services. The purpose of these provisions is to assist the board in detecting physicians whose actions may be in violation of chapter 453.

The bill also revises the definition of a "professional society" by eliminating the requirement that the membership comprise a majority of people in the profession. This amendment would delete an unrealistic requirement since no association of physicians meets this requirement.

The bill also specifies the type of information that must be contained in an adverse peer review decision. This amendment is necessary if the board is to review adverse decisions pursuant to its statutory mandate. Under the present statutory language of section 663-1.7, Hawaii Revised Statutes, a peer review committee need only report the mere fact of an adverse decision. Such information is, of course, insufficient for the board to properly screen or evaluate a case. The proposed language addresses this problem by specifying the information which must be included in the adverse decision.

Moreover, the board presently has difficulty in obtaining the medical records of patients whose cases were reviewed by a peer review committee because of section 624-25.5, which section prohibits discovery of "the records and proceedings" of peer review committees. It has also been suggested that the board is not entitled to such records because under section 453-8.3, Hawaii Revised Statutes, the board cannot guarantee the confidentiality of records provided by peer review committees.

This bill authorizes the director of the Department of Regulatory Agencies to subpoena documents needed by the board to review a licensee who was the subject of an adverse peer review decision subject to the condition that the information received be kept confidential by the board.

This bill also adds two new grounds for disciplinary action. Specifically, disciplinary action by another state on grounds similar to section 453-8 and conviction of a penal offense substantially related to the qualifications and duties of a physician are made grounds for disciplinary action.

Your Committee adopted the recommendations of the Department of Regulatory Agencies and the Board of Medical Examiners and amended this bill in the following manner:

- (1) Page 2, line 5, "physicians referred for possible disciplinary action" was substituted for "alleged medical malpractice claims". The purpose of this amendment is to more correctly label the nature of the action.
- (2) Page 4, section on investigation by board was rewritten to specify the type of information needed by the board, i.e., hospital records and to clarify that the information obtained by a subpoena shall be confidential.

(3) Modifications to sections 453-8.3 and 624-25.5, Hawaii Revised Statutes, were also made to ensure the confidentiality of reports and protection from discovery.

Your Committee also made non-substantive, technical amendments to the bill 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. 2865-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2865-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 429-82 Consumer Protection and Commerce on S.B. No. 2880-82

The purpose of this bill is to allow industrial loan companies to charge up to twenty-four per cent per year interest on open-end loans made or committed between May 31, 1980 and July 1, 1985.

Act 197, Session Laws of Hawaii 1980, increased the maximum interest rate that can be charged on closed-end loans made or committed after May 31, 1980 and prior to July 1, 1985, to twenty-four per cent per year. It is unclear, however, whether the present law permits the interest charged on open-end loans to be adjusted up to the twenty-four per cent rate. This bill would clarify that the interest rate charged on open-end loans made between May 31, 1980 and July 1, 1985 may be increased up to twenty-four per cent maximum, provided that the borrower is given fifteen days prior notice of the increase.

This bill would also allow the borrower to terminate the existing open-end loan and to repay the unpaid balance at the rate in effect prior to the increase.

Your Committee has amended this bill in the proposed new section 408-15(1)(3) by retaining the words "a monthly" and deleting the words "an annual". The purpose of this amendment is to keep the language of this subparagraph consistent with subsequent subparagraphs.

The bill has also been amended to increase the notification period prior to increasing the interest rate from fifteen days to thirty days. The purpose of this amendment is to give borrowers additional time to repay the unpaid balance at the rate in effect prior to the increase.

Your Committee has further amended this bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2880-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2880-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 430-82 Ways and Means on S.B. No. 151

The purpose of this bill is to provide an investment tax credit for the retail purchase of "section 38" property (as defined in section 48 of the Internal Revenue Code, as amended) used as an integral part in the agricultural production of any agricultural producer defined in section 147-1, Hawaii Revised Statutes.

Presently, there is no statutory provision for any investment tax credit in the Hawaii income tax law for agricultural producers. Your Committee finds that this bill will provide an investment tax credit equal to ten per cent of any essential equipment purchased by any agricultural producer in the state. This bill will reduce the current tax burden facing agricultural producers in the state and as a result will promote the future viability of these agricultural producers.

Your Committee, in particular, finds that the investment tax credit allowed in this bill will greatly assist the state's sugar industry, particularly during the industry's current crisis.

Your Committee has amended the bill's effective date by adding a three-year sunset provision for the investment tax credit.

Your Committee has further amended the bill by making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 151, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 151, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 431-82 Ways and Means on S.B. No. 505

The purpose of this bill is to amend section 171-36(5)(E) of the Hawaii Revised Statutes to allow the Board of Land and Natural Resources to revise the rent, if necessary, based upon the assignment and transfer consideration paid by the transferee.

Your Committee in accord with the Department of Land and Natural Resources feels that the state, as a landowner, should be able to raise the rent and share in the profit made in the transfer of a lease.

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. 505, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 505, S.D. 1.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 432-82 Ways and Means on S.B. No. 507

The purpose of this bill is to eliminate the special land and development fund and to vest the functions thereof in the public land trust fund.

Your Committee agrees that in view of the difficulty in clearly distinguishing between ceded and non-ceded lands and the fact that the great majority of income-producing land falls within the ceded category, legislation should be enacted to abolish the special land and development fund and provide for the depositing of all public land proceeds into the public land trust fund.

Your Committee has amended the bill to conform to 1981 changes in the law.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 507, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 507, S.D. 1.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 433-82 Ways and Means on S.B. No. 544

The purpose of this bill is to conform chapter 235, Hawaii Revised Statutes, (relating to the state income tax) to the federal Internal Revenue Code.

Your Committee heard this bill.

Your Committee also heard S.B. No. 2168-82, S.D. 1 ("A BILL FOR AN ACT RELATING TO TAXATION OF AGRICULTURAL ACTIVITIES") and finds that its title conflicts with the intent and purpose of that bill (concerning the taxation of agricultural and fishing activities).

Your Committee further finds that the title of this bill is broad enough so as not to conflict with the intent and purpose of S.B. No. 2168-82, S.D. 1. Therefore, your Committee finds that it would be appropriate to incorporate the contents of S.B. No. 2168-82, S.D. 1, into the body of this bill.

The purpose of S.B. No. 2168-82, S.D. 1, is to lower the general excise tax rate applied to the sale of agricultural and fishing raw materials to the same general excise tax rate applied to the sale of industrial raw materials.

Your Committee finds that this bill will reduce the general excise tax burdens currently facing the state's sugar and pineapple industries and therefore will promote the viability of these important agricultural industries.

Your Committee heard testimony from various agencies and groups in favor of the bill. Furthermore, the Department of Taxation is not opposed to the passage of the bill.

Your Committee has amended this bill by deleting the contents of the bill and inserting the contents of S.B. No. 2168-82, S.D. 1, with the following amendments to that bill:

1. Rewording section 237-4(3), Hawaii Revised Statutes, of the bill at the suggestion of many of the persons testifying to better set forth the intent of the bill.

2. By amending the bill's effective date to provide a three-year sunset provision for the amendments made by the bill and the reenactment of the provisions in effect prior to the amendments of the bill.

3. By making nonsubstantive, technical and language amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 544, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 544, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 434-82 Ways and Means on S.B. No. 553

The purpose of this bill is to amend section 235-12, Hawaii Revised Statutes, to remove the restriction which allows tax credits only for heat pumps in home water heaters so that non-residential users can participate in the tax credits for such devices and heat pumps.

Your Committee has amended the bill to include a \$3,000 ceiling on the amount of the tax credit allowed in order to prevent any unexpected revenue loss. Your Committee has also 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. 553, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 553, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 435-82 Ways and Means on S.B. No. 561

The purpose of this bill is to modify section 205-33(a), Hawaii Revised Statutes, in order to allow sand mining by the state or county governments in waters less than 30 feet deep or within 1,000 feet off-shore for the purpose of replenishing sand at public beaches.

Your Committee has amended the bill as follows:

1. Adding the word "adverse" in the section which requires that a finding be made by the proposing state or county agency that a proposed project to mine or take sand for replenishment of sand on public beaches "is in the public interest and will not have any adverse significant social or environmental impact";

2. Adding a new exception to the prohibition from the mining or taking of sand, coral, rocks, soil, or other beach or marine deposits from the shoreline area, or within 1,000 feet seaward from the shoreline, or in water of 30 feet or less in depth in the territorial ocean, which provides that the taking of sand from existing drainage pipes located in such areas is permissible;

3. Making the exception noted in (2) above to require the written permission of all governmental agencies having jurisdiction thereof; and

4. Making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 561, S.D. 1, as amended herein and recommends that it pass Third Reading in the form attached hereto as S.D. No. 561, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 436-82 Ways and Means on S.B. No. 732

The purpose of this bill is to authorize the issuance of general obligation bonds to finance projects proposed in the supplemental appropriations bills for the executive and judicial branches of government.

The bill includes the declaration of findings required by the clause in Article VII, section 13, of the State Constitution which states:

"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 outstanding, will not cause the debt limit to be exceeded at the time of issuance."

The effect of the foregoing constitutional requirement is that the Legislature must take into account the debt service on all bonds that count against the debt limit, including outstanding bonds, authorized bonds which are yet to be issued, and bonds authorized in the Act, and demonstrate that the constitutional debt limit will not be exceeded at the time the bonds are issued.

The required declaration in Section 1 of the bill sequentially is as follows:

Paragraph 1 sets forth the basic constitutional provision governing state debt.

Paragraph 2 shows the actual debt limit applicable for fiscal year 1981-1982 and estimates of the debt limit for fiscal year 1982-1983 to fiscal year 1984-1985.

Paragraph 3 shows the debt service requirements from fiscal year 1982-1983 to fiscal year 1988-1989 for outstanding general obligation bonds which must be counted against the debt limit.

Paragraph 4 states other adjustments for general obligation bonds issued on November 1, 1981, the amount of authorized but unissued general obligation bonds as of September 30, 1981 and the amount of general obligation bonds authorized by this bill.

Paragraph 5 shows the schedules for proposed general obligation bond issuance and states the assumptions concerning bond maturities.

Paragraph 6 states that the total amount of general obligation bonds which the state proposes to issue is an amount sufficient to meet the requirements of all authorized unissued bonds and the bonds authorized by this bill.

Paragraph 7 notes that certain reimbursable general obligation bonds can be excluded, and while the amount of such excluded bonds cannot be precisely determined for each issuance, the Legislature makes the conservative estimate that ten per cent of each issuance is excludable.

Paragraph 8 presents a display which compares the debt limit applicable at the time of each proposed bond issue with the greatest debt service amount resulting from each issue.

Paragraph 9 establishes the overall and concluding finding that the total amount of principal and interest estimated for the general obligation bonds authorized by this bill 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.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 732, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 437-82

Ways and Means on S.B. No. 906

The purpose of this bill is to create a revolving fund for libraries administered by the University of Hawaii. Revenues for this fund will be derived from fines and fees for lost, overdue, or damaged books, serials, and periodicals and such other sources as coin-operated photocopy machines and reprography and educational media services provided by the libraries and media services. Allowable expenditures from this fund shall include such items as repair or replacement of lost, damaged, stolen, or outdated books and periodicals, and to support other direct library services and activities.

Your Committee finds that losses experienced by the various University system's libraries through lost, damaged, or stolen books and periodicals have not been properly addressed. The current approach to this problem is based on a deterrence theory as represented by traditional fines and fees, and symbolized more recently by electronic detection devices.

There is no question as to the effectiveness of the present deterrence program but it does not, however, provide for repair or replacement costs.

Your Committee has amended this bill to include the media services in the revolving fund and made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 906, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 906, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 438-82 Ways and Means on S.B. No. 1308

The purpose of this Act is to amend chapter 342, Hawaii Revised Statutes, to provide for grant funding, expended by the state Department of Health to the counties to assist in financing the federal share of planning and design costs of wastewater treatment facilities.

The need for this revision arose when the Federal Clean Water Act was amended in 1981. The amendments resulted in federal reimbursements for the planning and design of wastewater treatment facilities would not occur until actual construction starts. This bill would allow an advance of the federal share of the project to the counties and would be repaid when federal funds are released.

Because federal funding assistance is to be cut from 75 per cent to 55 per cent in 1984, it is necessary to begin planning and design as early as possible in order to maximize federal funding. The advancement of state funds would allow this to occur.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1308, S.D. 2, and recommends that it be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 439-82 (Majority) Ways and Means on S.B. No. 1395

The purpose of this bill is to exempt any wine manufactured in the state (from products grown in the state) from the liquor tax.

Your Committee agrees that the local wine manufacturing industry needs this exemption to effectively compete on the open market. Therefore, a permanent exemption is provided under this bill.

Your Committee amended section 1 of the bill to conform to changes made in the statutes in 1981, and amended the effective date from 1981 to 1982.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1395, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1395, S.D. 1.

Signed by all members of the Committee except Senator Anderson.
Senators Abercrombie, Cayetano and Kawasaki did not concur.

SCRep. 440-82 Ways and Means on S.B. No. 2160-82

The purpose of this bill is to allow state agencies to contract with bonded collection agencies for the collection of delinquent accounts.

Presently, the enormous increase in the delinquent tax balance and the number of delinquent taxpayers make it imperative that the Department of Taxation contract out some of the collection work in order to reduce the delinquent tax balance or maintain it at reasonable levels.

The Department of Taxation urges enactment of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2160-82 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 441-82

(Majority) Ways and Means on S.B. No. 2169-82

The purpose of this bill is to repeal the existing acts relating to independent sugar growers and allow the remaining appropriated balance from these acts to lapse, and to replace these acts with a new one with an appropriation of \$2,000,000 for loans to independent sugar growers, with an effective date upon approval.

Your Committee agrees with the Committee on Agriculture that the independent sugar growers are deserving of continued support since the history of the special loan program to the independent sugar growers, traced to Act 19 of the 1977 Special Session, has conclusively shown the program to be a successful one. However, your Committee cautions the Department of Agriculture that the tripartite relationship between the department, the grower, and the lending institution should be tightened up.

Your Committee has amended the bill to:

1. Include in the definition of "independent sugar grower" the requirement that the growers production of raw sugar shall not exceed 4,500 tons per year;
2. Make a housekeeping amendment by changing the word "farm" in the last sentence of the proposed new subsection (c) to "agriculture";
3. Delete the proposed new subsection (d)(3) and the words "or loss on sugarcane production operations," from the proposed new subsection (e) to clarify the intent of the bill that coverage is limited to only small sugar growers; and
4. Make minor technical amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2169-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. 2169-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.
Senator Kawasaki did not concur.

SCRep. 442-82

Ways and Means on S.B. No. 2173-82

The purpose of this bill is to exclude deferred compensation from the computation of state income taxes.

Your Committee heard testimony from the Department of Taxation which has no objections to this bill.

Your Committee has amended section 3 of this bill to correctly provide for the various bills in this session which may pass amending section 235-2.3, Hawaii Revised Statutes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2173-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2173-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 443-82

Ways and Means on S.B. No. 2180-82

The purpose of this bill is to require applicants for and recipients of medical assistance to assign any benefits resulting from a third party liability to the Department of Social Services and Housing. The department is required to apply the rights or amounts assigned to the cost of medical care incurred by the applicants or recipients.

Applicants for and recipients of medical assistance are not required to make assignments of benefits from third party liability to the department. The director of social services, in testimony supporting the bill, states that the department currently makes requests for assignments, but that some recipients of medical assistance refuse to make the assignments.

Requiring applicants for and recipients of medical assistance to assign benefits from third party liability to the department has the potential of reducing the state's expenditure for medical assistance. In most cases, benefits are awarded when the persons suffer physical injury. Under current law, recipients of medical assistance who suffer injury from third party omissions or acts, who are awarded benefits because of the liability of the third party, and who have not assigned the benefits to the department are not required

to use the award for payment of medical care. Under this bill, the benefits are required to be applied to the cost of medical care, which cost may otherwise have to be borne by the department.

Your Committee has amended the bill by inserting a provision requiring the director of social services to adopt rules to determine the eligibility for medical assistance. A new section 2 has been added to prevent conflicts between this bill and other bills which may pass during this session amending the section amended by this bill. In addition, nonsubstantive amendments have been made to correct technical errors.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2180-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2180-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 444-82 Ways and Means on S.B. No. 2184-82

The purpose of this bill is to provide the means through which the labor relations researcher in the Office of Collective Bargaining would be accorded civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes.

Your Committee agrees with the Committee on Human Resources that only policy level positions should be exempted from civil service classification.

Your Committee has determined that the duties of the researcher in the Office of Collective Bargaining involves no policy making decision, but rather the duties include gathering and analyzing data and making recommendations to assist the actual decision makers. Accordingly, your Committee believes that civil service coverage should be extended to the researcher.

Your Committee has made a minor technical change that does not affect the substance of the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2184-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2184-82, S.D. 1.

Signed by all members of the Committee except Senators Anderson and Kawasaki.

SCRep. 445-82 Ways and Means on S.B. No. 2185-82

The purpose of this bill is to allow the State Foundation on Culture and the Arts to enter into agreements to provide financial assistance to individuals and nonprofit associations, corporations, and agencies to implement the preservation and furtherance of culture and the arts and history and the humanities.

The attorney general has advised the foundation that it cannot make grants under existing law. Rather, the attorney general has advised that only contracts for purchases of services may be entered into. Contracts for purchases of service, under which specified goods or services must be provided in return for state moneys, will attach unrealistic conditions on persons or organizations seeking to promote culture and the arts and history and the humanities. Your Committee feels that grants, without rigid and unrealistic conditions attached, to artists and historians are necessary to ensure artistic and intellectual freedom.

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. 2185-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2185-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Kawasaki.

SCRep. 446-82 Ways and Means on S.B. No. 2190-82

The purpose of this bill is to clarify that the position of the director of the Hawaii Criminal Justice Information Data Center is exempt from the civil service system, and to change the name of the center to delete the redundancy that presently exists in its name.

On July 1, 1981, the Hawaii Criminal Justice Information Data Center was transferred from the Judiciary to the Department of the Attorney General for administrative purposes,

as required by Act 269, enacted by the Legislature in 1980.

Act 128, enacted in 1981, included provisions for the orderly transfer of the center's personnel from the Judiciary to the Department of the Attorney General. According to the testimony of the attorney general's office, following the passage of Act 128, the Department of Personnel Services determined that because section 846-2, Hawaii Revised Statutes, did not specifically exempt the data center's director from civil service status, the position had to be filled through the civil service system. However, when the data center was attached to the Judiciary, the interim director had been appointed on an exempt basis. Your Committee agrees that the legislative intent in passing Act 128 should be clarified through this bill to keep the director's position exempt from civil service status.

Your Committee further agrees that the statutory name should be changed from "criminal justice information data center" to "criminal justice data center", because "information" seems redundant of the word "data".

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2190-82, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 447-82 Ways and Means on S.B. No. 2137-82

The purpose of this bill is to limit no-fault automobile insurance coverages provided to public assistance recipients at no charge to the vehicles owned solely by those public assistance recipients.

Your Committee finds that numerous individuals not eligible for public assistance have been receiving no-fault automobile insurance coverages from the public assistance motor vehicle insurance program by assigning partial ownership of their vehicles to an eligible public assistance recipient. This bill would eliminate such abuses and furthermore help to reduce the costs of the program.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2137-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 448-82 Ways and Means on S.B. No. 2204-82

The purpose of this bill is for the State of Hawaii to enter into the Northwest Interstate Compact on Low-Level Radioactive Waste Management.

The Low-Level Radioactive Waste Policy Act was enacted by the U.S. Congress in December, 1980, which established a federal policy that each state is responsible for the disposal of low-level radioactive waste generated within its borders by placing it in a secure facility either within or outside the state. To carry out this policy, the states may enter into regional compacts to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

With passage of this legislation, the out-of-state shipment and storage of the state's low-level radioactive waste will continue.

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. 2204-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2204-82, S.D. 1.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 449-82 Ways and Means on S.B. No. 2213-82

The purpose of this bill is to conform the Hawaii Employment Security Law to recent changes in federal law. Specifically, this bill amends chapter 383, Hawaii Revised Statutes, as it relates to extended compensation benefits.

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. 2213-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in

the form attached hereto as S.B. No. 2213-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 450-82 Ways and Means on S.B. No. 2224-82

The purpose of this bill is to amend section 201-4, Hawaii Revised Statutes, to allow the Department of Planning and Economic Development to adopt administrative rules governing industry and product promotion activities.

The bill provides the director of planning and economic development the authority to adopt rules for eligibility, preferences, priorities, and conditions in which industry and product promotion may be undertaken.

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. 2224-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2224-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 451-82 Ways and Means on S.B. No. 2243-82

The purpose of this bill is to meet the requirement of Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, of the 96th Congress, 2nd Session, which mandates states to enact statutes prior to October 1, 1982, specifying child care goals for children receiving federal financial aid who have been in foster care for more than twenty-four months. The congressional intent is to reduce the length of time children are in placement and to promote early reunification with their parents or to establish other permanent plans for the children.

Your Committee is in agreement with the Department of Social Services and Housing that too often, children in foster care placement have languished there without adequate and timely plans for their return to their parents or have other permanent plans arranged.

Your Committee has amended the bill by adding a quotation mark at the end of the new section enacted by the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2243-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2243-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 452-82 Ways and Means on S.B. No. 2244-82

The purpose of this bill is to permit the state, upon the request of a state agency, to retain state income tax refunds for those persons who owe a debt to the state.

Your Committee heard testimony from the Department of Social Services and Housing that this bill will provide an effective technique to aid in the collection of delinquent child support debts owing to the state under the Aid to Families with Dependent Children (AFDC) program. AFDC recipients assign their child support rights to the state during their AFDC eligibility period. The state establishes, enforces, and collects the child support obligation, to repay in part, the taxpayer dollars expended by the state and federal governments to support the family.

Your Committee notes that the federal government began a Federal Income Tax Off-Set Program this year which allows for federal tax intercept of refunds in a similar manner as provided for in this bill.

Your Committee has amended the bill by incorporating the recommendation by the Department of Social Services and Housing that the language concerning issues that could have been litigated be changed since it is inadvertently broad. Accordingly, the third sentence in the section entitled Hearings; appeals now reads: "No issues that have been previously litigated may be considered at the hearing."

Your Committee has also amended the bill to require that the rules necessary to implement this bill be adopted pursuant to chapter 91, Hawaii Revised Statutes.

Since chapter 231 does not contain parts and does not lend itself to such division amendments have been made to conform the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2244-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2244-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 453-82 Ways and Means on S.B. No. 2247-82

The purpose of this bill is to amend the definition of "dependent" to include dependents following entry or discharge of the veteran from any of the armed forces and to repeal sections concerning paupers' graves.

Presently, the Department of Social Services and Housing is servicing all dependents of veterans. The existing statutes only allow for servicing people who became dependents prior to or during the veteran's enlistment period in any of the armed services. This bill will clearly identify individuals who are eligible for services, specifically to include persons who became dependents of veterans after the veteran entered the service and to exclude dependents of dishonorably discharged veterans. This bill also repeals sections 363-8, 363-9, and 363-10, Hawaii Revised Statutes, which pertain to burial in a pauper's grave. There are no "paupers' graves" or cemeteries for the indigent in Hawaii.

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. 2247-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2247-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 454-82 Ways and Means on S.B. No. 2262-82

The purpose of this bill is to amend section 304-93, Hawaii Revised Statutes, in order to clarify when student recipients of state higher education loans must commence repayment of principal and interest charges.

Under the current statute, students are not required to begin repayment until nine months after they graduate or withdraw from their degree program. It would be possible under the existing statute for a student to borrow funds and delay repayment by continuing to be enrolled in a degree program for as little as one course per semester.

The proposed amendment to section 304-93, Hawaii Revised Statutes, would require loan recipients to begin repayment when they graduate or withdraw, or when they cease to be enrolled on at least a half-time basis in a degree program. This amendment would ensure that loan recipients who cease attending full-time would not be required to begin loan repayments as long as they continue to make at least half-time basis progress toward the completion of their degrees. Students who enroll less than half-time could reasonably be expected to generate employment earnings sufficient to allow for the initiation of loan repayments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. 2262-82 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 455-82 Ways and Means on S.B. No. 2268-82

The purpose of this bill is to allow the public employees' retirement system board of trustees to determine the investment yield rate and actuarial valuations of the system when computing the employer normal cost and accrued liability contributions. The bill also amends the provisions concerning the crediting of the amounts of interest to the annuity savings fund, post retirement fund, and pension accumulation fund.

Your Committee has amended the bill as follows:

(1) Amendments made by the bill as received to section 88-122, Hawaii Revised Statutes (HRS), have been deleted. Instead, the bill as amended retains the provision in section 88-122, HRS, which requires actuarial valuations to be based on a seven per cent investment yield rate and such tables and factors as are established by the board. The provision,

however, has been extended so that it is applicable for the fiscal years 1982-1983, 1983-1984, and 1984-1985.

(2) Amendments have been made to section 3 of Act 201, Session Laws of Hawaii 1981, to conform to the changes in section 88-122, HRS, in the bill as amended.

(3) The provisions in the bill as received concerning the crediting of interest to the various funds have been deleted.

The net effect of the amendments made by your Committee is to extend the current provision for determining the employer normal cost and accrued liability for three additional years. Your Committee feels that the proposals of the bill, as received, needs further study and plans to evaluate the proposals in the future. Recommendations will be made and appropriate action taken after the evaluation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2268-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2268-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 456-82 (Majority) Ways and Means on S.B. No. 2269-82

The purpose of this bill is to provide for the establishment of a criminal justice training fund which shall be utilized to finance appropriate training programs of the state and county criminal justice agencies.

In order to implement an effective program to combat crime, the various components of the criminal justice system must have persons who are highly skilled and specially trained. The bill seeks to establish a fund to be used for the training of criminal justice personnel by a system of fines to be levied upon all persons convicted of a criminal or traffic offense.

The criminal justice training fund would be established in the Department of Attorney General and would be available to criminal justice agencies such as the Department of the Attorney General, the county departments of police and prosecuting attorneys, the Office of the State Public Defender, the corrections division of the Department of Social Services and Housing, the statewide intake service centers, and personnel of the judiciary branch of government involved with criminal cases.

The bill provides that upon a criminal conviction, a penalty assessment of ten per cent of the fine or restitution ordered by the court or of the maximum fine allowed by law shall be levied on a defendant and deposited into the criminal justice training fund. The bill also provides that upon a conviction or a bail forfeiture for any traffic offense, a penalty assessment of \$1 shall be levied on the defendant and deposited into this training fund.

The bill provides that the fund be allocated in the proportion of fifteen per cent to the judiciary for costs of collecting penalty assessments and of eighty-five per cent to the Department of the Attorney General which shall have full discretion of the allocation of the fund for training purposes.

Your Committee has amended the bill by adding a new section to require the attorney general to submit an annual financial statement to the Legislature as to the revenues collected and expenditures made by the criminal justice training fund, and also made nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2269-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2269-82, S.D. 2.

Signed by all members of the Committee.
Senators Cayetano, Henderson and Yee did not concur.

SCRep. 457-82 Ways and Means on S.B. No. 2277-82

The purpose of this bill is to provide for the establishment of a statewide witness program by the Department of the Attorney General for the security and protection of government witnesses or potential government witnesses. The bill appropriates the sum of \$500,000 to the Department of the Attorney General to be expended for witness protection efforts, with greatest priority given to cases involving organized crime, racketeering, or career criminals. County and state prosecuting and law enforcement agencies may request witness

protection or funding for that purpose from the attorney general.

Your Committee finds that there is a need for statewide assistance to enable state and county law enforcement agencies to provide protection against witness intimidation, tampering, and retaliation when witnesses are willing to testify in government criminal investigations and prosecutions. The high cost of witness protection is often beyond the means of the counties. Moreover, many cases have statewide as well as local impact, especially in the area of organized crime.

Your Committee notes that the federal government's witness security program has been successful and that a similar program on the state level would enhance efforts by the counties in obtaining the cooperation of witnesses who are necessary for successful prosecution.

Your Committee has deleted the lapsing provision to the appropriation as unnecessary and 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. 2277-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2277-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 458-82 (Majority) Ways and Means on S.B. No. 2286-82

The purpose of this bill is to provide for the licensure and regulation of social workers.

Your Committee is concerned with the vulnerability of clients receiving social work. These clients usually have emotional, social, or mental problems which hamper their ability to choose a properly trained and qualified social worker or discern the quality of the social work services provided. Thus, they may be subject to unskilled or unprofessional services which exacerbate or, at the least, do not alleviate their problems. Accordingly, your Committee finds that regulation of social work is necessary to assure that qualified social workers provide services to those requiring social work and that the services provided are of high quality.

Your Committee, however, does not feel that establishment of and regulation through a part-time board is desirable. Although the concept of self-regulation of a profession by a board consisting partly of the affected professionals is philosophically good, practical problems emerge in the actual implementation of the regulation. The recent report of the Legislative Auditor reveals some of the problems. Thus, your Committee has amended the bill by deleting the board of social workers and requiring the Department of Regulatory Agencies to assume the function of regulating social workers.

Your Committee feels that direct regulation of social workers by an executive department is preferable to indirect regulation through a part-time board.

Your Committee emphasizes that the amendments to the bill do not prevent the Department of Regulatory Agencies from receiving input from social workers. The department is not prohibited from seeking the advice of social workers in implementing the provisions of this bill. Further, enabling statutes exist which allow the establishment of temporary boards consisting of qualified persons to provide advice to executive departments. The department may establish a temporary board consisting of social workers in order to obtain necessary advice.

The major amendments made by your Committee are as follows:

- (1) The word "board" has been replaced by the word "department".
- (2) The definition of "board" under paragraph (3) of section -1 of the proposed new chapter has been deleted. Subsequent paragraphs have been renumbered.
- (3) Sections -2 and -3 of the proposed new chapter in the bill, as received, have been deleted. Thus, section -4 has been renumbered as section -2.
- (4) The phrase "and forward to the director the names of applicants who are eligible for licensure" has been deleted from the renumbered section -2.
- (5) Section -5 of the proposed new chapter in the bill, as received, has been deleted; except that the provisions of paragraph (1) are retained as a new paragraph (9) under section -2 of the bill, as amended.

(6) Sections in the proposed new chapter have been renumbered to reflect the deletion of sections -2, -3, and -5 of the bill, as received.

(7) The first two sentences in section -6 of the proposed new chapter in the bill, as amended, are deleted.

(8) Sections 3 and 4 of the bill, as received, have been deleted. The sections are not necessary because no board is established.

(9) Section 5 of the bill, as received, which contains an appropriation, has been deleted. Since the bill takes effect on July 1, 1983, no appropriation is necessary for fiscal year 1982-1983.

In addition, 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. 2286-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2286-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.
Senator Abercrombie did not concur.

SCRep. 459-82

Ways and Means on S.B. No. 2289-82

The purpose of this bill is to amend chapter 155, Hawaii Revised Statutes, by authorizing the chairman of the Board of Agriculture to approve loans where the requested amount, plus any principal balance on existing loans to the applicant, does not exceed \$25,000 of state funds; clarifying that the maximum amount of loans for classes A, C, D, and F to a qualified farmer is also applicable to any loan application submitted by a partnership or corporation where the farmer has legal or equitable interest which exceeds twenty per cent; and to increase the loan ceiling for classes A, B, C, E, and F.

Testimony received by your Committee from the chairman of the Board of Agriculture, outlined the purposes of this bill and made recommendations as follows:

1. That loan limits for classes A and C not be slated for increases at this time because present sources of credit, including commercial banks, the Federal Land Bank Association, and the Hawaii Production Credit Association are meeting the needs of the established farmer;
2. Increase the equity contribution of cooperatives; and
3. Increase the equity for new farmers from ten per cent to fifteen per cent.

Your Committee has adopted the recommendations of the chairman of the Board of Agriculture, in addition to modifications on pages 3 and 4, and has amended the bill as received as follows:

1. On page 3, line 16, by removing the delegation of authority of the chairman to approve loans not exceeding \$25,000 of state funds from paragraph (13) and standing it alone, in new paragraph (14);
2. On page 4, line 1, renumbering former paragraph (14) to paragraph (15), to allow inclusion of new paragraph (14);
3. On page 5, line 7, by deleting "\$200,000" substituted for "\$100,000";
4. On page 7, line 8, by deleting "\$200,000" substituted for "\$100,000";
5. On page 9, line 9, by adding the words: ", and such facility loans shall be for an amount not to exceed \$500,000 or eighty per cent of the cost of the project, whichever is the lesser."; and
6. On page 9, line 18, by substituting "eighty-five per cent" for "ninety per cent".

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2289-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2289-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 460-82 Ways and Means on S.B. No. 2295-82

The purpose of this bill is to increase from \$1 to \$2 the fine levied in support of the driver education and training fund and to enable the fund to be augmented by appropriations, in addition to fines, as appropriate and necessary.

Your Committee heard supporting testimony from the Office of the Administrative Director of the Courts that the present revenue source is insufficient to cover the program's operating costs and the fund will be exhausted during fiscal year 1983-1984. Thereafter, there will be a deficit unless the present fine of \$1 is increased to \$2 or other funding is provided.

Your Committee has amended the bill by deleting appropriations as a revenue source for funding the driver education and training fund.

Your Committee has further amended the bill by making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2295-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2295-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 461-82 Ways and Means on S.B. No. 2297-82

The purpose of this bill is to provide a second law clerk for each judge of the intermediate appellate court.

Your Committee finds that the intermediate appellate court, which began operating on April 28, 1980, has made a significant impact upon the appellate case backlog, reducing the number of pending cases from 828 at the end of fiscal year 1979-80 to 698 by the end of fiscal year 1980-81. Presently, each judge issues a written opinion approximately every three and a half working days. A second law clerk for each judge will appreciably increase the output and the productivity of the court.

The addition of a law clerk is an alternative previously recommended by the National Center for State Courts in response to the ever-growing backlog of appeals prior to the establishment of the intermediate court of appeals. The addition of more judges was recommended only after increasing caseloads absorbed the productivity gains provided by the additional law clerks.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2297-82, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 462-82 (Majority) Ways and Means on S.B. No. 2309-82

The purpose of this bill is to clarify that retailing is an industrial enterprise for the purpose of the enabling legislation for industrial enterprise special purpose revenue bonds.

Your Committee has amended the bill by deleting the purpose clause and changing the definition of "industrial enterprises" to include instead the production or sale of agricultural goods. The provision that special purpose revenue bonds may be used to establish programs to provide operating loans to qualified industrial enterprises has been retained. Your Committee feels that agriculture, having been severely impacted by the recession, rising costs, and foreign competition, is particularly deserving of assistance which can be provided under our constitution and laws.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2309-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2309-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Saiki. Senators Abercrombie, Cayetano and Kawasaki did not concur.

SCRep. 463-82 (Majority) Ways and Means on S.B. No. 2324-82

The purpose of this bill is to regulate transient vacation rental units.

Your Committee finds that the state is losing tax revenues because general excise taxes

are not being paid on income derived from transient vacation rental units. This bill is designed to reduce such lost revenues by requiring that any owner or managing agent, prior to offering a lodging unit for transient rental use, file a disclosure statement with the Department of Taxation. The disclosure statement is to include the name, address, and telephone number of the owner of the unit; the name, address, and telephone number of the managing agent, if any; and the address and telephone number, if any, of the unit.

Your Committee has amended the bill as follows:

1. Amending the definitions in order to clarify them;
2. Providing that the disclosure statement be submitted by the offeror or managing agent;
3. Providing that the address of the lodging unit and telephone number, if any, be included in the disclosure statement rather than the name, address, and telephone number of the lodging unit;
4. Providing that the annual report to be submitted by the Department of Taxation be on the implementation of this chapter;
5. Adding the requirement that any director or officer of a corporation must "knowingly" permit, aid, or abet the corporation to violate this chapter in order to be guilty of a misdemeanor;
6. Changes the general effective date of the chapter from "upon approval" to "January 1, 1983", leaving the proviso requiring disclosure statements to be filed within 120 days after approval intact; and
7. Making other technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2324-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2324-82, S.D. 1.

Signed by all members of the Committee except Senators Anderson and Young.
Senator Yee did not concur.

SCRep. 464-82 Ways and Means on S.B. No. 2325-82

The purpose of this bill is to authorize the counties to charge an administrative fee for registration of vehicles with out-of-state license plates and to permit the county's legislative body to effect subsequent changes to the fee. The bill also corrects an inconsistency with the placement requirement of the certificate of registration.

All motor vehicles entering the state and having an out-of-state license plate must be registered within ten days of arrival. Such registration entails administrative expenses for issuance of a permit and the processing and maintenance of information in a computer and manual files for all the vehicles to provide easy reference for identification by law enforcement agencies. Approximately 12,000 out-of-state vehicle permits are issued annually, yet there is currently no provision for a fee charge.

With the increasing number of nonresident vehicles and the cost to register these vehicles, your Committee feels that an administrative fee is long overdue.

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. 2325-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2325-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 465-82 (Majority) Ways and Means on S.B. No. 2346-82

The purpose of this bill is to impose an educational fee on students attending public schools whose families reside or work on a military installation or other federal property and who are not domiciliaries of the state.

Under this bill the Board of Education is required to adopt rules providing for the charging of the educational fee when federal Impact Aid funding to the state falls below fifteen per cent of the total per capita cost of education in the state, exclusive of capital outlay and

debt service, for elementary or secondary students. The fee is to be calculated to make up the difference between fifteen per cent of the total per capita cost of public education in the state and the actual federal funds received.

The federal Impact Aid Program (P.L. 81-874), enacted in 1950, provides financial assistance to school districts in federally affected areas. These funds are used by school districts to be applied toward their operating expenses.

In the 1950 Report of the House Committee on Education and Labor, one of the principal reasons for the enactment of Impact Aid legislation was that a federal project or activity causes an influx of persons into a community, resulting in an increased number of children in need of education.

The two major categories of students affected are (1) those whose parents live and work on federal property (Category A), and (2) those whose parents live or work on federal property (Category B). In previous years, funds received from the federal government were based on the numbers of students in each of these categories. However, given the present mood of the President and elements in Congress, there will be a phaseout of funding for those students in the "B" Category. Further, it should be noted that families of students in the "B" Category may be residents of the State of Hawaii who are working on federal property.

The annual educational cost per student is \$2,500 minus capital outlay and debt service. Federal funds have been less than this amount. As a result, over the past ten years, the difference between the amount to which the State of Hawaii is entitled, according to the number of students, and the actual amount of federal funds received, is almost \$50 million.

It should be noted that the estimated shortfall of \$3 million this year and an additional \$3 million next year, will not be limited to one or two years. If Impact Aid funds are lost, and not made up in some fashion, the state will be funding a recurring multi-million dollar bill each year in additional costs.

The cost of educating military dependents in all other parts of the world is funded by the military, therefore, the military should pay the educational costs of its military dependents in this country. In order to make up the deficit which results from the federal funds and the actual amount expended by the state in educating the students, the State of Virginia has enacted a statute which enables it to collect fifty per cent of the educational costs from the Department of Defense. We do recognize the relationship between the military and civilian community and that is the reason for charging an educational fee of fifty per cent instead of one hundred per cent and instead of the fifteen per cent suggested in this bill as received.

Your Committee has amended the bill by adding the following at the end of subsection (a):

"The board of education may bring any appropriate action in any court of competent jurisdiction for the collection of the educational fee. Nonpayment of the educational fee shall not be grounds for excluding any student from school." The purpose of this amendment is to clarify the intent of the bill to alleviate problems of unconstitutionality on equal protection grounds.

Your Committee has amended subsection (b) of the bill by:

1. Adding the phrase "provided under Public Law 81-874, commonly known as Impact Aid" to clarify the source of the federal funds referred to in subsection (b);
2. Expanding the definition of dependent to include federally connected as well as military persons; and
3. Requiring the federal government to fund fifty per cent, instead of fifteen per cent, of the total per capita cost of public education in the state.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2346-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2346-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson, Henderson and Yee.
Senator Campbell did not concur.

SCRep. 466-82

Ways and Means on S.B. No. 2347-82

The purpose of this bill is to amend chapter 304, Hawaii Revised Statutes, by adding a new section which would require the Board of Regents to waive all tuition fees for veterans who are Hawaii residents who are currently enrolled as undergraduate students working towards a degree on any campus of the University of Hawaii, and who are no longer receiving educational benefits under the federal "GI Bill".

The proposed tuition waivers shall be for the academic year only, excluding summer session and courses offered by the college of continuing education and community service which are not directly supported by an appropriation from the state general fund.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2347-82 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 467-82

Ways and Means on S.B. No. 2354-82

The purpose of this bill is to authorize the Department of Education to assess and collect fees and charges from users and deposit the fees collected into a separate fund.

Currently, the department must deposit any funds collected into the state treasury as general fund realizations. However, under this bill, schools could use these fees collected for expenses such as janitorial supplies, repairs, and maintenance, and so forth.

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. 2354-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2354-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 468-82

Ways and Means on S.B. No. 2362-82

The purpose of this bill is to authorize the Department of Regulatory Agencies to establish a special consumer complaints resolution fund.

Under this bill the special consumer complaints resolution fund would be funded by assessments on registration, licensing, and renewal fees charged by the various boards and commissions placed within the Department of Regulatory Agencies for administrative purposes. Moneys in the fund would be utilized by the department for the purpose of providing prompt and timely responses to consumer complaints.

The bill also authorizes the use of surpluses in existing departmental funds or board or commission special funds to provide initial start-up moneys for the fund.

Your Committee has amended the bill to require that the hiring of any personnel by the director for the purpose of providing prompt and timely responses to consumer complaints shall require the prior approval of the governor.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2362-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2362-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 469-82

Ways and Means on S.B. No. 2381-82

The purpose of this bill is to establish a new department to be called the department of corrections which would consolidate a number of functions concerning adult and juvenile offenders currently shared by the Department of Social Services and Housing and by the judicial branch of government.

Due to the fact that functions relating to corrections are dispersed among governmental agencies, there is no one underlying philosophy or policy governing corrections. Thus, the lack of coordination reduces the efficiency and effectiveness of the agencies.

Your Committee has amended the bill as follows:

- (1) Deleted the appropriation section;
- (2) Changed the effective date from July 1, 1982 to July 1, 1983;
- (3) Deleted the section requiring the division of corrections to make a study and establish an organizational structure for the department of corrections;
- (4) Reinstated the responsibility of the guardian for the actions of the child.

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

Signed by all members of the Committee except Senator Anderson.

SCRep. 470-82 Ways and Means on S.B. No. 2396-82

The purpose of this bill is to permit a person who submits an application for registration of securities or an exemption to request that the review of the application be performed by a private consultant at the applicant's expense.

At present the securities examiner of the Department of Regulatory Agencies, business registration division, is severely overburdened, causing a backlog of approximately four to six weeks to process simpler applications and two to three months for complex applications. Timing is critical in most capital formation ventures and delays in processing applications increase economic risks to applicants and may cause withdrawals of applications.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2396-82, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 471-82 (Majority) Ways and Means on S.B. No. 2399-82

The purpose of this bill is to reorganize the Department of Regulatory Agencies by removing the duties of bank examiner and insurance commissioner from the director of regulatory agencies and by authorizing the director to appoint and establish the salaries for the bank examiner and the insurance commissioner.

Under present law, the already overburdened director of regulatory agencies serves as bank examiner and insurance commissioner. The establishment of the positions of bank examiner and insurance commissioner separate from the director will enhance the ability of the department to regulate the industries concerned and to protect the public interest in those areas.

Your Committee has amended the bill by adding a provision that this bill shall supersede S.B. No. 2759-82 relating to the compensation of public officers and employees and making an appropriation therefor. Nonsubstantive, technical, and language amendments were also made to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2399-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2399-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.
Senator Cayetano did not concur.

SCRep. 472-82 Ways and Means on S.B. No. 2424-82

The purpose of this bill is to amend the campaign spending statutes by (1) eliminating the distinction between individual and corporate contributions to political candidates, (2) changing the allowable tax deductions to tax credits, and (3) eliminating the restriction that only \$100 of each donation to a qualified candidate can be counted as a deduction.

Under this bill, an income tax credit of up to ten per cent of the amount contributed is allowed with a contribution ceiling of \$100 for political party contributions and \$500 for candidates who have agreed to abide by the campaign spending limit.

This bill also contains amendments to the present law which bring it in conformance with the Internal Revenue Code.

Your Committee amended this bill by adding a new section providing that the substantive provisions of this bill shall amend any other conflicting Act enacted by the Regular Session of 1982, but nonsubstantive amendments shall not supersede any substantive amendments by any other conflicting Acts enacted by the Regular Session of 1982. Technical, nonsubstantive amendments have also been made to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2424-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2424-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 473-82 (Majority) Ways and Means on S.B. No. 2429-82

The purposes of this bill are to increase the ceiling on the Department of Hawaiian Home Lands' farm loans to lessees and to add to the purposes for which farm loans can be made.

This bill increases the loan ceiling from \$35,000 to \$50,000 and allows loan proceeds to be used for refinancing farm debts, operating expenses, installation of soil and water conservation measures, and relief and rehabilitation from natural disasters and depressed economic conditions.

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. 2429-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2429-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Young.
Senator Kawasaki did not concur.

SCRep. 474-82 Ways and Means on S.B. No. 2430-82

The purpose of this bill is to create special handling fees for the review of corporation documents by the Department of Regulatory Agencies. A special handling fees fund will be created to house the fees collected.

Currently the expediting of documents can be done only on a limited basis due to work overload. Your Committee finds that this bill was proposed by the business registration division of the Department of Regulatory Agencies in order to facilitate a necessary service to those persons requiring expeditious processing of documents filed with the division. The fees created by this bill will allow staff flexibility. The fund will have a limited life of two years at which time its effectiveness will be evaluated.

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. 2430-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2430-82, S.D. 1.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 475-82 Ways and Means on S.B. No. 2434-82

The purpose of this bill is to establish an agricultural land study commission for the purpose of developing an agricultural land classification system to identify important agricultural lands in the state.

Your Committee agrees with the Committee on Agriculture that existing land classification systems such as the Agricultural Lands of Importance to the State of Hawaii (ALISH) and the Land Study Bureau's Detailed Land Classification are primarily soil-based systems, and as such, were never intended to be used as the principal criterion for determining agricultural land use policies. Moreover, in order to establish a rational basis for classifying and identifying important agricultural lands, there must first be a clear articulation of the agricultural goals of the state. The independent study commission established by this bill is the mechanism for achieving these ends.

Your Committee has amended the bill by changing the appropriation from \$1,000,000 to \$1, and by making other technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B.

No. 2434-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2434-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson, Henderson and Yee.

SCRep. 476-82 Ways and Means on S.B. No. 2470-82

The purpose of this bill is to authorize the Department of Health to provide services to veterans who are residents of this state and who served in Vietnam, Cambodia, or Laos during the Vietnam conflict and who have possibly been exposed to the chemical defoliant known as "agent orange".

Your Committee finds that there is no question as to the toxicity of agent orange, although no substantive studies have been done to confirm a cause-and-effect relationship between agent orange and the effects reported. The crucial question is whether the company which produced the herbicide is responsible or the federal government who commissioned its use. Neither one wishes to take responsibility. In fact, the federal government is no longer providing fat tissue biopsies designed to determine whether veterans do in fact have positive residues of the herbicide agent orange.

Your Committee is acutely aware that legal and moral responsibility for the effect of agent orange on Vietnam era veterans clearly lies with the federal government. Your Committee is also aware that the state is fast approaching a time of fiscal constraints. However, we cannot sit idly by while the federal government continues to ignore the very real and human tragedy surrounding these veterans. They are not asking for compensation by the state. All that is asked is testing for confirmation of exposure to herbicide poisoning, genetic counseling and screening, and epidemiological studies. The bill provides that should the federal government accept its clear responsibility, the state program may be discontinued.

Your Committee has amended the definition of veteran to include all state residents who were in Vietnam, Cambodia, or Laos during the Vietnam conflict.

Your Committee has also deleted the appropriation and 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. 2470-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2470-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson, Henderson and Yee.

SCRep. 477-82 (Majority) Ways and Means on S.B. No. 2513-82

The purpose of this bill is to require every person who operates an electric light or power business as a public utility regardless of whether or not the utility's franchise provides for a payment of a tax based on the gross receipts to the county in which it operates, to file a statement with the director of finance in the county in which the utility operates. The statement will reflect all gross receipts received by the utility from all electric light or power furnished to consumers during the preceding calendar year. The utility must pay to the director 2-1/2 per cent of the gross receipts. This bill would provide for a uniform franchise tax rate of 2-1/2 per cent for every county throughout the State of Hawaii.

The purpose of a utility's franchise is to benefit utility customers by granting utilities the right to use public easements for their services to utility customers without having to apply for separate rights-of-way whenever a need arises for such right. In order to allow for uniform treatment of the franchise by all counties to all utility consumers in Hawaii, the passage of this bill is imperative.

Your Committee has amended the bill to correct typographical errors.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2513-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2513-82, S.D. 1.

Signed by all members of the Committee except Senator Anderson.
Senator Henderson did not concur.

SCRep. 478-82

Ways and Means on S.B. No. 2517-82

The purpose of this bill is to allow the Department of Health to establish reasonable fees for the issuance or renewal of licenses, permits, variances, and various certificates required by law, and to include the costs of related examinations, inspections, investigations, and reviews in the amounts of the fees. The bill also repeals the statutory examination fees and reregistration fees for persons applying for licenses to engage in or persons engaged in certain occupations regulated by the Department of Health.

Your Committee agrees with the findings of the Committee on Health concerning this bill as expressed in Standing Committee Report No. 159-82.

At the suggestion of the chairman of the Committee on Health, your Committee has inserted the main provision of S.B. No. 2207-82 into this bill. Senate Bill No. 2207-82 proposes to repeal the requirement that itinerant vendors of drugs be licensed by the Department of Health. The Committee on Health finds that the requirement is obsolete because drugs are usually sold in retail stores. The findings are supported by the fact that the department has not issued a license to an itinerant vendor in the past seventeen years. The chairman of the Committee on Health has suggested that this provision be placed in this bill to obviate the separate passage of S.B. No. 2207-82.

Your Committee agrees with the Committee on Health's findings regarding S.B. No. 2207-82 and has agreed to the suggestion of the chairman of that committee. A new section 1 has been added which repeals the requirement that the Department of Health regulate itinerant vendors of drugs. The new section is to be effective on January 1, 1983.

Your Committee has also renumbered the sections of the bill, as received, to reflect the new section 1, deleted the phrase "or regulations" whenever occurring after the word "rules", and reworded the effective date of the bill to conform to drafting style. Other technical, nonsubstantive amendments have also been made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2517-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2517-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 479-82

Ways and Means on S.B. No. 2524-82

The purpose of this bill is to reduce the cost of administering workers' compensation claims in those cases where the employee suffers a work-related injury which increases an existing disability resulting in a greater permanent partial disability, permanent total disability, or death. While the bill will reduce administrative and legal costs connected with workers' compensation claims, it will not reduce benefits paid to injured employees.

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. 2524-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2524-82, S.D. 1.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 480-82

(Majority) Ways and Means on S.B. No. 2607-82

The purpose of this bill is to repeal the limitations on the salaries of excluded and other public officers and employees.

The salary limitations repealed by this bill are no longer effective because of judicial decisions and collective bargaining agreements. Your Committee feels that the inapplicable provisions of law should be deleted to prevent confusion.

Your Committee has amended the bill to retain paragraphs (5) and (6) of section 89C-2, Hawaii Revised Statutes.

Sections 2 and 3 of the bill have also been amended by replacing "Sec." with the symbol which represents "section". Your Committee has also deleted the underscore of the title of the repealed section 78-18, Hawaii Revised Statutes. The underscore is not necessary.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B.

No. 2607-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2607-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.
Senator Kawasaki did not concur.

SCRep. 481-82 Ways and Means on S.B. No. 2644-82

The purpose of this bill is to raise the ceiling on Hawaii Housing Authority bonds from eight to ten per cent a year.

Presently, the Hawaii Housing Authority is allowed to issue bonds at rates not exceeding eight per cent. Because of high interest rates on the open market, however, the authority has recently found it extremely difficult if not impossible to market its notes.

Testimony received from the director of social services states that the Hawaii Housing Authority strongly supports immediate action on this bill. Your Committee notes that the Governor has recommended immediate consideration of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2644-82 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 482-82 Ways and Means on S.B. No. 2649-82

The purpose of this bill is to require the Office of Hawaiian Affairs to submit a budget request to the Legislature only in odd-numbered years and to permit budget submissions in even-numbered years, if necessary.

The present law requires an annual budget submission from the Office of Hawaiian Affairs to the Legislature.

Your Committee finds that the proposed amendment will bring OHA's fiscal planning process in line with other state agencies and the Legislature's biennium system.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2649-82, S.D. 1, and recommends that it be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 483-82 Ways and Means on S.B. No. 2709-82

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

Your Committee finds that the stimulation and growth of small businesses will aid in the expansion of the state's economy. Current statutes authorize the Department of Planning and Economic Development to extend loans to local development companies only under section 502 of the federal Small Business Investment Act. Your Committee believes that broadening the scope of the current law to include loans to development companies under both sections 502 and 503 (Title V) of the Small Business Investment Act, as amended, would be beneficial to both the state and local development companies.

Your Committee further finds that the Departments of Planning and Economic Development and Taxation do not object to the passage of this bill.

Your Committee has made numerous technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2709-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2709-82, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 484-82 (Majority) Ways and Means on S.B. No. 2760-82

The purpose of this bill is to authorize the sale of special purpose revenue bonds to assist retail businesses under the provisions of chapter 39A, part V, Hawaii Revised Statutes, relating to assistance to industrial enterprises.

h Your Committee has determined that agriculture in this state has suffered heavily in recent years, and finds that it is appropriate and in the public interest that the power to issue special purpose revenue bonds be exercised to provide some relief to this important sector of our community and therefore has amended the bill to so provide.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2760-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2760-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.
Senator Kawasaki did not concur.

SCRep. 485-82 (Majority) Ways and Means on S.B. No. 2761-82

The purpose of this bill is to issue special purpose revenue bonds to assist not-for-profit health care facilities that provide services to the general public.

Your Committee is aware that the State Health Planning and Development Agency has issued a certificate of need for Queen's Medical Center and this bill authorizes the issuance of bonds in the amount of \$20,000,000 to assist in the financing of its health care facilities.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2761-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 486-82 Ways and Means on S.B. No. 2807-82

The purpose of this bill is to comply with requirements of the federal Mortgage Subsidy Bond Tax Act of 1980, P.L. 96-499, which governs the issuance of mortgage subsidy bonds by states and municipalities.

The City and County of Honolulu Department of Housing and Community Development testified that under the federal act, the total amount of mortgage subsidy bonds which can be issued within the state cannot exceed \$200 million. The Act further specifies that one-half of this amount is reserved to the state housing finance agency and the remainder is to be allocated among the municipal jurisdictions.

This bill provides for a \$100 million allocation for the Hawaii Housing Authority, as the state agency, \$58 million for the City and County of Honolulu, \$20 million for the County of Hawaii, \$8 million for the County of Kauai, and \$14 million for the County of Maui.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2807-82, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 487-82 Ways and Means on S.B. No. 2808-82

The purpose of this bill is to enable the counties to engage in mortgage loan programs and to issue bonds to support such programs.

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. 2808-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2808-82, S.D. 1.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 488-82 (Majority) Ways and Means on S.B. No. 2814-82

The purpose of this bill is to provide for the conveyance of 52.6 acres of state land in the Milolii-Hoopulua area on the island of Hawaii to the Office of Hawaiian Affairs (OHA), in order that OHA can subsequently negotiate and enter into long-term residential leases with persons or their heirs who were displaced from their original homesites by the 1926 eruption of Mauna Loa and who set up residence in the Milolii-Hoopulua area covered under this bill. The bill also exempts OHA from satisfying state and county zoning and building permit requirements in connection with these leases.

Your Committee finds that since 1926, there have been several efforts by territorial, county, and state officials to resolve in an equitable manner the displacement of these people. However, none have resulted in any permanent resolution; the residents of Milolii-Hoopuloa presently do not hold any tenure to the land.

Your Committee further finds that the Milolii-Hoopuloa community is one of the few remaining which testifies to a unique folk culture not easily found elsewhere in Hawaii and is one which warrants preservation particularly in light of the new development projects and increased in-migration which have considerably changed the Kohala-Kona coast in recent years.

Your Committee has made the following amendments to this bill:

1. The Department of Land and Natural Resources has been designated as the agency authorized to negotiate and enter into long-term residential leases with eligible persons.
2. A new section authorizes the Office of Hawaiian Affairs to assist the person qualified under this Act in their negotiations and lease agreements with the Department of Land and Natural Resources.
3. The expiration date of the Department of Land and Natural Resources' authorization under this Act is changed to January 1, 1984.
4. Sections 2 and 6 of the bill have been deleted.
5. Other nonsubstantive, technical amendments have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2814-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2814-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson,
Senators Kawasaki and Saiki did not concur.

SCRep. 489-82

Ways and Means on S.B. No. 2816-82

The purpose of this bill is to facilitate implementation of Act 207, Session Laws of Hawaii 1981, which established standards for the making or awarding of grants, subsidies, and purchases of service by the state.

Testimony indicated that chapter 42, Hawaii Revised Statutes, imposes limitations upon access by organizations and by individuals to state grants, subsidies, and purchases of service. However, in order to ensure that public moneys are prudently expended for public purposes, certain restrictions proposed for repeal should not be discarded entirely.

As received by your Committee, amendments had been made in sections 2 and 3 to allow for the waivability of the one-year's experience requirements to give the director of the expending agency the authority to approve salary or employee benefit increases, and to limit applicability of the salary and benefit increase restriction to those recipients or providers who operate without negotiated wage contracts. The purpose of these amendments is to allow greater flexibility while retaining safeguards for the public purpose of expenditures.

Another amendment made by the Committee on Government Operations and Intergovernmental Relations was the inclusion of a new section to amend section 42-12, Hawaii Revised Statutes. Agency testimony indicated that, according to an oral attorney general opinion, recipients in interagency funding must also comply with the standards of Act 207. This new section in the bill will exempt governmental recipients from those restrictions. Additionally, section 42-3(2) was amended by prohibiting discrimination on the basis of physical handicap, and the time limitation in section 42-5(c), was expanded to fifteen days.

Your Committee has amended the bill by adding a new section to the bill to amend section 42-1, Hawaii Revised Statutes, to exclude from the definition of purchase of services those professional health services and other personal services provided by an individual on an hourly or contractual basis. This will accommodate the large volume of health-related services that are purchased from private providers on a fee for service or contractual basis. Your Committee has also made minor technical amendments that do not affect the substance of the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2816-82, S.D. 1, as amended herein, and recommends that it pass Third Reading

in the form attached hereto as S.B. No. 2816-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 490-82 Ways and Means on S.B. No. 2823-82

The purpose of this bill is to authorize the Department of Education to assess and collect special fees and charges from pupils for co-curricular activities and to deposit such fees and charges into an insured checking and savings account at each individual school, and to clarify the collection of fees for broken or damaged equipment or supplies.

Your Committee agrees that each individual school, rather than the department, should have control over these funds for easy access and effective use and the collection of fees for broken or damaged equipment or supplies should be clarified.

Your Committee has deleted section 1, the purpose clause, as it does not agree with the amendments made by the bill and made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2823-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2823-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 491-82 Ways and Means on S.B. No. 2824-82

The purpose of this bill is to exempt adult education special funds of the Department of Education from assessments for central services expenses and departmental administrative expenses.

The Department of Education noted that the exemption would minimize the need to continually increase student fees to meet rising costs of teachers' salaries and other operating expenses of the adult education program.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2824-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2824-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 492-82 Ways and Means on S.B. No. 2851-82

The purpose of this bill is to give each county the option of adding to each vehicle registration a fee not to exceed 50 cents for the purpose of highway beautification and the disposition of abandoned vehicles.

Your Committee has amended this bill to change the effective date from July 1, 1982 to January 1, 1983 to allow sufficient time for the counties to make the necessary changes in their computer systems. In addition, your Committee has made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2851-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2851-82, S.D. 1.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 493-82 Ways and Means on S.B. No. 2861-82

The purpose of this bill is to allow the Hawaii Housing Authority (HHA) to increase the income limits for Hula Mae program applicants.

Present statutory provisions require the HHA to set income limits at 125 per cent of the median income figures most recently published by the U.S. Department of Health, Education, and Welfare, superseded since then by the U.S. Department of Health and Human Services (HHS).

This bill would allow the HHA to increase this percentage to 150 per cent of the median income data published by HHS.

The Hawaii Housing Authority submitted testimony indicating problems of outdated median income schedules and high interest rates. These problems have severely limited the number of families able to qualify for Hula Mae mortgage loans. The most recent median income schedule released by HHS was published in December 1980. The authority believes that unless the income limits are raised immediately, many families in need of assistance will not be able to participate in the Hula Mae program. Outdated income limits may also prevent the issuance of Hula Mae bonds in the future, thereby jeopardizing the viability of the entire program.

Your Committee notes that the Governor has recommended immediate consideration of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2861-82, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 494-82 Ways and Means on S.B. No. 2864-82

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist a processing enterprise which would provide recovery of energy or material resources from municipal solid waste.

Your Committee received testimony from the Department of Planning and Economic Development, the City and County of Honolulu, and several individuals and community groups in support of the intent and purpose of this bill. However, it was explicitly conveyed to the Committee by members of the Waipahu community that such a processing facility should not be established within a residential community.

The City and County of Honolulu has been looking into alternative sites for the location of a solid waste processing plant and advised the community that it does not intend on establishing such a facility in Waipahu against the wishes of that community.

Your Committee also received testimony from the Department of Budget and Finance which stated that to be complete, the proposal should identify the "person" as defined in the state constitution or "project party" as defined in part IV of chapter 39A, Hawaii Revised Statutes, who represents the special purpose entity to be assisted through the issuance of the bonds, and should also specify the amount of the bond authorization for the project.

Your Committee accordingly amended section 2 of the bill by authorizing \$170,000,000 and designating Combustion/Engineering/AMFAC as the person.

Your Committee also provided that no facilities shall be within two miles of any residentially zoned land and 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. 2864-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2864-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Saiki.

SCRep. 495-82 Ways and Means on S.B. No. 2869-82

The purpose of this bill is to clarify for state and federal tax purposes only, that private school education and post-high school education is not required to the extent that the minor child has property or other financial resources which may be applied to tuition and related costs of such education. The bill is not intended to limit in any way, the power of the Family Court to compel the parties in a divorce or separation to provide for the education of a minor or an adult child.

As indicated in earlier testimony, income earned by a trust and used for a beneficiary's educational expenses will be taxed as income to the grantor or trustee to the extent that the grantor or trustee is legally obligated to provide such education to that beneficiary. The Internal Revenue Service has determined that the question of whether a parent has a legal obligation of support to provide private school or post-high school education is a matter of state law. The resolution of this question by this bill will mean that the income earned by or attributable to the child would be taxed to the child and not to the parents, therefore taking advantage of that child's exemptions and lower tax bracket.

The testimony also indicated that trusts or gifts of assets income from which is devoted

exclusively to a child's education, are traditional methods to provide more funds to meet the rising costs of education. However, the impact on the state revenues would be negligible since a limited number of these trusts are set up and the income will still be taxed to the child.

Your Committee has amended the bill:

1. On page 1, line 13, by substituting "parents or guardians" for "parents and guardians"; and
2. On page 1, line 15, by adding a comma after the words "room and board".

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2869-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2869-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 496-82 (Majority) Ways and Means on S.B. No. 2888-82

The purpose of this bill is to require the Department of Social Services and Housing to disregard the equity value of a home owned by a person and in which the person actually resides when determining eligibility for medical assistance. In effect, this bill allows a person owning the person's own home to qualify for medical assistance if the person meets the other income and resources standards.

Currently, a person with a low income is denied medical assistance if the person's equity value in the person's home is in excess of the maximum prescribed. To qualify for medical assistance, the person is required to dispose of the home and deplete the proceeds until the person's income and resources are in compliance with the department standards.

Some persons, particularly the elderly with fixed incomes, are faced with the situation. The income limit for eligibility under medical assistance is low. Thus, persons attempting to qualify for the program are suffering financially even if they own their homes. Forcing these persons to dispose of their homes when they are already disadvantaged financially is, at the least, not compassionate.

Your Committee feels that the truly disadvantaged should not be required to part with their homes, which probably is of more value emotionally than economically, in order to qualify for a program designed for them. This bill rectifies the current situation.

Further, your Committee does not feel that this bill will enable the nonneedy to qualify for medical assistance. As stated previously, the income limit of the medical assistance program is low, and this limit will prevent the financially well-off from participation.

A new section 2 has been added to prevent conflicts between this bill and other bills which may pass during this session amending the section amended by this bill.

In addition nonsubstantive amendments have been made to the bill to correct technical errors.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2888-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2888-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.
Senators Kawasaki and Yee did not concur.

SCRep. 497-82 (Majority) Ways and Means on S.B. No. 2893-82

The purpose of this bill is to amend the general excise tax law to establish a five-year exemption from the general excise tax for the producers and manufacturers of pineapple products.

Your Committee received favorable testimony from the pineapple industry since it is in need of assistance to recover from losses suffered in the marketplace that was caused by an oversupply of cheaper pineapple from foreign countries, especially Thailand. However, the state tax department opposes the bill because it feels that granting exemptions such as that proposed by the bill is contrary to the philosophy of equal treatment of all

taxpayers under the general excise tax law. While your Committee is concerned about setting a precedent for other exemption requests from ailing businesses, it believes that an exception for the pineapple industry should be made.

The pineapple industry has long been a mainstay of agriculture in Hawaii. It provides numerous job opportunities and it brings in millions of dollars into the Hawaiian economy since it is one of the major export industries in Hawaii. Your Committee believes that the demise of the pineapple industry could be devastating to the Hawaiian economy. Consequently, the state is compelled to provide any assistance within its means to save the industry.

Your Committee notes that the support of the pineapple industry through this temporary tax relief conforms to the goals and objectives of the State Plan, and that the proposed exemption will have a relatively minimal impact on the state general fund.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2893-82 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Anderson.
Senators Abercrombie and Cayetano did not concur.

SCRep. 498-82 Ways and Means on S.B. No. 2904-82

The purpose of this bill is to establish a water commission and the guidelines by which the commission will formulate a state water code.

Your Committee recognizes the need to implement Article XI, section 7, of the Constitution of the State of Hawaii. Existing conditions in Hawaii and the general welfare of the citizenry require that the water resources of the state be properly managed. Hawaii's water law ought to be reviewed, updated, and codified to ensure that Hawaii's water resources are developed, allocated, and conserved in the most judicious, efficient, and equitable manner possible. There is a need to enunciate basic policy regarding Hawaii's water resources which can serve as a state water code.

Your Committee further recognizes the magnitude and seriousness of the matter, and, in order to implement the constitutional mandate in a responsible manner, has established a water commission which will provide the Legislature with a proposed state water code utilizing the guidelines contained in this bill.

Your Committee has amended the bill as follows:

1. Provided that the state water commission is established within the Department of Land and Natural Resources for administrative purposes;
2. Provided that the commission members to be appointed by the governor shall be subject to section 26-34, Hawaii Revised Statutes, relating to advice and consent of the senate, terms of appointment, staggered terms, limitation on appointments, filling of vacancies, removal, and suspension;
3. Provided that commission employees and consultants are not subject to chapters 76 and 77, Hawaii Revised Statutes, relating to civil service and compensation laws for public officers and employees; and
4. Made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2904-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2904-82, S.D. 1.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 499-82 Ways and Means on S.B. No. 2909-82

The purpose of this bill is to provide funding for Phase II-A of the Hawaii Deep Water Electrical Transmission Cable Demonstration Program.

There are extensive geothermal resources on the island of Hawaii. In order to derive the greatest benefit from the electricity generated from such resources, an undersea transmission cable between Hawaii and Oahu is imperative. The cable will further fulfill the state's goal toward energy self-sufficiency.

Your Committee has added the fiscal year of expenditure and deleted the lapsing provision as unnecessary. Technical, nonsubstantive amendments have also been made to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2909-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2909-82, S.D. 1.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 500-82 Ways and Means on S.B. No. 2916-82

The purpose of this bill is to allow state employees to establish an individual retirement account in lieu of participation in the state retirement system.

Your Committee notes that membership in the State Employees Retirement System (ERS) is a valued feature of state employment for many employees. However, certain employees, primarily those younger and less highly compensated, find that too much of their current income is deducted for retirement purposes. For example, 14.5 per cent (7.8 per cent for the ERS and 6.7 per cent for Social Security) of an employee's salary is deducted for retirement purposes.

The net result of the present system is that many employees find it difficult to make ends meet with their current take-home pay because so much is set aside for retirement. These employees need more take-home pay now, rather than generous retirement benefits in the distant future. This is understandable because their needs are greatest while they have children to raise and educate and mortgages to pay, rather than when they become more established. Thus, many prefer more income now, even at the expense of possibly reduced retirement income.

Compounding their dissatisfaction with their take-home pay is the lack of perception regarding the large amounts the state contributes for an employee's retirement. The state contributes an amount equal to about 26.3 per cent (19.6 per cent for the ERS and 6.7 per cent for Social Security) of an employee's salary for that employee's retirement benefits. Unfortunately, the state's contribution is not reflected in an employee's payroll statements. However, the cost to the state is no less real and the State's contribution could be redirected to provide employees more income at the time their needs are greatest.

Your Committee believes that a solution to the dilemma is to allow state employees to establish an Individual Retirement Account (IRA) as an option to membership in the ERS, with the state contributing to the IRA. This bill would provide that the employee who elects to establish an IRA will not be required to contribute to that IRA. Instead the IRA would be funded by the state's contribution of twelve per cent of the employee's gross salary and the employee would have added to the employee's paycheck the 7.8 per cent currently deducted as an employee contribution to the retirement system. If the current maximum of \$2,000 for an IRA is reached in any one year the employees would also receive an extra compensation the twelve per cent the state had been contributing to the IRA.

This bill allows the average member of the ERS who earns about \$19,200 to receive an additional \$125 a month rather than contribute that amount to the retirement system. At the same time the state would contribute \$192 to that individual's IRA. After approximately ten months the IRA maximum \$2,000 a year would be reached. Thereafter, the employee would have added to the paycheck the \$192 previously contributed by the state, less withholding taxes and social security payments. Aside from the obvious advantages of more take-home pay, the employee would receive a tax deduction for the total \$2,000 contributed to the IRA. Most importantly, the interest rates on an IRA are higher than the rate of inflation and this, combined with the fact that the interest earned is not taxed until withdrawal, will generate enormous sums.

Your Committee notes that an often overlooked, but key advantage of an IRA is the fact that death either prior to or after retirement has no impact on benefits. On the other hand, ERS retirement benefits are generally significantly reduced in the same situation.

Your Committee is appreciative of the fact that the proposed IRA program is a tempting one. However, it should be noted that the ERS provides certain other benefits, primarily a life insurance policy which would give an employee's beneficiary up to one year's salary as a death benefit, a disability plan that entitles an employee to a pension of up to two-thirds of average pay for life, a post-retirement allowance annually which automatically increases two and one-half per cent of an employee's basic pension and pays all health insurance plan premiums for retirees. While these benefits can readily be paid for out

of the additional take-home pay that would accrue to an employee in the proposed IRA program they should not be ignored.

Some concern has been expressed that IRA rollover rules would not allow tax-deferred rollover of an employee's annuity savings account to an IRA. At the same time there is concern that if a significant number of employees wish to take advantage of the IRA Program the ERS may have difficulty in making the funds available immediately. This bill would eliminate such concerns by providing that funds which cannot be rolled over to the employee's IRA be paid to the employee within one year of the election to establish an IRA.

The bill also provides that an employee who elects to establish an IRA under the proposed program of state contribution must rejoin the ERS if the federal government eliminates the tax-deferred IRA Program. This provision is necessary in order to provide adequate retirement for the employee in the event IRA's are eliminated by the federal government. However, under this bill, the employee can only rejoin the ERS and will not be able to buy back any previous service. Thus, the employee who elects to establish an IRA under the state program will be ensured of a retirement plan. At the same time no unnecessary burden will be placed on the ERS which would result if an employee could buy back with large amounts of service time.

Your Committee believes that the state will also benefit from the IRA plan because its contribution towards the employee's retirement will be reduced. Given the burgeoning costs of the ERS, a plan that reduces the costs to both parties while increasing benefits to employees should be made available.

Your Committee heard testimony from various financial institutions and organizations in favor of this bill.

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. 2916-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2916-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Yee.

SCRep. 501-82 (Majority) Ways and Means on S.B. No. 2919-82

The purpose of this bill is to allow system-wide financing of special purpose revenue bonds issued to health care facilities.

The present language is unclear as to the ability of a Hawaii health care facility to participate in system-wide financing, and may prohibit the subsequent issuance of additional bonds.

Your Committee finds that system-wide financing provides enhanced security for bonds and should result in lower interest rates.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2919-82, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 502-82 Ways and Means on S.B. No. 2920-82

The purpose of this bill is to require the insurance commissioner to annually publish a list of all noncommercial property insurers with their annual premiums and other related information for representative homeowner policies.

Your Committee finds that when consumers are presented relevant information on property insurance policies, they can save a considerable amount of time, effort, and money in selecting an insurer who offers a comparable policy at a lower premium.

This bill would require the insurance commissioner to annually publish:

- (1) A list of all noncommercial property insurers in the state;
- (2) The annual premiums charged by each insurer for representative homeowner policies;
- (3) Co-insurance factors;

- (4) A statement on the methods used by each insurer in valuing the property;
- (5) The ratio of coverage to the property value for each insurer; and
- (6) The portion of the loss each insurer will assume if the property is underinsured.

Your Committee has amended the bill by designating the proper fiscal year and purpose for the expenditure of the appropriation. Technical, nonsubstantive amendments have also been made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2920-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2920-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 503-82 Ways and Means on S.B. No. 2926-82

The purpose of this bill is to permit the expenditure of funds, previously appropriated as matching funds, under a federal grant for drug abuse treatment.

The Statewide Services Grant for community-based drug abuse treatment services which the state currently receives from the National Institute on Drug Abuse will terminate on March 31, 1982. For the past four years, the state has appropriated the matching share of this grant, including approximately \$85,521 for the period April 1, 1982 through June 30, 1982.

Your Committee supports the intent of this Act to utilize these matching funds in order to help minimize the severe impact of the loss of federal drug treatment funds to the state.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2926-82, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 504-82 Ways and Means on S.B. No. 2948-82

The purpose of this bill is to clarify existing legislation which authorizes the Aloha Tower Development Corporation to redevelop the Aloha Tower Complex.

Your Committee received testimony from the chairperson of the Aloha Tower Development Corporation, and the Estate of James Campbell, which supported passage 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. 2948-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2948-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 505-82 (Majority) Ways and Means on S.B. No. 2950-82

The purpose of this bill is to provide an appropriation for ambulance service contracts for Maui County, Kauai County, Hawaii County, and the City and County of Honolulu, for fiscal year 1982 shortfalls.

Your Committee received testimony from the state Department of Health in favor of passage of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2950-82, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 506-82 Ways and Means on S.B. No. 2955-82

The purpose of this bill is to fix responsibility for and provide funding for emergency medical services. The bill requires each county with a population of 200,000 or more to implement a comprehensive pre-hospital emergency medical services system consistent

with standards established by the Department of Health.

Your Committee finds that emergency medical services should generally be provided and managed at the county level. State funding should be designed to provide maximum incentive for the county to develop cost-effective, as well as efficient emergency ambulance services. In recognition of the fact that smaller counties are unable to operate and fund emergency ambulance services on the same basis as a large county, provisions should be made to continue state operations in those counties.

Testimony of the City and County of Honolulu claimed that there is no rational basis for mandating counties with a population of 200,000 or more to be funded on a different basis from other counties. However, only a county with a high volume of ambulance calls per station can generate sufficient revenues to support ambulance service. For example, Hawaii county with its low volume of calls, could not be expected to support a system the same way the City and County of Honolulu could through the collection of fees. Thus, the revenue-generating capacity of a county with a population less than 200,000 is considerably smaller than that of a larger county while at the same time, many of the fixed costs of operating a system remain the same. Population size is the most important factor in determining whether a county can run a self-sufficient system under the provisions of this bill.

Your Committee has amended the bill by adding an amendment to section 27-21.6, Hawaii Revised Statutes, regarding functions reassigned to the counties to reassign the ambulance and first-aid services to counties over 200,000 population. This provision was deleted by the act creating the emergency medical services system and it is appropriate that this bill replace that provision. Your Committee has amended the bill to make technical or nonsubstantive corrections.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2955-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2955-82, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Young.

SCRep. 507-82 Ways and Means on S.B. No. 2971-82

The purpose of this bill is to prevent erosion of the state's agricultural economic base and to assist terminated employees of the Puna Sugar Company by authorizing the Board of Land and Natural Resources to receive land from the Puna Sugar Company and to develop such lands into agricultural parks. Such lands shall then be made available to terminated plantation employees who are designated by the Puna Sugar Plantation in the conveyance documents.

This bill would remove county control over the subject lands and permit the conveyance of five-acre fee simple lots to the terminated employees.

The Department of Land and Natural Resources has expressed a concern regarding the manner in which the private property, including but not limited to, lands, funds, equipment, or other assets from the Puna Sugar Company are to be received by the board. To address this concern, your Committee has amended the bill to create a trust fund for the specific purpose of receiving private property under this Act. All private property transferred from the Puna Sugar Company, by agreement with the Board of Land and Natural Resources, shall be placed in the trust fund which is to be administered by the Board of Land and Natural Resources.

Your Committee has also made a nonsubstantive change by inserting the proper name of Puna Sugar Plantation, which is "Puna Sugar Company, Limited," wherever "Puna Sugar Plantation" appears in the bill, and other minor technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2971-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2971-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 508-82 (Majority) Ways and Means on S.B. No. 2978-82

The purpose of this bill is to create a temporary Hawaii cancer commission under the Department of Health, for the purposes of administering the Hawaii cancer fund for research and development of an Interferon-Biological Response Modifier Program for the treatment of patients with selected cancer and microbial diseases.

Cancer is one of the leading causes of death in Hawaii, accounting for approximately one thousand deaths annually. In many cases, standard treatments have been ineffective and patients and their families have suffered extreme hardship.

Your Committee finds that new developments in cancer research, particularly the anti-cancer agent, known as interferon, a biological response modifier, although still experimental, offers cancer victims a viable and potentially effective treatment. However, the costs of interferon treatment are extremely high.

Your Committee has amended the bill to:

(1) Include other biological response modifiers in the treatment of cancer, in addition to interferon, to be within the ambit of the commission;

(2) Increase the number of active cancer researchers on the commission from one to two, while decreasing the members from the general public from three to two;

(3) Delete the specific reference to the lapsing of unexpended or unencumbered funds into the general fund; and

(4) Appropriates \$950,000 instead of \$2,000,000 to the Hawaii cancer fund.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2978-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2978-82, S.D. 1.

Signed by all members of the Committee except Senator Anderson.
Senators Henderson and Saiki did not concur.

SCRep. 509-82 (Majority) Ways and Means on S.B. No. 2994-82

The purpose of this bill is to clarify certain provisions pertaining to the Hawaii Community Development Authority's power and role and provide specific authorization to the authority for implementation of the Kakaako Plan and rules.

Your Committee has amended S.B. No. 2994-82, S.D. 1, by:

1. Expanding the Kakaako District boundaries to include certain areas makai of Ala Moana boulevard; and

2. Limiting the construction activities the Kakaako authority may engage in outside the district to construction which relates to infrastructure development.

Various technical amendments have also been made without substantive effect.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2994-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2994-82, S.D. 2.

Signed by all members of the Committee except Senator Anderson.
Senators Cayetano and Kawasaki did not concur.

SCRep. 510-82 Ways and Means on S.B. No. 647

The purpose of this bill is to limit the number of bills which may be introduced by any legislator.

Your Committee has amended the bill by completely deleting the provisions contained in section 1 and substituting therefor provisions regarding the journals of the respective houses of the Legislature. Presently, there is no law governing the printing, distribution, and sale of the journals or the disposition of proceeds from those sales. The purpose of this bill, as amended, is to provide orderly procedures for the dissemination of the journals.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 647, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 647, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Anderson and Campbell.

SCRep. 511-82 Ways and Means on S.B. No. 2910-82

The purpose of this bill is to repeal the exemption of sales and gross proceeds of sales to the federal government from the imposition of the state general excise tax.

Under present law, sales to the federal government of tangible personal property are exempt from the imposition of the general excise tax. Exemptions are also granted to exclude sales to the federal government of intoxicating liquor from the liquor tax and of tobacco products from the tobacco tax.

Your Committee received testimony from the Department of Taxation in favor of this bill. Your Committee agrees with the department's comment that because the general excise tax is a tax on the privilege of doing business in this state, allowance of exemptions from the tax based on who the purchaser is would be inconsistent with the philosophy behind the general excise tax law.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2910-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 512-82 (Majority) Ways and Means on S.B. No. 903

The purpose of this bill is to (1) specifically state that the Board of Regents of the University of Hawaii shall exercise control over the University through the president of the University of Hawaii; (2) repeal the statutory limitation on the salary of the president; (3) require the Board of Regents to establish separate salary schedules for academic executive and managerial personnel and nonacademic executive and managerial personnel; and (4) repeal the statutory limitation on the salaries of excluded officers and employees of the university, which limitation has been declared unconstitutional.

Your Committee agrees with the findings of the Committee on Higher Education regarding this bill as stated in Senate Standing Committee Report No. 183-82. Your Committee emphasizes that this bill is intended to allow the Board of Regents to attract qualified academic and nonacademic personnel to the university by offering salaries which are competitive with the salaries offered by other higher education institutions.

Your Committee has amended the bill by adding a provision that this bill shall supersede S.B. No. 2759-82 relating to the compensation of public officers and employees and making an appropriation therefor.

Technical, nonsubstantive amendments have also been made to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 903, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 903, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.
Senators Abercrombie, Cayetano and Kawasaki did not concur.

SCRep. 513-82 (Majority) Ways and Means on S.B. No. 2252-82

The purpose of this bill is to conform the Hawaii income tax law to the federal Internal Revenue Code, as the Code existed on December 31, 1981. This bill is the annual conformance measure which the Department of Taxation is required to submit under section 235-2.3, Hawaii Revised Statutes, and it includes most of the provisions of the Economic Recovery Tax Act of 1981.

Your Committee finds that the extensive modifications to the IRC enacted by Congress in 1981 add to the significance and import of this annual conformance bill.

The sweeping changes to the Code, intended to encourage greater personal savings and the re-investment of capital into the nation's economy, have greatly altered federal treatment of income. Several new federal programs, most notably All-Savers Certificates and Individual Retirement Accounts, have already enjoyed widespread taxpayer acceptance and participation, in Hawaii and throughout the nation.

Your Committee finds that close conformance between the IRC and the state's income tax provisions is therefore very critical to a large number of Hawaii's taxpayers, as it

will eliminate possible conflict and confusion and facilitate compliance.

Your Committee has amended the bill by correcting two internal references in section 235-2.3(b) (4) and (12), Hawaii Revised Statutes, and in the same subsection by placing the reference to section 221 in the proper numerical order, by correcting a minor underscoring omission, and by adding a boiler plate section to provide for substantive amendments made to section 235-2.3, Hawaii Revised Statutes, by other bills during this regular session.

Your Committee finds that Hawaii taxpayers have already begun to file income tax returns, many of whom are participants in All-Savers or IRA programs.

Your Committee therefore strongly recommends the expeditious passage of this bill to obviate the filing of otherwise unnecessary amended returns and the resulting cost to both taxpayers and the Department of Taxation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2252-82, as amended herein, and recommends it pass Second Reading in the form attached hereto as S.B. No. 2252-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.
Senators Abercrombie and Kawasaki did not concur.

SCRep. 514-82 Ways and Means on S.B. No. 2829-82

The purpose of this bill is to appropriate \$1 from the state general obligation bond fund for capital improvement projects relating to:

- (1) State recreation, agricultural, and conservation parks;
- (2) Historic and archaeological sites;
- (3) Water resources projects; and
- (4) Public land banking.

Your Committee finds that the demands of the state's growing population have placed increasing demands for land resources of this state. Currently, there is an urgent need to acquire and develop lands in the state for recreational, agricultural, conservation, historical, archaeological, and other public purposes. This bill would appropriate funds to meet these needs.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2829-82 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. 515-82 Ways and Means on S.B. No. 2868-82

The purposes of this bill are to (1) exclude for income tax purposes any intangible income (such as dividends and interest) received by any nonresident beneficiary residing in another state from any trust having a situs in the state, and (2) allow an income tax credit to any resident beneficiary of a trust having a situs in another state for any income taxes paid to such state on any income received from other than intangibles.

Currently, section 235-4, Hawaii Revised Statutes, provides that nonresidents are taxed on income derived from sources in the state. There is no difference in taxation irrespective of whether the beneficiary is a resident or nonresident of this state.

With respect to income derived from estates and trusts having a situs outside the state, section 235-55, Hawaii Revised Statutes, presently provides a tax credit for Hawaii residents against Hawaii income taxes for taxes paid by the resident taxpayer to another state. For any nonresident beneficiary of a trust or estate having a situs in the state, however, no tax credit against Hawaii income taxes is permitted. As a result, there is a strong possibility that the nonresident beneficiary will be taxed twice. This bill would eliminate the tax inequity resulting from the double taxation of nonresident beneficiaries.

Your Committee heard testimony from numerous individuals in favor of the bill.

Your Committee has amended the bill by making nonsubstantive, language amendments for purposes of clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2868-82, as amended herein, and recommends that it pass Second Reading and be placed on the calendar for Third Reading in the form attached hereto as S.B. No. 2868-82, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 516-82 (Majority) Ways and Means on S.B. No. 2555-82

The original purpose of this bill was to authorize the establishment of a state operated lottery system, the revenues of which shall go to the benefit of Hawaii's senior citizens.

The bill was subsequently amended to authorize the establishment of a state operated lottery system, the revenues of which shall be allocated to programs providing health and human services.

Your Committee, in review of prior testimonies and in testimonies heard, feels that a state operated lottery system is a source of revenue which would provide funds for certain designated programs.

While opponents to this bill have come forth with numerous accounts as to what could befall our state, such as, organized crime infiltrating the system, promoting gambling to the general public, paving the way for the legalization of all forms of gambling, and enticing participation of those persons who would otherwise have not expended the money toward a lottery ticket because of more urgent needs, your Committee would like to point out that in order for our state to recognize the true impact created by the establishment of the Hawaii State Lottery, we must allow the system to be tested.

Your Committee further would like to point out that the system, as allowed by this bill, will be in operation for only six years and shall terminate unless renewed by the Legislature.

Much study has been expended in the development of this bill and your Committee feels that the security of this system is safeguarded by certain provisions as contained in this bill.

Your Committee has amended the bill by:

1. Disallowing persons who fall within the purview of chapter 853 relating to the deferred acceptance of guilty plea (DAGS) from being licensed to sell lottery tickets or shares;
2. Making prizes received be included as income and not be exempt from state taxation;
3. Providing that criminal history record information may be used regarding nominees to the commission, section 846-9 or any other law to the contrary notwithstanding;
4. Adding the effective and terminating date of the chapter;
5. Appropriating a sum of \$25,000 for fiscal year 1983-1984 to provide for the establishment of the lottery; and
6. Making nonsubstantive grammatical changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2555-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2555-82, S.D. 2.

Signed by all members of the Committee.
Senator Campbell did not concur.

SCRep. 517-82 Ways and Means on S.B. No. 2759-82

The purpose of this bill is to increase the salaries or maximum salaries of certain executive officers, justices and judges, judicial officers, and legislative officers. The bill also freezes the salaries of county officers whose salaries are not determined under chapter 77 or 89C, Hawaii Revised Statutes (HRS). In addition, a compensation review commission is created to study the compensation schedule of all public officers and employees of the state and counties.

Your Committee has amended the bill substantially. In the amended form, the bill adjusts the salaries or maximum salaries or methods of determining the salaries of the following public officers: Governor, Lieutenant Governor, Superintendent of Education, President

of the University of Hawaii, department heads, Adjutant General, first deputy directors and second deputy directors of executive branch departments, Administrative Director, Federal Programs Coordinator, members of the Hawaii Public Employment Relations Board, Chief Negotiator, Stadium Manager, Deputy Stadium Manager, Marine Affairs Coordinator, members of the Public Utilities Commission, assistant superintendents, district superintendents, deputy district superintendents, and the state librarian of the Department of Education, Executive Director of the Hawaii Public Broadcasting Authority, Chairman of the Hawaii Paroling Authority, Executive Director of the Hawaii Housing Authority, members of the Labor and Industrial Relations Appeals Board, Deputy Commissioner of Credit Unions, Assistant Insurance Commissioner, Director of the Office of Consumer Protection, Public Defender, district family judges, Administrative Director of the Courts, Deputy Administrative Director of the Courts, Chief Justice, associate justices of the Supreme Court, Chief Judge and associate judges of the Intermediate Appellate Court, circuit court judges, district court judges, Sheriff, First Deputy Sheriff, Second Deputy Sheriff, Legislative Auditor, First Deputy or Assistant Auditor, Director and the director's assistants of the Office of the Legislative Reference Bureau, Ombudsman, and First Assistant to the Ombudsman, and Executive Director of the Ethics Commission.

The bill, as amended, now provides for the following:

(1) Your Committee has deleted all salary figures from the bill. There is still considerable disagreement over the appropriate salary increases which should be provided. Rather than hold the bill because of the disagreement or recommend passage of a measure with much opposition, your Committee feels that the controversial aspects should be deleted for now and the bill kept alive.

(2) The salaries of the public officers which are adjusted under this bill, with certain exceptions, are set statutorily as flat amounts. The power of the appointing authorities to establish the salaries of these public officers below statutory maximums is repealed. This bill retains provisions allowing the Board of Education to set the salaries of the Superintendent of Education, first deputy, assistant superintendents, district superintendents, and deputy district superintendents. Maximum salaries for these officers of the Department of Education, however, are adjusted. The Board of Regents continues to set the salary of the President of the University of Hawaii, but the statutory maximum is repealed.

(3) All provisions linking the salaries of public officers to the salaries of other public officers are replaced with statutory amounts.

(4) The statutory salaries of the sheriff, first deputy sheriff, and second deputy sheriff are repealed. Instead, provisions are added which exempt these officers from chapter 76, HRS, but makes their salaries subject to the applicable compensation plan.

(5) Section 121-8, HRS, is amended to clear possible conflicting provisions concerning the salary of the Adjutant General.

(6) References to the Governor's salary are deleted from part IV.

(7) Section 12 of the bill, as received, has been amended to delete the fiscal year 1982-1983 appropriation for the Second Deputy Director of the Department of Planning and Economic Development. Moneys for the fiscal year 1982-1983 adjustment and retroactive salary adjustment are to be included with the appropriation for other executive branch officers.

(8) The appropriation clauses have been amended by deleting references to contributions for public employee benefits programs. Your Committee intends to appropriate moneys for the necessary contributions in the supplemental appropriations bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2759-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2759-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 518-82

Ways and Means on S.B. No. 2167-82

The purpose of this bill is to terminate the Environmental Quality Commission and transfer the commission's functions to the Office of Environmental Quality Control.

Under current law, the Environmental Quality Commission, which is a part-time body composed of private citizens, serves as a liaison between public agencies and private applicants who are responsible for preparing environmental assessments and environmental impact

statements and the general public. The increased complexities of environmental issues, however, now require the full-time attention of a public agency with expertise in environmental protection and ecology. This bill implements the necessary change by transferring the Environmental Quality Commission's functions to the Office of Environmental Quality Control, which is a full-time, independent public agency. Your Committee feels that this bill will strengthen the environmental impact statement law.

The bill also provides that (1) the salary of the director of the Office of Environmental Quality Control be set by the governor subject to legislative appropriation; (2) the director be an ex officio, nonvoting member; and (3) the chairperson of the council be elected by the members. Presently, the director is a voting member of the council and serves as chairperson. The intent of (2) and (3) above is to lessen the influence of the director on the council, since the council is intended to provide advice reflecting the attitudes of private citizens to the director.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2167-82, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Campbell, Cayetano, Young and Saiki.

SCRep. 519-82 Ways and Means on S.B. No. 2261-82

The purpose of this bill is to allow the Department of Transportation to enter into contracts, leases, and licenses for the sale and delivery of in-bond merchandise at Honolulu International Airport.

Presently, the Department of Transportation may not enter into more than two contracts for the sale and delivery of in-bond merchandise at Honolulu International Airport until June 30, 1982.

The visitor industry is Hawaii's leading source of income and jobs for its residents. Tourism also accounts for millions of dollars in state revenues each year. Virtually all visitors to the islands arrive and depart by air and therefore the maintenance of a functional, well-planned and well-maintained airport is critical to the vital interests of the state.

A substantial amount of revenue for the operation of the airport comes from the sale of in-bond or duty-free, merchandise to foreign visitors. Experience indicates that the opportunity to purchase duty-free merchandise is in itself an attraction for many overseas tourists.

Recognizing the importance to the state of stable, well-run, and profitable duty-free operations at the airport as well as the potential harm that could result from unfettered business competition, the Legislature restricted the Department of Transportation from entering into no more than two contracts with concessionaires.

On January 1, 1981, the Department of Transportation entered into a seven and one-half year contract with the incumbent duty-free operator and into a similar seven and one-half year contract with a second competing operation. Less than nine months later, the second duty-free operation withdrew from its contract because of its inability to meet its financial guarantees to the department.

The present two-contractor limitation expires on June 30, 1982 and the economic realities and pressures that led to its enactment and which contributed to the failure of a second duty-free operation at Honolulu International Airport still prevail.

Your Committee finds that it is necessary to protect the vital interests of the state to continue to limit the competitive pressures and strains on the duty-free business at Honolulu International Airport.

Your Committee also finds that in light of the nature of the business and actual experience, the two-operation concept is not a realistic option.

Your Committee therefore amended the bill to permit the Department of Transportation to enter into no more than the one contract for duty-free operations at Honolulu International Airport. Your Committee also amended the bill to require the department to prevent other persons from delivering in-bond merchandise to the airport, except as cargo, to protect the state while not interfering with or burdening foreign commerce.

Your Committee has amended section 3 of the bill to properly delete the repealing provision of Act 243, Session Laws of Hawaii 1981.

In closing, your Committee recognizes that it is granting an economic advantage to the duty-free operation at the Honolulu International Airport. However, your Committee makes it explicitly clear that its intent in doing so is to protect the state's interests in revenues, tourism, and the orderly administration and operation of the Honolulu International Airport. In all present and future dealings with the duty-free operations, the state must receive the fullest measure of fair consideration for this protection conferred.

Your Committee also expects the Department of Transportation to continue to closely and actively supervise the duty-free operations at the Honolulu International Airport as a substitute for the discipline of the free marketplace to protect both the state and the public.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2261-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2261-82, S.D. 2.

Signed by all members of the Committee except Senators Young, Henderson and Saiki.

SCRep. 520-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Gov. Msg. No. 180 and Stand. Com. Rep. Nos. 363-82 to 518-82 on March 15, 1982 at 4:00 o'clock p.m.; and

Stand. Com. Rep. No. 519-82 on March 15, 1982 at 10:00 o'clock p.m.

Signed by all members of the Committee.

SCRep. 521-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 37 and 38 and S.R. Nos. 52 and 53 on March 17, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 522-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 39 and 40 and S.R. Nos. 54 to 56 on March 18, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 523-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. No. 41, S.R. No. 57 and Stand. Com. Rep. No. 524-82.

Signed by all members of the Committee except Senator Young.

SCRep. 524-82 Ecology, Environment and Recreation on S.R. No. 38

The purpose of this resolution is to request the Department of Navy to cease the use of Kaho'olawe as a military bombing target and to withdraw invitations to the nations of Japan, Canada, New Zealand and Australia to participate in the department's RIMPAC '82 exercises.

Repeated requests by the Legislature in the past resulted in the signing of a Memorandum of Agreement in 1978 by the State of Hawaii and the Department of the Navy, recognizing the concerns of various organization and individuals regarding the land use of Kaho'olawe. In testimony presented before your Committee, Susumu Ono, chairman of the Board of

Land and Natural Resources, advised Committee members that the memorandum lists objectives which would be implemented by mutual cooperation between the state and the Navy.

The memorandum, however, does not address the bombing of Kaho'olawe by other nations in RIMPAC exercises. Chairman Ono stressed that the memorandum was one between the state and the Navy and did not include non U.S. military forces in the Pacific rim. The concern expressed in S.R. No. 38 regarding the use of Kaho'olawe in the RIMPAC exercises by non U.S. military personnel is shared by the Department of Land and Natural Resources.

In realizing that the Memorandum of Agreement is a binding one and that it presently provides for the use of Kaho'olawe as a U.S. Navy target, your Committee feels that the adoption of this resolution will advise the Navy of our continued commitment to achieving a reduction of military activities on Kaho'olawe and facilitate the return of the island to the State of Hawaii.

In regard to the use of Kaho'olawe as a bombing target for the nations of Japan, Canada, New Zealand and Australia during the upcoming RIMPAC '82 exercises, your Committee is offended with the Department of the Navy's disregard of the concerns and the feelings of this state's citizenry on this matter. As military personnel unfamiliar with Hawaiian waters, much less with the distances of the islands of Maui, Molokai and Lanai to Kaho'olawe and the locations and the archaeological and religious importance of a number of identified sites on the island, it is feared that the participation of the aforementioned nations in the RIMPAC exercises and in the bombing of Kaho'olawe would be a destructive and insensitive act on the part of the U.S. Navy. There is always a chance, negligible or otherwise of the accidental firing of a missile or other materials towards Maui, Lanai or Molokai, endangering the well-being and safety of the population. That chance becomes greater when the military personnel is unfamiliar with the Hawaiian geography.

Your Committee believes that the Department of the Navy, by issuing invitations to the military of another nation without so advising and consulting with the Governor of the State of Hawaii, of which the island of Kaho'olawe is still a part, and with an indifference to the reaction and concern of the state's chief executive, has demonstrated its unwillingness to act in good faith regarding the Kaho'olawe issue.

Your Committee did contact the Department of the Navy in advance to advise them of the date, time and place of its hearing on this resolution. While your Committee can understand the reluctance of the Navy to appear at the scheduled hearing, it should be noted that the Navy also chose not to provide your Committee with oral or written testimony.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 38 and recommends its adoption.

Signed by all members of the Committee except Senators George and Mizuguchi.

SCRep. 525-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 42 to 45 and S.R. No. 58 on March 22, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 526-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Stand. Com. Rep. Nos. 527-82 to 531-82 on March 23, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 527-82 Judiciary on Gov. Msg. No. 169

Recommending that the Senate advise and consent to the nomination of ELI NAHULU to the Juvenile Justice Interagency Board, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 528-82 Judiciary on Gov. Msg. No. 170

Recommending that the Senate advise and consent to the nominations of COBEY BLACK, SHARON Y. MORIWAKI, KEVIN MULLIGAN, LYN A HEMMINGS and VIVIAN RAE HANSON to the Commission on the Status of Women, for terms ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 529-82 Judiciary on Gov. Msg. No. 171

Recommending that the Senate advise and consent to the nomination of JOAN H. YAMAMOTO to the Board of Registration of Kauai and Niihau, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 530-82 Judiciary on Gov. Msg. No. 177

Recommending that the Senate consent to the nomination of JAMES S. BURNS as Chief Judge of the Intermediate Court of Appeals, 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.

SCRep. 531-82 Judiciary on Gov. Msg. No. 178

Recommending that the Senate consent to the nomination of ARTHUR T. UEOKA as Judge, Second Circuit 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.

SCRep. 532-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 46 and 47 and S.R. Nos. 59 to 61 on March 24, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 533-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 48 to 50, S.R. Nos. 62 to 65 and Stand. Com. Rep. Nos. 534-82 to 570-82 on March 25, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 534-82 (Majority) Transportation on H.B. No. 2806-82

The purpose of this bill is to require the successful bidder for an in-bond contract at Honolulu International Airport to post a bond equal to not less than six months of the highest minimum rental guarantee and to require that all other airport concessionaires post a bond equal to not less than two months' rental.

Your Committee finds that the existing bond requirement of two months' rental is not sufficient for the orderly preparation, advertising and award of major contracts. Requiring that an in-bond concessionaire post a bond equal to not less than six months of the highest minimum rental, however, could work a hardship on a bidder with an escalating annual rental guarantee over the life of the contract. Your Committee has thus amended the bill to provide for a bond of not less than two months' rental and other charges, if any, for all contracts.

Your Committee has further amended this bill to make a technical correction.

Your Committee on Transportation is in accord with the intent and purpose of H.B.

No. 2806-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2806-82, H.D. 2, 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. 535-83 Transportation on H.B. No. 2637-82

The purpose of this bill is to repeal Section 266-22, Hawaii Revised Statutes, which requires all costs of maintaining the fireboat to be paid out of the Department of Transportation harbor special funds.

Under present statute, the Department of Transportation is required to pay over \$700,000 annually in operating and maintenance costs for the city and county of Honolulu owned fireboat. The repeal proposed by this bill would greatly reduce state harbor expenditures and such a reduction would be reflected in the rates charged for port facility use.

Continued fire protection is essential to Honolulu Harbor and to vessels in distress in the state waters within easy reach of the island of Oahu.

In order to insure the continuation of an acceptable level of fire protection in Honolulu Harbor and other safety services now provided by the Fireboat Langley, your Committee finds that the transfer of responsibility should not take place if a mutually agreeable compromise can be reached between the Department of Transportation and the city and county fire department. This compromise should be directed to finding satisfactory alternates to the Langley that would provide the present level of service at a much reduced cost.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2637-82, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 536-82 Government Operations and Intergovernmental Relations on
S.C.R. No. 15

The purpose of this concurrent resolution is to request the state and county governments to adopt a statewide policy of contracting public services whenever it is cost-effective and does not involve public safety.

One of the priority proposals reached at the Governor's Conference on Small Business in 1981 is that the state and county governments consider using private resources in carrying out public services if it is cost-effective and public safety is not involved.

Your Committee finds that this priority proposal merits consideration in that government should perform only those services which cannot be effectively performed by the private sector.

Your Committee has amended this concurrent resolution to urge the formation of a Hawaii Small Business Task Force, composed of small business organization leaders, small business owners, state legislators, state agency representatives and the Lieutenant Governor. The task force would be charged with researching specific instances where work is considered being contracted out by government agencies, to see if savings might be realized.

Your Committee has also amended this concurrent resolution by making technical changes that have no substantive effect.

Your Committee on Government Operations and Intergovernmental Relations concurs with the intent and purpose of S.C.R. No. 15, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 15, S.D. 1.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 537-82 Government Operations and Intergovernmental Relations on
S.R. No. 13

The purpose of this resolution is to adopt a statewide policy of contracting public services whenever it is cost-effective and does not involve public safety.

One of the priority proposals reached at the Governor's Conference on Small Business in 1981 is that the state and county governments consider using private resources in carrying out public services if it is cost-effective and public safety is not involved.

Your Committee finds that this priority proposal merits consideration in that the government should perform only those services which cannot be effectively performed by the private sector.

Your Committee has amended this resolution to urge the formation of a Hawaii Small Business Task Force, composed of small business organization leaders, small business owners, state legislators, state agency representatives and the Lieutenant Governor. The task force would be charged with researching specific instances where work is considered being contracted out by government agencies, to see if savings might be realized.

Your Committee has also amended this resolution by making technical changes that have no substantive effect.

Your Committee on Government Operations and Intergovernmental Relations concurs with the intent and purpose of S.R. No. 13, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 13, S.D. 1.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 538-82 Judiciary on H.B. No. 2010-82

The purpose of this bill is to provide funds to compensate victims, dependents, attorneys, and others for medical services as the result of criminal acts.

The sum of \$432,502.56 is approved by your Committee to be appropriated out of the general revenues of the state to cover the payments of claims approved by the criminal injuries compensation commission in 1981. Your Committee finds these claims in order.

Your Committee also approves an additional sum of \$1,000.00 to permit the commission to make payment on an award made in 1979, but not yet paid.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2010-82 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 539-82 Judiciary on H.B. No. 2155-82

The purpose of this bill is to appropriate moneys out of the general revenues of the state for the payment of certain tax refunds, judgments and settlements, and other miscellaneous claims against the state.

These claims for refunds, reimbursements, and other payments were submitted to the Attorney General for review and recommendation for payment.

Your Committee has amended this bill to reflect the amount of the amended judgment filed in the case involving a claim for Aloha Airlines, Inc.

Your Committee has further amended this bill to include payments for the following claims:

Jo Ann Guillermo	\$	12,706.68
Eric Nettare		51,589.50
Arleen Wilcox		17,760.61
Dolores and Ernest Thomas		113,288.29
Bernard Hoopai		52,168.10

The date of lapsing of the unexpended balances after payment of the claims has also been changed from June 30, 1982 to June 30, 1983.

This bill appropriates \$687,402.02 for the payment of 22 claims under section 37-77 and Chapter 662 of the Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2155-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form

attached hereto as H.B. No. 2155-82, 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. 540-82 Judiciary on H.B. No. 2359-82

The purpose of this bill is to provide for the establishment of a statewide witness program by the Department of the Attorney General for the security and protection of government witnesses.

The bill appropriates the sum of \$1,200,000 to the Attorney General's office to be expended for witness protection efforts, with greatest priority given to cases involving organized crime, racketeering, or career criminals. County and state prosecuting and law enforcement agencies may request witness protection or funding for that purpose from the Attorney General.

Your Committee heard testimony from the Department of the Attorney General that there is a need for statewide assistance to enable state and county law enforcement agencies to provide protection against witness intimidation, tampering, and retaliation when witnesses are willing to testify in government criminal investigations and prosecutions. The high cost of witness protection is often beyond the means of the counties. Moreover, many cases have statewide as well as local impact, especially in the area of organized crime.

Your Committee notes that the federal government's witness security program has been successful, however, the elimination of federal funds provides a necessity for a state program. Your Committee finds that a similar program on the state level would enhance efforts by the counties in obtaining the cooperation of witnesses who are necessary for successful prosecution.

Your Committee amended the bill by deleting the provision that would allow the Attorney General to condition the funding on a county matching or reimbursement basis. Your Committee feels that since the purpose of the program is to provide additional assistance to the counties, it is not necessary to allow such conditions.

Your Committee further amended the bill by deleting the lapsing provision to the appropriation as being unnecessary.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2359-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2359-82, 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. 541-82 Judiciary on H.B. No. 2559-82

The purpose of this bill is to provide funds for the payment of a settlement of negotiated by the State of Hawaii and Dillingham Corporation, doing business as Hawaiian Dredging and Construction Company ("HD&C"), involving a suit (Civil No. 59357) filed by Dillingham Corporation against the State of Hawaii in 1979.

The department of Transportation contracted with HD&C in 1973 for a construction project on Interstate Route H-2, Waikakalaua Stream Bridge calling for 380 working days. The project actually took almost three years to complete and is the basis of HD&C's \$1.8 million suit against the state. An extensive evaluation conducted during a joint analysis and negotiation procedure found that the state's errors, primarily in designs and plans, were responsible for 129 days of the delay.

The Department of the Attorney General has testified that it is in the best interest of the state to provide a \$520,000 appropriation to cover the negotiated settlement rather than engage in costly and time-consuming litigation. Their testimony also indicated that the Federal Highway Administration has been asked to participate by reimbursing 90 per cent of the settlement amount paid by the state.

The appropriation is to lapse into the general fund on June 30, 1983.

Your Committee has amended the bill to provide that the appropriation be released only upon the condition that the state initiate appropriate legal action to recover sums from such other parties who may be liable in this dispute. Your Committee heard testimony

from a deputy attorney general handling the case that there are third parties who may be also liable in this case. Therefore, the state should take steps to involve all the necessary parties who may be liable in this action to determine the allocation of liability.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2559-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2559-82, 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. 542-82 Judiciary on H.B. No. 2674-82

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

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

Your Committee has amended this bill to make nonsubstantive, technical changes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2674-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2674-82, 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. 543-82 Judiciary on H.B. No. 2679-82

The purpose of this bill is to amend Act 22, First Special Session Laws of Hawaii, 1981, by increasing the appropriations for appointments of legal counsel made by the courts for indigent defendants in criminal and related cases.

Act 22 of the First Special Session Laws of Hawaii, 1981, appropriated \$400,000 for each of the fiscal years 1981-1982 and 1982-1983. This bill would increase the appropriation for fiscal year 1981-1982 to \$700,000 and the appropriation for fiscal year 1982-1983 to \$800,000.

Your Committee finds that the increased appropriations are needed because Act 22 also increased the allowable compensation for services rendered by court appointed counsel. Costs of increased fees, together with increased numbers of court appointments, exceeding previous estimates, have resulted in rapid depletion of appropriated funds. At the current rate of expenditure, previous appropriations for fiscal year 1981-1982 will be depleted by mid-March, and an estimated \$300,000 is needed to cover costs through July 1, 1982. Present trends indicate that caseloads for fiscal year 1982-1983 will be even greater than those for the current fiscal year, thereby necessitating an additional appropriation of \$400,000 for that fiscal year.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2679-82 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. 544-82 Judiciary on H.B. No. 2333-82

The purpose of this bill is to facilitate research of amended statutes in the Session Laws of Hawaii.

The bill provides that the Revisor of Statutes in printing the Session Laws of Hawaii shall include the brackets, the bracketed material, and underscoring, except for the addition of a new section or the repealing of an existing section. Presently, since the Session Laws neither include the deleted material nor identify the new material, it is difficult to determine the specific changes made.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2333-82, H.D. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 545-82 Judiciary on H.B. No. 2507-82

The purpose of this bill is to repeal section 603-15, Hawaii Revised Statutes, which pertains to summer trials of civil cases.

Presently, Section 603-15, H.R.S., states that the trial of a contested civil case in a circuit court shall not be commenced during the months of July and August unless upon consent of all the parties. This provision is obsolete and fails to conform with actual practice.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2507-82 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. 546-82 Housing and Hawaiian Homes on H.B. No. 2113-82

The purpose of this bill is to make an appropriation to fund the rental assistance program established by Act 111, Session Laws of Hawaii 1981, to assist low- and moderate-income individuals and families in obtaining affordable rental housing accommodations in the state.

Act 111, Session Laws of Hawaii 1981, established a rental assistance fund to enable the Hawaii Housing Authority to assist owners of rental housing accommodations in maintaining their rental rates at levels appropriate for low- and moderate-income individuals and families.

Your Committee approves the appropriation of \$12,000,000. The funds from the appropriation would be invested and the earnings used to make rental assistance payments to owners of eligible rental housing projects, thereby reducing the rents paid by eligible tenants. The principal amount of the rental assistance fund would remain unchanged.

Based on the testimony heard by your Committee, your Committee recommends that \$2,000,000 be earmarked for the development of an elderly rental housing project in cooperation with the nonprofit Ewa Housing Foundation.

Your Committee has amended the bill by:

- (1) Deleting reference to Act 111, Session Laws of Hawaii 1981, and substituting reference to section 356-303, Hawaii Revised Statutes, with respect to the rental assistance fund, for purposes of clarity.
- (2) Specifying that the appropriation is for the fiscal year 1982-83.
- (3) Deleting the unnecessary lapsing provision for the appropriation.
- (4) Changing the effective date to July 1, 1982.
- (5) Making numerous nonsubstantive, technical, and language amendments.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2113-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2113-82, 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. 547-82 Education on H.B. No. 2426-82

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

Your Committee heard testimony in support of this bill from the State Librarian, the chairperson of the Library Advisory Commission, the Friends of the Library of Hawaii, the Librarians Association of Hawaii, and various concerned librarians and other library staff.

Your Committee notes that the need for an automated circulation system has been growing over the years with an increasingly serious problem of lost books, both from those borrowed

but unreturned, and those stolen outright. In addition, the large volume of overdue bills requiring manual notification has resulted in a six-month backlog, as well as a drain on manpower from other areas.

Your Committee has amended this bill by deleting the sum, "\$639,841" on page 1, line 2. The purpose of this amendment is to provide for further discussion in the Committee on Ways and Means regarding specific levels of funding.

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

SCRep. 548-82 Education on H.B. No. 2767-82

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

Your Committee heard testimony in support of this bill from the Department of Education, the Hawaii State Teacher's Association and the American Association of University Women.

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

In this regard, your Committee supports and recommends the system of educational resources provided by this bill which would provide schools with equitably distributed discretionary funding for supplies, textbooks, equipment, and services that directly benefit students and improve the educational programs of the schools. Your Committee believes that this innovative system of educational resources would provide schools with the necessary flexibility, resources, and authority to help implement their responsibility for ensuring the quality and completeness of their educational programs.

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

Your Committee has amended the bill by replacing the word "Such" with the word "The" on page 4, line 19 and by substituting the words "administrative burdens" for the words "red tape" on page 4, line 23 of the bill.

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

SCRep. 549-82 Education on H.B. No. 3051-82

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

Your Committee heard testimony from the Department of Education, Hawaii Government Employees Association and the Hawaii State Teachers Association in support of this bill.

Your Committee finds that additional vice principal positions are necessary to meet the critical needs of large high schools and intermediate/high schools.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 3051-82, 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 Carpenter, Ajifu and Saiki.

SCRep. 550-82 Human Resources on H.B. No. 765

The purpose of this bill is to amend section 2 of Act 7, First Special Session Laws of Hawaii 1981, to establish a special revenue fund to maintain the State Deferred Compensation Plan.

Act 7 allows for the establishment of a State Deferred Compensation Plan for the benefit of public employees to defer a portion of their compensation to a period of time in the future.

An amount of \$30,000 was originally appropriated for initial implementation costs during fiscal year 1981-82. However, there is concern that the initial implementation phase may not be completed by June 30, 1982. Additional expenses may arise from maintaining the plan after it becomes operational in subsequent fiscal years; funds would not be readily available to meet such expenses. Establishing a special revenue fund to maintain the State Deferred Compensation Plan will address this concern.

The costs to implement and administer the plan must be borne by the Plan and its participants. Therefore, moneys expended from the special revenue fund are to be reimbursed by the plan back into the special revenue fund in order to have readily available funds on an ongoing basis to meet subsequent expenses that may arise in implementing and administering the plan.

Your Committee concurs with the establishment of a special revenue fund that would be a more practical means of meeting expenses which may arise in administering and implementing the plan.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 765, 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 Saiki.

SCRep. 551-82 Human Resources on H.B. No. 1974-82

The purpose of this bill is to allow the state to purchase goods and services from any qualified rehabilitation facility operating workshops for handicapped individuals, and to provide handicapped individuals with more employment opportunities.

Present statutes limit the purchasing of certain commodities by the state from certain workshops operated by the state and the Oahu Community Correctional Center.

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

Due to increasing numbers of disabled persons seeking employment services from rehabilitation facilities, additional work is needed to accommodate those who are seeking and receiving services. Your Committee agrees that these workshops would provide meaningful work opportunities for the handicapped.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1974-82, 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 Saiki.

SCRep. 552-82 Human Resources on H.B. No. 2571-82

The purpose of this bill is to amend section 103-3, Hawaii Revised Statutes, to allow the Department of Regulatory Agencies to hire attorneys on a full-time basis.

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

Your Committee has found that an increase in the number of consumer complaints filed with the Department of Regulatory Agencies has caused a backlog in the prosecution of complaints. The department is unable to adequately prosecute these complaints due to the limited amount of deputy attorney generals assigned to the department.

This bill provides that the attorneys hired pursuant thereto be utilized for the purpose of processing consumer complaints and that they need not be deputy attorney generals. Your Committee agrees that the department needs this flexibility in order to handle consumer complaints properly.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2571-82, 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 Saiki.

SCRep. 553-82

Human Resources on H.B. No. 2850-82

The purpose of this bill is to provide civil service status to plant quarantine inspectors who are in the pre-departure inspection program of the Department of Agriculture.

Your Committee finds that employees covered by this bill have provided services to the division and department in a creditable manner. Unfortunately, inspectors hired after May, 1978 did not have the benefit of civil service status.

This bill will eliminate this disparity and give all inspectors in the program regular civil service status and afford them the degree of security enjoyed by other employees in the department. It will also provide opportunity for intra-departmental transfer, create a high morale in the department and add continuity to the program.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2850-82 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 Saiki.

SCRep. 554-82

Human Resources on H.B. No. 2907-82

The purpose of this bill is to add a new section to the Department of Social Services and Housing Law, Chapter 346, Hawaii Revised Statutes.

This bill authorizes the Department of Social Services and Housing to provide personal care services or payment of services for bathing, toileting, personal hygiene, dressing, feeding, and household tasks to those individuals who are included in the following situations:

- 1) eligible for medical assistance,
- 2) physically handicapped or otherwise incapacitated to perform these tasks,
- 3) there is no responsible person willing to volunteer such assistance,
- 4) and the cost of such services is not more than 60 per cent of the cost for the care of the individual in an alternative plan, if personal care services were not available.

Your Committee has received testimony stating that these services will greatly aid in a disabled individual's effort to live independently in the community. It will also create a positive difference in the option of remaining at home rather than being placed in an institution.

Your Committee has amended this bill by adding the word "provide" and deleting the phrase "offer within the funds available" because Section 3 makes an appropriation out of the general revenues of the State of Hawaii for providing these services. In addition, your Committee has deleted the dollar amount of \$1,000,000 in order to allow for a recommendation from the Committee on Ways and Means.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2907-82, H.D. 2, as amended herein, and recommends that it pass Second Reading

in the form attached hereto as H.B. No. 2907-82, 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 Anderson and Saiki.

SCRep. 555-82 Consumer Protection and Commerce on H.B. No. 2348-82

The purpose of this bill is to provide law enforcement agencies a reasonable opportunity to investigate and recover stolen precious or semi-precious metals and gems.

Testimony heard from the Honolulu Police Department indicates the rise in residential burglaries and the increase in the sale of stolen property to individuals engaged in the business of buying and selling precious or semi-precious metals and gems. The vagueness of the present statutory provisions poses unusual obstacles with respect to the investigation and recovery of stolen jewelry.

This bill will require dealers of precious or semi-precious metals or gems to maintain specific records regarding all articles received and to retain articles for a ten day period.

Your Committee adopted the recommendations of the Honolulu Police Department and the City Council and made the following substantive amendments:

- 1) The definitions section was amended to clarify that the requirements imposed are applicable only to dealers of secondhand or previously owned precious or semi-precious metals or gems.
- 2) A provision was added to require that individuals who sell items to secondhand dealers provide an identification card which has a photograph.
- 3) The retention period for articles was increased from ten days to ten working days. The Honolulu Police Department in response to your Committee's request, consulted with several police departments in California, Chicago, Dallas and Nevada to determine their success or failure in recovering stolen property in those jurisdictions that have a retention period for articles and found that the ten working day period was reasonable.
- 4) The penalty provisions of the proposed new chapter was expanded to include agents, employees or representatives of dealers and persons who offer false information to dealers. Further, a violation of the chapter was made a misdemeanor, thus subjecting violators to a jail term rather than only monetary fines as provided by the bill as received by your Committee.
- 5) A provision was added to authorize law enforcement agencies to inspect the dealer's place of business and any records required to be kept for the purpose of identifying and recovering stolen property.

Your Committee further amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2348-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2348-82, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Machida, Saiki, Soares and Yee.

SCRep. 556-82 Consumer Protection and Commerce on H.B. No. 2385-82

The purpose of this bill is to clarify the language relating to exceptions to the abolition of tort liability created by the no-fault insurance laws.

Presently section 294-6(d), Hawaii Revised Statutes, provides that no limitation of liability arising from motor vehicle accidents is intended by that chapter where intentional or criminal acts are alleged or where punitive damages are sought. A recent decision by the Third Circuit Court has interpreted that subsection to allow civil suits but only on the issue of punitive damages.

This bill would reemphasize the intended scope of the exceptions to the abolition of tort liability, including those listed in subsection (d). In those excepted instances all issues of tort claims may be alleged, and all damages--general, special, and punitive--

as appropriate may be recovered in civil suits.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2385-82, 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 Machida, Saiki, Soares and Yee.

SCRep. 557-82 Consumer Protection and Commerce on H.B. No. 2511-82

The purpose of this bill is to establish a compliance resolution fund from which the director of regulatory agencies could expend moneys for hiring and training needed personnel.

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

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

The bill also authorizes the use of surpluses in existing departmental funds or board or commission special funds to provide initial start-up moneys for the fund.

Another proposed measure, H.B. No. 2669-82, H.D. 2, relating to executive departments, would shift the responsibility of receiving and processing consumer complaints with respect to unlicensed activities from the Office of Consumer Protection to the Regulated Industries Complaints Office. This consolidation of all consumer complaints related to regulated industries and unlicensed activity into one department would expedite the complaint process and free the Office of Consumer Protection to devote more of its resources to complaints relating to unfair and deceptive business practices. This bill and H.B. No. 2669-82, H.D. 2, should be considered as necessarily related to one another and dependent on one another to achieve the purposes of both bills.

Your Committee has made a nonsubstantive amendment to the bill by placing the proposed provisions establishing the compliance resolution fund as a new subsection to section 26-9, Hawaii Revised Statutes, instead of creating a new chapter.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2511-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2511-82, 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 Machida, Saiki, Soares and Yee.

SCRep. 558-82 Consumer Protection and Commerce on H.B. No. 2669-82

The purpose of this bill is to shift the responsibility of receiving and processing consumer complaints with respect to unlicensed activities from the Office of Consumer Protection to the Regulated Industries Complaints Office.

Your Committee is aware of the study and criticism by the Legislative Auditor regarding consumer complaints against regulated industries. This bill is one part of an effort to modify the present process to improve the responsiveness of government to the consumer. This bill transfers the handling of complaints against unlicensed activity from the Office of Consumer Protection to the Regulated Industries Complaints Office. This shift is intended to: (1) allow the Office of Consumer Protection to devote more of its resources to public interest litigation and education related to unfair and deceptive business practices; and (2) consolidate all consumer complaints related to regulated industries and unlicensed activity into one department where there is adequate staffing, expertise and common purpose.

The bill also changes the name of the Department of Regulatory Agencies to the Department of Commerce and Consumer Affairs.

Your Committee notes that the title, "Regulatory Agencies" does not reflect the department's present jurisdiction over the rapidly growing areas of commerce that it oversees, nor does the title reflect consumer concerns and complaints handled by the department.

The bill also requires the department to take greater responsibility for receiving, investigating and taking appropriate legal action against unlicensed practitioners.

Your Committee has amended the bill to specifically prohibit any board or commission from delegating its authority to discipline licensees. This amendment clarifies the extent to which a board or commission may delegate its authority.

Your Committee has also amended the bill by making minor technical changes which have no substantive effect.

Another proposed measure, H.B. No. 2511-82, H.D. 2, furthers the intent of this bill by establishing a special fund to provide resources necessary to implement the purposes of this bill. Both bills should be considered as necessarily related to one another and dependent on one another for the success of the proposed changes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2669-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2669-82, 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 Machida, Saiki, Soares and Yee.

SCRep. 559-82 Economic Development on H.B. No. 2175-82

The purpose of this bill is to amend existing law to allow the Board of Land and Natural Resources to extend the term of any intensive agricultural, aquaculture, mariculture, or special livestock lease to the extent necessary to qualify the lease for mortgage lending or guaranty purposes with any private lending institution qualified to do business in the State of Hawaii.

Under the current statute, the terms of leases preclude loans made by private lending institutions. In an effort to maximize diversified agriculture, your Committee finds that lease term extension ought to be provided under Section 171-36, Hawaii Revised Statutes.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2175-82 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 Machida, Saiki and Uwaine.

SCRep. 560-82 Economic Development on H.B. No. 2178-82

The purpose of this bill is to amend existing law in order to allow the Department of Land and Natural Resources to grant permits for the collection of threatened species if done for scientific or propagation purposes. Currently, such collection for these purposes is prohibited.

Your Committee finds that allowing the collection of threatened species for scientific or propagation purposes ensures the viability of Hawaii's natural environment.

Your Committee is in accord with the intent and purpose of H.B. No. 2178-82 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 Machida, Saiki and Uwaine.

SCRep. 561-82 Economic Development on H.B. No. 2208-82

The purpose of this bill is to amend existing law to allow an employee of the state qualified to appraise lands to estimate the value of a remnant or portion thereof which is surplus to state highway requirements and which is in the inventory of such surplus remnants as of December 31, 1981.

The current statute allows for an independent appraiser to assess the value of the remnant or portion thereof, taking into consideration the limited market for the remnant and the resulting enhancement to an abutting owner's property by the addition of the remnant.

Your Committee finds that the state through a qualified appraiser, should also have the authority to determine the value of such remnants.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2208-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Machida, Saiki and Uwaine.

SCRep. 562-82

Higher Education on H.B. No. 2210-82

The purpose of this bill is to amend section 304-93, Hawaii Revised Statutes, in order to clarify when student recipients of state higher education loans must commence repayment of principal and interest.

Under the current statute, students are not required to begin repayment until they graduate or withdraw from their degree program. It would be possible under the existing statute for a student to borrow funds and delay repayment by continuing to be enrolled in a degree program for as little as one course per semester.

Your Committee has amended section 304-93 to require that loan recipients begin repayment when they graduate or when they cease to be enrolled at least half-time in a degree program. This amendment would ensure that loan recipients who cease attending full-time would not be required to begin loan repayments as long as they continue to make at least half-time progress toward the completion of their degrees. Students who enroll less than half-time could reasonably be expected to generate employment earnings sufficient to allow for the initiation of loan repayments.

Your Committee is in accord with the intent and purpose of H.B. No. 2210-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2210-82, 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 Ushijima, Uwaine and Yee.

SCRep. 563-82

Human Resources on H.B. No. 2349-82

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

Your Committee has amended this bill to reduce the employer's contribution to the pension accumulation fund by any investment earnings in excess of seven per cent for three successive fiscal years beginning July 1, 1982.

Your Committee has further amended this bill to authorize the Board of Trustees to establish the investment yield rate and tables and factors for actuarial valuation of the system provided that the rate of salary increase shall be based on the actuarial experience during the five-year period covered by the most recent actuarial experience investigation.

Your Committee and the Board of Trustees of the Retirement System believe that these amendments will provide a realistic approach to the entire funding process of the Retirement System and will provide its members, employers and taxpayers with an accurate cost and financial overview of maintaining the system.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2349-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2349-82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Anderson and Saiki.

SCRep. 564-82

Economic Development on H.B. No. 77

The purpose of this bill is to amend the Hawaii Revised Statutes by adding a new chapter to authorize and establish guidelines and procedures for the granting of leases for research and commercial ocean activities within state marine waters and submerged lands, and to guarantee property rights and protection for any such activities approved under this bill.

Your Committee finds that Article XI of the Hawaii State Constitution clearly mandates the conservation, protection, and development of marine resources in the state. This bill proposes to establish a means of leasing ocean and marine resources and is viewed as a viable and effective means to enhance fulfillment of the constitutional mandate.

Research, development, and demonstration of viable energy, aquaculture, mariculture and ocean technologies are progressing rapidly in the state. Prospects for private commercial investment for ocean thermal energy conversion, manganese nodules, floating and submerged sea-farming operations and related ocean resources are a reality.

Your Committee recognizes that the full extent of the oceanic jurisdiction is in dispute between the state and federal governments. Until the dispute is resolved, the entrepreneurs can meet the ocean leasing requirements of both state and federal governments. Issuance of a lease is of great importance to the entrepreneurs, who will need a lease in order to raise private capital to conduct these activities. Even though these ocean and marine resource activities may be several years away, the issuance of ocean and marine resources lease is a critical step in establishing mariculture, OTEC, marine mining, and other ocean activities.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 77, H.D. 3, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senators Carpenter, Machida and Saiki.

SCRep. 565-82 Economic Development on H.B. No. 1970-82

The purpose of this bill is to assist the state in resolving the many issues relating to ceded lands. This is to be accomplished by completing the ceded land inventory; studying the legal and fiscal issues relating to use of ceded lands; and studying the use and distribution of revenues generated from ceded lands.

Your Committee finds that the many uncertainties surrounding the matter of ceded lands, and the disposition of revenues generated by the use of ceded lands can best be resolved by ascertaining what and where ceded lands exist, the legal and fiscal problems which may exist or arise from their use, and the effect on all parties concerned with the use and distribution of revenues generated from ceded lands.

Your Committee approves the \$100,000 appropriation to expedite through competent and concentrated effort issues related to ceded lands.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1970-82, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senators Carpenter, Machida and Saiki.

SCRep. 566-82 Economic Development on H.B. No. 2043-82

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

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

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

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2043-82, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senators Carpenter, Machida, Saiki and Uwaine.

SCRep. 567-82 Economic Development on H.B. No. 2207-82

The purpose of this bill is to expand the definition of a "heat pump", as defined in section 235-12(c) of the Hawaii Revised Statutes, and thereby qualify commercial as well as residential heat pumps for existing alternate energy device income tax credits.

Your Committee finds that heat pumps are proven energy-saving devices. Heat pumps can reduce the amount of energy a household needs to heat water by as much as 66 per cent. Estimates place the number of single-family dwelling heat pumps installed in Hawaii

at 4,000. These heat pumps can save the state 20,000 barrels of imported oil per year. This represents an estimated annual savings of \$740,000 for the state. Larger-sized commercial heat pumps are available for apartments, condominiums, restaurants, and fast-food outlets, and the estimated savings for these facilities are quite large.

Under current law an income tax credit is provided individual and corporate resident taxpayers for the purchase and installation of solar or wind energy devices and heat pumps. A heat pump is presently defined as "an electric powered compression heating system which uses warm ambient air or heated gas to assist in the production of hot water in home water heaters."

This definition inadvertently excludes heat pumps utilized in commercial structures from qualifying for available income tax credits. Your Committee believes that expanding the definition of heat pumps to include commercial applications would greatly increase the utilization and resultant energy savings provided by these conservation devices.

Your Committee has amended the bill to provide that the credit claimed on such devices and heat pumps may not exceed \$2,500 or ten per cent of the total cost, whichever is less.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2207-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2207-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Machida, Saiki and Uwaine.

SCRep. 568-82 Economic Development on H.B. No. 3067-82

The purpose of this bill is to appropriate monies to study and evaluate the possibility of expanding the private sector ship repair capability in Hawaii.

Your Committee finds that there is potential for a vibrant ship repair industry in Hawaii if repair capability is improved and expanded. Your Committee is of the opinion that our expenditure of the modest amount proposed by this bill could result in vast economic benefits to the state.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 3067-82 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, Machida, Saiki and Uwaine.

SCRep. 569-82 Economic Development on H.B. No. 2176-82

The purpose of this bill is to enable the Board of Land and Natural Resources to more effectively act against those who encroach upon public lands. The bill would provide a direct penalty for encroachment, including a fine, the payment of administrative costs incurred in the enforcement of the law against those who encroach, and the payment of damages.

The bill would also permit the board to set, charge, and collect interest charges on delinquent leases, sales, or other accounts administered by the department.

Your Committee finds that these proposals should be enacted to assist the department in discharging its obligations, and that a fine of not more than \$500 a day to discourage encroachment on public lands and interest of not more than one per cent per month on delinquent account are not unreasonable.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. 2176-82, 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 Senators Carpenter, Machida and Saiki.

SCRep. 570-82 Economic Development on H.B. No. 2177-82

The purpose of this bill is to permit the state to recover administrative costs and damages

in addition to a fine in cases where a person is found to be in violation of regulations regarding permitted use of lands in forest and water reserve zones.

Your Committee finds that, especially in recent years, the state has been forced to expend large amounts of time and money to enforce its rules and regulations against alleged violators.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. 2177-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Machida and Saiki.

SCRep. 571-82 Consumer Protection and Commerce on H.B. No. 2934-82

The purpose of this bill is to allow the dividend rate on bank preferred stock to be fixed by the issuing bank.

Under present law, dividend rates are limited to six per cent a year.

Your Committee finds that although no banks within the state have yet issued preferred stock, such an issuance is a theoretical avenue for expansion of the capital base of a bank. Further, your Committee notes that the present maximum dividend rate is unrealistic and renders this method of capital expansion effectively useless under present conditions unless the rate is allowed to be fixed by the issuing bank.

Your Committee also finds that dividend rates are a matter of business judgment on the part of the issuing bank and that adequate regulations exist to safeguard possible abuse of the preferred stock issuance process. This bill provides that the bank determine the dividend rate payable on preferred stock.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2934-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Machida.

SCRep. 572-82 (Joint/Majority) Agriculture and Human Resources on H.B. No. 698

The purpose of this bill is to grant civil service status to five employees occupying positions in the Department of Agriculture, which positions were authorized by Act 218, Session Laws of Hawaii 1973, part III, section 8, for agricultural planning and marketing purposes.

Your Committees received favorable testimony on this measure. In essence, this bill would grant civil service status to employees of the agriculture planning and development office of the Department of Agriculture.

Your Committees on Agriculture and Human Resources are in accord with the intent and purpose of H.B. 698, H.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senator Anderson.
Senators Kawasaki and Cayetano did not concur.

SCRep. 573-82 (Joint/Majority) Agriculture and Human Resources on H.B. No. 699

The purpose of this bill is to amend section 157-12, Hawaii Revised Statutes, to provide civil service coverage to certain employees in the division of milk control of the Department of Agriculture.

Your Committees heard favorable testimony on this measure and concur with its intent and purpose. In essence, this bill would grant civil service status to the milk control division of the Department of Agriculture.

Your Committees amended section 3 of the bill in order to grant civil service status to all permanent positions in the milk control division other than the Milk Commissioner. The purpose of this amendment is that the bill originally provided for six named positions to be converted, but actually there are seven positions presently filled in the division.

Your Committees on Agriculture and Human Resources are in accord with the intent and purpose of H.B. No. 699, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 699, H.D.1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senator Anderson.
Senators Kawasaki and Cayetano did not concur.

SCRep. 574-82 (Majority) Agriculture on H.B. No. 2336-82

The purpose of this bill is to provide funds for research identified by the Governor's Agriculture Coordinating Committee's updated industry analysis of the sugar industry.

Your Committee heard favorable testimony on this bill and has amended the bill to include an appropriation of \$500,000 for the research.

Your Committee has further amended the bill's findings to clarify the intent of the bill to provide assistance to the sugar industry which plays such a vital role in the state's economy.

Your Committee also amended the funding provision to provide that the \$500,000 appropriation shall be a matching one, to be matched by \$4,500,000 from the private sector.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2336-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2336-82, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 575-82 Agriculture on H.B. No. 2367-82

The purposes of this bill are (1) to clarify the delegation of authority by the Board of Agriculture to its chairman by allowing the chairman of the Board of Agriculture to approve farm loans where the sum of the requested amount of the loan plus any principal balance on existing loans utilizing state funds does not exceed \$25,000 and (2) to prevent any individual from obtaining more than the maximum amount specified for loans under classes A (farm ownership and improvement loans), C (farm operating loans), D (emergency loans), and F (loans to new farmers).

Your Committee has received testimony and studied the matter of agricultural loans, and has done the following:

1. Your Committee is in accord with the intent of allowing the chairman of the Board of Agriculture the right to approve loans where the requested amount plus any principal balance on existing loans to the applicant does not exceed \$25,000 of state funds.
2. Your Committee is in accord with the intent of preventing an individual from forming a corporation or a partnership and then making multiple loan applications under the agriculture loan program. Your Committee has amended the bill's language to resolve this problem.

The specific intent of the amendment is that any person, either individually, or through a corporation or partnership where he or she owns a twenty per cent interest, shall not abuse the loan limitations established under the agriculture loan program by circumventing the limits by requesting more than one loan under different legal entities. Class E loans (corporations and cooperatives) are exempted from this control on the basis that such loans apply only to farmers' cooperative associations and corporations specifically engaged in marketing, purchasing, and processing, and providing farm business services.

3. Your Committee also finds that class E and F loans have their limits unrealistically understated. The Consumer Price Index has more than doubled since the limits were last set. While further study should be engaged upon by the Department of Agriculture with a view towards requesting a general readjustment of all classes' limits, your Committee finds that on an immediate basis class E and F loans should be adjusted, and on that basis this bill was appropriately amended.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2367-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2367-82, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 576-82 Agriculture on H.B. No. 2378-82

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

Your Committee is in accord with the intent and purpose of this bill.

Your Committee made technical amendments to Section 2 of the bill in order to clarify the agricultural items which the reduced tax would apply to.

Your Committee also added a new Section 3 to the bill which defines agriculture for the purposes of the general excise tax law. This definition would include aquaculture within the definition of agriculture, thus specifically including aquaculture under the tax reduction proposed by the bill. Your Committee has also added a new boiler plate section to provide for other substantive amendments which may be made to section 237-4, Hawaii Revised Statutes, by other bills during this regular session.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2378-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2378-82, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 577-82 (Majority) Agriculture on H.B. No. 2710-82

The purpose of this bill is to enable the Department of Agriculture to make loans to assist growers of raw sugar testing ninety-six sugar degrees by the polariscope, determined in accordance with regulations of the United States Department of Agriculture. These loans are to be made to growers whose production exceeds 5,000 tons, and shall not be for terms of not more than twenty-four months.

Your Committee heard favorable testimony on this bill, and made amendments, as proposed by the Department of Agriculture, as follows:

1. To amend subsection (a) of the proposed new section to chapter 155, by adding the following phrase:

"... with supplementary direct loans to cover deficits through the periods when there are insufficient national protections concerning the importation of sugar. The term "deficits" as used in this section shall include any loss on sugar cane production operations of a farm that is on an annual accounting basis, irrespective of the source of operating funds, with a guarantee of the loans by a responsible company; provided payments for equipment and other capital items shall not be included to compute operating loss."

The purpose of this amendment is to make clear that the special loans under the bill would be specifically for loans to cover deficits through the periods when there are insufficient national protections concerning the importation of sugar, only. The amendment would then define "deficit", and would require the farm to be on an annual accounting basis, and would delete capital payments from the computation of operating deficits. The amendment would also require that the loans be guaranteed by a responsible company, by which your Committee specifically intends that adequate collateral would be required by the department on any of the special loans allowed under this bill.

2. To amend the proposed new section to chapter 155 by adding a new subsection which would set the interest on the special loans under this bill to six per cent interest.

The purpose of this amendment is to require that some form of interest be charged, but to exempt the special loans from the normal chapter 155 loan interest rates, which are currently quite a bit higher than six per cent.

3. To amend Section 2 of the bill to provide for \$10,000,000 as initial capitalization for this special loan program; and to have any non-expended or non-encumbered funds revert to the general fund 24 months after approval of the bill.

The purpose of this amendment is to provide funding and to clarify the expiration date of the funding.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2710-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2710-82, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 578-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Stand. Com. Rep. Nos. 571-82 to 577-82 on March 25, 1982; and

S.R. Nos. 66 and 67, Gov. Msg. Nos. 186 to 232, and Stand. Com. Rep. No. 579-82 on March 29, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 579-82 Consumer Protection and Commerce on S.R. No. 24

The purpose of this resolution is to request that merchants offering discount programs to qualified senior citizens extend such benefits to duly qualified handicapped citizens.

Presently, many merchants in the state offer discounts to qualified citizens as a gesture of good citizenship, goodwill, and respect. However, persons who suffer from physical and mental handicaps are not receiving such discounts.

Your Committee finds that citizens of the state who suffer from physical and mental handicaps which limit their income producing capabilities, would benefit directly from participation in the discount program currently offered by merchants to duly qualified senior citizens.

This resolution requests that merchants offering a program of discounts to senior citizens extend such discounts to qualified handicapped citizens.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 24 and recommends its adoption.

Signed by all members of the Committee except Senator Machida.

SCRep. 580-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. No. 51, S.R. No. 68, and Stand. Com. Rep. Nos. 581-82 to 587-82 on March 30, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee except Senator Cobb.

SCRep. 581-82 Judiciary on H.B. No. 1963-82

The purpose of this bill is to encourage persons engaged in farming, processing, distributing, wholesaling, or retailing of food products to donate these food items to charitable, religious, and non-profit organizations which distribute food to needy persons.

Testimony presented before your Committee by the Department of Agriculture and numerous community organizations indicated concern about increasing food costs, the need for donations of surplus food, and the reluctance of donors to contribute food products due to fear of liability for possible injury or illness.

Your Committee agrees that this bill will encourage the donation of surplus food by the food industry and other community members by limiting the liability of food donors and distributors to gross negligence or wanton acts or omissions. The bill also prohibits the sale of donated food and requires the labeling of donated food.

Your Committee has amended section 2 of the proposed new chapter to extend the immunity from liability to cover "illnesses" in addition to "injuries," which is presently specified in this section.

Other nonsubstantive clarifying amendments were made to the bill by your Committee.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1963-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1963-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 582-82 Judiciary on H.B. No. 1964-82

The purpose of this bill is to require the Department of Health to issue new birth certificates upon a showing by a law enforcement agency that such issuance would provide for the safety of such person.

Your Committee heard testimony from the Police Department of the City and County of Honolulu and the state Department of Health which indicated that this bill will expedite the process of providing new identities and the relocation of witnesses.

Under present law, new birth certificates are issued only for a limited number of persons, not including those persons whose safety is endangered because of their cooperation with law enforcement agencies. New identities for relocated witnesses and their families are currently provided only through the United States Marshall's office. This bill provides a more simplified and economical procedure for a name change by providing for the issuance of a new birth certificate containing such information requested by a law enforcement agency upon the required showing.

This bill will enable witnesses, victims and families to join the armed forces if they desire, secure passports, insurance, education and bonded jobs and facilitate their re-entry into public life.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1964-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 583-82 Judiciary on H.B. No. 2154-82

The purpose of this bill is to clarify that the Family Court has the jurisdiction to enforce a child's regular attendance at school and to classify as a petty misdemeanor the offense of failing to use proper diligence to enforce a child's regular attendance at school.

The present statute is unclear in that it provides that truancy cases shall be heard by a "district judge," which could refer to a District Court judge or District Family Court judge. In addition, Circuit Family Court judges are excluded by the current wording. Your Committee agrees that the proposed clarification is needed to allow these petitions to be heard by District and Circuit Family Court judges.

Your Committee also agrees that there is a wide disparity between the \$50 fine and two months' imprisonment imposed upon a parent or guardian who fails to use proper diligence to enforce a child's regular attendance at school and that reclassifying the offense as a petty misdemeanor would rectify this problem.

Your Committee amended the bill by adding section 2 which revises section 571-14, Hawaii Revised Statutes, to provide the Family Court with exclusive original jurisdiction in compulsory school attendance cases involving a parent or guardian.

A further amendment has been made to reflect that sections 707-726 and 707-727, Hawaii Revised Statutes, have replaced section 707-723.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2154-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached here to as H.B. No. 2154-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 584-82 (Majority) Judiciary on H.B. No. 2585-82

The purpose of this bill is to amend Sections 707-750(1) and 707-751(1), Hawaii Revised

Statutes, by specifying that the offense of promoting child abuse applies to "pornographic" material in which minors are used.

On April 27, 1981, section 707-751 of the Hawaii Revised Statutes relating to the promoting of child abuse in the second degree was found to be unconstitutional by a circuit court judge. The court's order indicated that the statute prohibited speech protected by the First and Fourteenth Amendment of the United States Constitution as well as speech that is not protected. The court indicated that because the statute did not incorporate the three-part test defining obscenity as enunciated by the U. S. Supreme Court in the case of Miller v. California, the statute prohibited non-obscene as well as obscene materials. The court further indicated that since non-obscene expression is permitted and protected by the First Amendment, the statute is overbroad on its face and unconstitutional.

The state is currently appealing the trial judge's decision to the Hawaii Supreme Court. However, your Committee believes that any question as to what is being prohibited should be clarified.

The bill provides that the conduct or material being prohibited in the child abuse statutes relates to pornography.

Your Committee amended the bill by incorporating the three-part test of the Miller definition of pornography, and by including the definition of pornography within the sections to clearly indicate that it is applicable to those sections.

Your Committee further amended the bill by conforming the applicability of the definition of pornography to the other parts of the sections. Your Committee also made technical, nonsubstantive changes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2585-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2585-82, H.D. 1, 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. 585-82 Judiciary on H.B. No. 2751-82

The purpose of this bill is to amend Section 803-5, Hawaii Revised Statutes, to clearly specify that the element of probable cause is sufficient to justify an arrest without a warrant by a police officer.

Section 803-5 states that an officer may arrest without a warrant "such persons as may be found under such circumstances to justify probable cause." The Office of the Prosecuting Attorney testified before your Committee that the inclusion of the words "as may be found under such circumstances" has caused confusion within the courts. According to the Prosecuting Attorney, a circuit court has interpreted this language to mean that the defendant must physically be somewhere or in a particular situation at the time of arrest in order to establish probable cause.

Your Committee notes that the Hawaii Supreme Court has made numerous rulings where probable cause, itself, was sufficient to justify a warrantless arrest. (See State v. Lloyd, 61 Haw. 505; State v. Barnes, 58 Haw. 33; State v. Gustafson, 55 Haw. 65; State v. Chong, 52 Haw. 226; and State v. Teixeira, 50 Haw. 138.)

Your Committee also finds that the element of probable cause has been well defined by the courts. For example, in State v. Lloyd, the Supreme Court of Hawaii has ruled that:

Probable cause to arrest exists when the arresting officer has reasonable grounds to believe, from the facts and circumstances personally known to him, or of which he has trustworthy information, that the person has committed or is committing an offense.

Your Committee believes that the interpretation of the language contained in Section 803-5 by the circuit court is contrary to the intent of the statute. The bill clarifies the intent by deleting the phrase "as may be found under such circumstances to justify." The bill provides that a police officer may make a warrantless arrest when the officer has probable cause to believe that a person has committed an offense. This provision complies with the court rulings as well as clarifies the confusion.

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

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

Signed by all members of the Committee.

SCRep. 586-82 Judiciary on H.B. No. 2822-82

The purpose of this bill is to delete reference to "alkaloids" of heroin, morphine, and cocaine.

There are no alkaloids of heroin, morphine, and cocaine. Therefore, such reference may give rise to problems due to an inaccurate chemical description.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2822-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 587-82 Judiciary on H.B. No. 3091-82

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

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

Your Committee amended the bill by requiring that the clerk of each county maintain records by computer tapes of OHA registered voters to facilitate their identification as a separate category of voters.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3091-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3091-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 588-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. No. 52, S.R. Nos. 69 to 72, and Stand. Com. Rep. Nos. 589-82 to 594-82 on March 31, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 589-82 Judiciary on H.B. No. 2022-82

The purpose of this bill is to enable judges to grant a motion for deferred acceptance of nolo contendere pleas.

Present statutes specifically permit a judge to accept a motion for deferred acceptance of a guilty plea upon a plea of guilty. However, the statutes are silent with respect to a plea of nolo contendere as to whether the courts can defer acceptance of such pleas.

The question of a deferred acceptance of a nolo contendere plea was somewhat resolved in *State of Hawaii v. Brown*, 1 H.A. 602, 623 P.2d 892 (1981). In that case, the Intermediate Court of Appeals held that because the statute did not prohibit the granting or denial of a motion for deferred acceptance of a nolo contendere plea, it was within the court's inherent power to take any such action.

In *State v. Brown*, the court stated that for purposes of sentencing, there is no difference between a guilty plea and a nolo contendere plea. A nolo contendere plea is a plea where the defendant indicates that he will not contest the charge or charges against him and is more commonly known as a "no contest" plea. The court will then adjudge the defendant

guilty of the offense charged and the defendant will be sentenced as if he had plead guilty to the charge. However, a nolo contendere plea cannot be used against the defendant in a civil proceeding because it is not an admission of guilt.

Your Committee concurs that for the purposes of sentencing there is no difference between a guilty plea and a nolo contendere plea. However, your Committee feels that for the purposes of the deferred acceptance of guilty plea statute, there is a difference between the two pleas.

The deferred acceptance of guilty plea statute was established for the purpose of giving a first time offender a second chance. The statute would allow such an offender to admit to his mistake or wrongdoing and have that mistake removed from his record if the court feels that the offender is deserving. When the offender pleads guilty, he is admitting that he made a mistake by committing the offense. Thus, the first step on the road to rehabilitation starts with an admission of guilt.

The plea of nolo contendere, however, is not such a step. An offender who enters such a plea is never admitting that he committed the offense charged. Herein lies the difference between the two pleas. Because the defendant is not admitting to his wrongdoing for fear of civil liability, he does not take that first step towards rehabilitation. By allowing a deferred acceptance of a nolo contendere plea, the purpose of a deferred acceptance of guilty plea is circumvented.

Your Committee amended the bill by providing that the statute authorizing a deferred acceptance of guilty plea shall not be applicable when the defendant has entered a plea of nolo contendere. Your Committee feels that the amendment is keeping in conformity with the purpose of the statute.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2022-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2022-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Anderson, Cobb and Yee.

SCRep. 590-82 Judiciary on H.B. No. 2640-82

The purpose of this bill is to provide a means for the Stadium Authority to enforce its rules for the maintenance, operation, and management of the Aloha Stadium, including rules regulating conduct, parking and traffic.

Presently, the Stadium Authority is unable to provide for the enforcement of the rules it has adopted. This bill would authorize police officers to arrest and issue citations for violations of stadium rules. Violation of any rule constitutes a petty misdemeanor.

Your Committee has amended this bill by deleting section 1 of the bill and subsection (a) of section 2 of the bill. In effect, this will reinsert subsection (4) back into section 109-2, Hawaii Revised Statutes. Your Committee feels that the existing language of subsection (4) of section 109-2 is adequate to empower the Stadium Authority to adopt necessary rules and is more appropriately placed in this section.

Other technical, nonsubstantive amendments have been made to the bill by your Committee.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2640-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2640-82, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 591-82 Judiciary on H.B. No. 3016-82

The purpose of this bill is to require the director of health to issue birth certificates to individuals who were born outside of the Territory or State of Hawaii.

Presently, there is a need for legislation to allow for the issuance of a Hawaii birth certificate to a person who was born in another state or country because his parents who have been residents of Hawaii were temporarily outside of this state due to employment or military service.

Your Committee has amended to bill to require the director of health to issue a new birth certificate upon application from an adult child born outside of Hawaii or the legal parents of a minor born outside of Hawaii, provided that the legal parents of the adult or minor

had declared Hawaii as their legal residence for at least one year prior to the birth or adoption of the child.

The bill has been further amended to allow the director of health to determine the manner in which proof of residency is to be shown.

The effective date has also been changed to January 1, 1983 to allow time for the promulgation of appropriate rules.

Your Committee has made another technical, nonsubstantive amendments.

Your Committee is in accord with the intent and purpose of H.B. No. 3016-82, H.D. 1, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3016-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Anderson, Cobb and Yee.

SCRep. 592-82 Consumer Protection and Commerce on H.B. No. 2190-82

The purpose of this bill is to allow the open rating system for determining no-fault insurance premiums to continue beyond the current expiration date of August 31, 1983.

Act 113, Session Laws of Hawaii 1975, established a three-year period for open rating in the setting of no-fault insurance premiums by the respective companies. The Commissioner of Motor Vehicle Insurance was to monitor and survey the system and establish uniform rates at the end of the period. By Act 166, Session Laws of Hawaii, Regular Session 1977, the Legislature extended the life for open rating until August 31, 1983.

Your Committee heard testimony on S.B. No. 2230-82, which is identical to H.B. No. 2190-82, from the Risk and Insurance Management Society Inc., the Department of Regulatory Agencies, the Hawaii Insurers Council, and the State Farm Insurance Companies of Hawaii supporting this bill. They testified that consumers have benefited from the existing open rating system which allows insurers to compete in the open market and ultimately provide lower insurance rates.

Your Committee finds that the system has fostered competition among insurers and has proven advantageous to consumers. Accordingly, your Committee has amended the bill by making open rating the system for determining no-fault insurance premiums without time limitations and without provision for any replacement system of uniform rates set by the commissioner.

Your Committee also considered further amendment of the bill and section 294-13 because of your Committee's concern about possible excess profits, especially in the area of investment profits. Present sections 294-13(b)(2) and 294-13(b)(6)(B) appear to already require consideration of investment income respectively by the insurance carriers in setting rates and by the commissioner in approving or adjusting rates. Excess profits, however, will continue to be a matter scrutinized by your Committee especially in light of the indefinite extension granted to open rating in this amended bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2190-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2190-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 593-82 Consumer Protection and Commerce on H.B. No. 2933-82

The purposes of this bill are to clarify the definition of a credit card and to distinguish credit card agreements from overdraft lines of credit.

At present most banks allow customers to gain access to their checking accounts by using a credit card in their automated teller machines. When there is insufficient money in the checking account and the account has an overdraft line of credit, the machine will dispense cash to the customer by activating the overdraft facility. The continuing expansion of banking services utilizing credit cards has created uncertainty in the interest rates allowed on certain borrowing transactions.

Your Committee finds that use of a credit card may cause overdraft lines of credit to be subject to the eighteen per cent per year limitation rather than the twenty-four per cent interest maximum ordinarily applicable to overdraft lines of credit. This bill makes clear that overdraft lines of credit, when activated by a credit card, are not credit card

agreements, and therefore are not subject to the eighteen per cent maximum interest rate.

This bill also recasts the definition of "credit card" based upon the relevant provisions of the Federal Truth-in-Lending Act (Regulation Z).

Your Committee has made technical amendments to the bill which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2933-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2933-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 594-82 Ecology, Environment and Recreation on S.R. No. 38

The purpose of this resolution is to request that the Department of the Navy cease the use of Kaho'olawe as a military bombing target and withdraw invitations to Japan, Australia, New Zealand and Canada regarding their participation in the Department's RIMPAC '82 exercises.

Your Committee has amended this resolution in acknowledgement of the commencing of the RIMPAC '82 exercises on Monday, March 22, 1982. Accordingly, the title of the resolution has been amended to read: "Expressing Concern Regarding the Use of Kaho'olawe as a Shelling Target by the Department of the Navy and RIMPAC '82 Participants".

Your Committee recognizes that the long term goal of the State of Hawaii is to achieve a reduction of military activities on Kaho'olawe and to facilitate the return of the island to state jurisdiction. In the transition period which necessarily precedes the attainment of that goal, Kaho'olawe is being shared by the people of the State of Hawaii and the Department of the Navy. The signing of a Memorandum of Agreement in 1978 by the State of Hawaii and the Department of the Navy recognizes the concerns of various organizations and individuals regarding the land use of Kaho'olawe. In testimony presented before your Committee, Susumu Ono, chairman of the Board of Land and Natural Resources, advised Committee members that the Memorandum lists objectives which would be implemented by mutual cooperation between the state and the Navy.

The Memorandum, however, does not address the shelling of Kaho'olawe by other nations in RIMPAC exercises. Your Committee is deeply concerned with the extending of invitations to foreign nations to participate in joint military exercises utilizing Kaho'olawe. Chairman Ono stressed the Memorandum was one between the State and the Navy and did not include non-U.S. military forces in the Pacific rim.

Your Committee feels that the use of Kaho'olawe as a shelling target by foreign nations in joint military exercises such as RIMPAC, only serves to aggravate what is already a sensitive issue. The Department of Land and Natural Resources shares in this concern. Noting that the RIMPAC '82 exercises are currently underway, your Committee has amended the resolution to request that the shelling of Kaho'olawe be terminated after the 1982 RIMPAC exercises, and that no other invitations to other nations to participate in that portion of RIMPAC exercises involving the shelling of Kaho'olawe be issued in the future.

Your Committee further believes that the Department of the Navy should advise and consult with the Governor of the State of Hawaii prior to any other joint military exercises in the future involving foreign ships which contemplate the use of Kaho'olawe as a shelling target. Such consultation would allow the Governor to express the concerns of the people of the State of Hawaii and would be in keeping with the spirit of the Memorandum of Agreement. Your Committee has therefore amended the resolution to reflect this position.

Your Committee recognizes its commitment to the people of the State of Hawaii to eventually bring Kaho'olawe under the jurisdiction of the state. It is the intent of this resolution to bring to the forefront the concerns and position of the state, and the various individuals and organizations who are attempting to preserve the cultural, historic and archaeological significance of Kaho'olawe. Your Committee is hopeful that serious consideration be given this resolution by the Department of the Navy and the RIMPAC '82 participants.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 38, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 38, S.D. 1.

Signed by all members of the Committee except Senators Cobb and Mizuguchi.

SCRep. 595-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.R. No. 73 and Stand. Com. Rep. Nos. 596-82 to 614-82 on April 1, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 596-82 Human Resources on H.B. No. 2173-82

The purpose of this bill is to repeal the Hawaii Agricultural Unemployment Compensation Law, Chapter 384, Hawaii Revised Statutes, and to delete references to that law in Chapters 383 and 385, HRS.

The director of the Department of Labor and Industrial Relations testified that in 1976, all agricultural employers, except those with relatively small payrolls, became subject to the federal unemployment tax. Then in 1977, under Act 148, these employers who were covered under Chapter 384 were transferred to coverage under Chapter 383 in order that they could claim a tax credit against the federal unemployment tax. This transfer was necessary because only Chapter 383 is certified for federal unemployment tax purposes. Chapter 384 was retained solely until the transfer of coverage was completed.

Your Committee has found that the last transfer of coverage was completed on July 1, 1978. Accordingly, Chapter 384 is no longer being administered and is unnecessary.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2173-82 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. 597-82 Human Resources on H.B. No. 2339-82

The purpose of this bill is to give primary jurisdiction of prohibited practice complaints filed under Chapter 89, Hawaii Revised Statutes, to the Hawaii Public Employment Relations Board (HPERB).

In 1970, the Legislature created the board to administer the provisions of Chapter 89 in an effort to promote cooperative relations between the government and its employees and to protect the public by ensuring orderly government operations. Thus, the board was given jurisdiction of prohibited practice cases. Your Committee believes the original intent of this provision was to allow the board, who is the administrative agency with the expertise in public employment relations, to have primary jurisdiction of prohibited practice complaints. However, a recent Hawaii Court of Appeals decision interprets Section 89-14 and 377-9, Hawaii Revised Statutes, to give HPERB and the circuit courts concurrent jurisdiction over prohibited practice complaints.

This bill will make it clear that HPERB has exclusive original jurisdiction over prohibited practice complaints. Appeals from HPERB will continue to be filed in Circuit Court.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2339-82, H.D. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 598-82 Human Resources on H.B. No. 2848-82

The purpose of this bill is to clearly maintain that persons filling emergency appointments in the service of the state shall not be entitled to earn sick leave pay under Section 79-8, Hawaii Revised Statutes (HRS).

Presently, the law on sick leave with pay provides for the earning, use and accumulation of sick leave credits by all employees and officers in the service of the state with the exception of teachers, educational officers, and cafeteria managers employed in public schools, and the instructional staff of the University of Hawaii.

By law, HRS Section 76-31(c), emergency appointments are made to temporarily fill civil service positions to prevent the stoppage of essential public business and when

it is not practicable to ascertain whether there is an eligible list from which the positions may be filled. These appointments are not to exceed ten working days and may be extended for a period of thirty calendar days only with good cause.

Your Committee on Human Resources heard testimony from the Department of Personnel Services stating that sick leave benefits are not intended to apply to persons who are hired for a short-term emergency situation. Their employment is intended to meet the need for immediate services to prevent stoppage of essential public business. Their absence from work does not fulfill the purpose of providing emergency services, and therefore should not be compensated.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2848-82 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. 599-82 Education on S.R. No. 10

The purpose of this resolution is to request the Board of Education to report to the Senate Education Committee concerning the current building condition of the Hawaii State Library, the renovation or repair work needed, the costs associated with such renovation or repair work and the time frame involved with such work.

Your Committee heard testimony in support of this resolution from the State Librarian, the Librarians Association of Hawaii and various individuals and librarians.

Your Committee is acutely aware of the age of the Hawaii State Library Building and the need for repair and renovation of this facility. Further, your Committee also notes the need for additional space for books and other library materials currently not utilized due to space restrictions.

Your Committee has amended this resolution to also request that the board report on the possible utilization of other state buildings in the general area of the Hawaii State Library Building for expansion purposes.

Your Committee on Education concurs with the intent and purpose of S.R. No. 10, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 10, S.D. 1.

Signed by all members of the Committee.

SCRep. 600-82 Education on S.R. No. 19

The purpose of this resolution is to request the Department of Education to help alleviate noise problems at Waipahu Elementary School.

Your Committee heard testimony from the Department of Education and Anka Rollins, Michele Kaneshiro, Robert Lastimado, and Maria Ventura, all students at Waipahu Elementary School.

The Department of Education testified that it is currently implementing a statewide noise abatement program. The department further indicated that as part of the program, a study reviewed the noise problems at 23 schools and established a priority system based on the number of classrooms and the severity of the noise problem. Waipahu Elementary is assigned priority No. 19 on the list of schools to receive corrections. The students who testified described the health problem caused by vehicular traffic. The noise and fumes created by passing cars and buses make it difficult for students to study, concentrate, and hear assignments from teachers.

The Department of Education noted that the noise problem can be addressed by air conditioning or mechanical ventilation systems, the latter being less expensive in the long-run due to energy costs.

Your Committee notes that a serious noise problem does exist at Waipahu Elementary School and that the Department of Education is engaged in addressing noise abatement in schools throughout the state.

Therefore, your Committee has amended this resolution to request the Board of Education to report to the Legislature, 20 days prior to the convening of the 1983 Regular Session, on the Department of Education's noise abatement program to include, but not be limited to, its current status and how it could be implemented on a more timely basis.

Your Committee on Education concurs with the intent and purpose of S.R. No. 19, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 19, S.D. 1.

Signed by all members of the Committee.

SCRep. 601-82 Public Utilities on Gov. Msg. No. 180

Recommending that the Senate advise and consent to the nomination of ALBERT Q.Y. TOM to the Public Utilities Commission, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 602-82 Public Utilities on H.B. No. 2230-82

The purpose of this bill is to authorize the Public Utilities Commission (PUC) to direct public utilities to acquire electricity generated from non-fossil fuel sources if such action, as determined by the PUC, is in the public interest.

Additionally, in the event the public utility and the supplier of the non-fossil fuel generated electricity fail to reach an agreement on the rate payable to the supplier, the rate shall be prescribed by the PUC pursuant to the administrative rules promulgated by the Public Utilities Commission entitled, Standards for Small Power Production and Cogeneration. Your Committee feels that the PUC rules adequately institute the necessary guidelines in establishing a fair and equitable rate to all parties involved.

Your Committee is deeply dedicated to the diversification, promotion and encouragement of alternate energy producers. It is the conclusion of this Committee, however, that the aforesaid Rules of the PUC are adequate incentives to encourage alternate energy producers to develop energy projects. Section 6-74-22 of said rules specifically state that the rate for "new capacity" facilities is based on the avoided costs after consideration of the factors set forth in section 6-74-23. Accordingly, pursuant to the Rules any new energy facility producing scheduled energy is eligible for a rate based on avoided costs. This Legislature need not set a minimum base price as that has already been addressed by the rules. To set a minimum base price for all alternate energy producers regardless of the type of energy produced would favor the unscheduled producers and disfavor the scheduled producers. Further, a base price for all producers would remove the incentive for a producer of unscheduled energy to convert to scheduled energy as that producer would be receiving the same price for the energy notwithstanding what quality of energy it may be supplying. It is this Committee's position that once an alternate energy producer makes the commitment to be a reliable scheduled producer of energy, that producer can rely on the rules that it will be paid a fair and equitable price for its non-fossil fuel generated energy.

Your Committee has amended H.B. No. 2230-82, H.D. 1 by amending subsection (c) to establish that the rate payable by the public utility to the producer of non-fossil fuel generated electricity shall be in conformance with the aforesaid rules. Subsection (c) has been further amended to delete the language stating that Section 6-74-23 of said rules shall not apply in the establishment of such a rate.

Your Committee on Public Utilities is in accord with the intent and purpose of H.B. No. 2230-82, H.D. 1 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2230-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 603-82 Public Utilities on H.B. No. 2889-82

The purpose of this bill is to allow the Public Utilities Commission to vary its rules and regulations regarding procedures followed in its economic regulation of public utilities.

Under present law, all public utilities, as defined in chapter 269, Hawaii Revised Statutes, are required to comply with all of the Public Utilities Commission's rules and procedures, including those related to rate making, regardless of the utility's size or nature or service. Smaller utilities often do not have the resources necessary to comply with all of the requirements of the commission because of their small economic size. To permit the Public Utilities Commission to classify the various utilities would allow the Public Utilities Commission to vary the extent and degree of its economic regulation depending on the size of the utility.

The bill would allow the commission to vary its regulations of utilities in order to provide relief for smaller competitive businesses. Your Committee has inserted a purpose clause

to reflect the Legislature's rationale for permitting only utilities with annual gross revenues under \$2,000,000 to be exempt from the requirements of the commission. For the smaller utility the costs incurred in complying with the regulations now required by the commission is totally out of proportion with the utility's total gross revenues. The smaller utility should not be subject to the same degree of scrutiny as the larger utilities as the smaller utilities neither have the staff nor the resources to meet the requirements of the present regulations. Your Committee has amended the bill in form only with no substantive changes.

Your Committee on Public Utilities is in accord with the intent and purpose of H.B. No. 2889-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2889-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 604-82 (Joint) Consumer Protection and Commerce and Transportation
on S.R. No. 5

The purpose of this resolution is to request a study of impediments to ridesharing with regard to the cost, availability, and adequacy of motor vehicle insurance in order to suggest means by which ridesharing persons can obtain motor vehicle insurance coverage at costs not exceeding that which is required for individuals.

Your Committees finds that carpools and other ridesharing arrangements contribute toward the conservation of energy and reduction of traffic congestion and, therefore, should be encouraged. Your Committees further finds that one impediment to ridesharing is the higher motor vehicle insurance rates charged for vehicles used for ridesharing because of the higher occupancy rates for such vehicles.

This resolution requests the Director of Regulatory Agencies, Director of Transportation, and the Oahu Metropolitan Planning Organization to study this impediment to ridesharing with the goal of suggesting means by which motor vehicle insurance costs for ridersharers would not exceed the amounts paid by individuals.

Your Committees on Consumer Protection and Commerce and Transportation concur with the intent and purpose of S.R. No. 5 and recommends its adoption.

Signed by all members of the Committees except Senators Toyofuku, Saiki and Yee.

SCRep. 605-82 Consumer Protection and Commerce on H.B. No. 1042

The purpose of this bill is to include leases and consignments in Article 9 of the Uniform Commercial Code (chapter 490, Hawaii Revised Statutes).

The last ten to twenty years has seen the growth of the equipment leasing industry as an alternative means for businesses to finance the acquisition of equipment and other personal property. The chief advantage to leasing is its low cost; The lessor claims and retains the tax benefits of ownership and passes most of the tax savings generated by such benefits through to the lessee in the form of reduced rental payments. The lessee, in addition to obtaining lower payments, is usually able to deduct the full lease payment as a business expense.

The initial version of Article 9 of the Uniform Commercial Code did not include any provisions covering leases or consignments. This was the version of the U.C.C. adopted by Hawaii in 1965. Subsequently, in 1972, the Uniform Code Commissioners drafted a provision covering leases and consignments and recommended it for adoption by the states. Since Hawaii's U.C.C. has not been generally updated since its enactment, that provision has not been adopted in Hawaii. This bill would bring Hawaii's U.C.C. into line with the Uniform Commercial Code Commissioners' recommendations and solve a problem faced by the leasing industry.

As explained by the code commissioners, the bill adapts the filing system of Article 9 to leases and consignments. Filing of consignments is required under certain conditions by the present code. See 490:2-326(3) and 490: 9-114. Filing of true leases, which are not security interests, is not required. However, because the question whether a lease is a true lease may be a close one, the bill permits the filing of leases. Thus, the public is given notice of the true ownership of the property and the owner is able to perfect its interest under the code in those instances where the lease or consignment is subsequently held to be a "security interest."

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

and purpose of H.B. No. 1042, 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. 606-82

Consumer Protection and Commerce on H.B. No. 1488

The purpose of this bill is to update the Standard Nonforfeiture Law for Life Insurance's minimum standards for cash values and paid-up insurance benefits which companies must make available to policyholders who stop paying premiums, and to provide for future automatic updating in order to permit products offered to the consumer to keep pace with changes in the economy and in longevity.

Under present law the minimum nonforfeiture standards are established by setting the methods which actuaries must follow in calculating minimum values and by specifying the interest and mortality assumptions which may be used in these calculations.

This bill would update both the methods and the interest and mortality standards as follows:

(1) The bill would make technical changes to the formulas which actuaries must follow in calculating minimum values. These changes take account of special features of newer products not contemplated when the model bill was developed nearly 40 years ago. The bill also provides authority for the commissioner to promulgate rules to cover new products developed in the future.

(2) This bill would establish a system for automatic updating of the nonforfeiture interest rate standards applicable to new business. Under that system the nonforfeiture interest rate which could currently be used for permanent insurance would be 7%. Under current law, companies are not allowed to base guaranteed cash values of permanent insurance on interest rates of more than 5 1/2%.

(3) This bill would introduce the 1980 Commissioners Standard Ordinary Mortality Table as the new minimum standard for new policies. It would replace the 1958 Commissioners Standard Ordinary mortality table. The following tables show how mortality rates have improved over the years between the two tables:

MORTALITY RATES PER 1000 LIVES

<u>Age</u>	<u>Male</u>		<u>Female</u>	
	<u>1958</u>	<u>1980</u>	<u>1958</u>	<u>1980</u>
	<u>CSO</u>	<u>CSO</u>	<u>CSO</u>	<u>CSO</u>
5	1.35	.80	1.24	.76
25	1.93	1.77	1.86	1.16
45	5.35	4.55	4.17	3.56
65	31.75	25.42	24.31	14.56
85	161.14	152.95	129.17	116.10

These changes to the Standard Nonforfeiture Law for Life Insurance follow the changes adopted by the National Association of Insurance Commissioners at its December 1980 meeting. During 1981, these changes were enacted by 17 states. This year three additional states have passed these changes and bills are now being considered in a number of other states.

This bill is supported by the life insurance industry, both companies and life underwriters. The bill is also supported by the Department of Regulatory Agencies. Their testimony indicated that H.B. No. 1488, H.D. 1, and H.B. No. 1489, H.D. 1, will save consumers an estimated 15% on the purchase of life insurance policies. This figure is an estimate based on actuarial calculations made by the California Insurance Department.

Your Committee has amended the bill by making technical, non-substantive amendments, as follows:

(1) For correction of typographical errors: page 1, line 6; page 2, line 2; page 3, line 15; page 6, line 10; page 9, lines 8 and 17; page 11, line 16; page 15, line

23; page 16, line 6; page 17, line 13; page 18, line 5; page 19, line 23; page 22, lines 7 and 22; page 28, lines 22 and 23; page 29, lines 5, 6, 8, 13, and 23; page 30, lines 12 and 13; page 32, lines 1 and 22; page 33, lines 2, 13, and 20; page 34, line 17; page 35, lines 3, 4, 5, 6, 7, 12, and 19; and page 36, lines 1, 4, and 9;

(2) For compliance with recommended drafting practices: page 1, lines 9 and 10; page 3, line 23; page 4, line 9; page 15, lines 3, 19, 20, and 23; page 16, line 6; and page 18, lines 5 and 21;

(3) For inclusion of present statutory language which was omitted: on page 15, line 15; and on page 31, line 9;

(4) For repeal of erroneously repeated language in the existing statute: "any indebtedness to the insurer on account of" on page 7, lines 3 and 4; "or after the" on page 15, line 3; and

(5) For renumbering and positioning of page 31a and subsequent pages.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1488, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1488, 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.

SCRep. 607-82 Consumer Protection and Commerce on H.B. No. 2029-82

The purpose of this bill is to eliminate state regulation of billiard halls and bowling alleys.

Presently, billiard hall and bowling alley owners are assessed a \$5 fee for every billiard table and bowling alley used for hire or pay. Your Committee finds the fee system to be anachronous and therefore recommends the repeal of sections 445-51 and 445-53.

This bill would also remove state age and alcohol restrictions pertaining to such facilities by repealing section 445-52 and by amending section 445-54 to direct the counties to regulate intoxicating liquor in billiard halls. The counties would thus have complete jurisdiction over billiard halls and bowling alleys.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2029-82, 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 Senators Saiki and Yee.

SCRep. 608-82 Consumer Protection and Commerce on H.B. No. 2191-82

The purpose of this bill is to allow charitable organizations to file Internal Revenue Service Form 990 in lieu of audited financial statements.

Presently, charitable organizations that raise more than \$10,000 annually are required to file audited financial statements annually with the Department of Regulatory Agencies. This requirement places an undue financial burden on charitable organizations because of the costs of audits by certified public accountants.

The Internal Revenue Service and the National Association of State Charity Officials have developed Form 990 which all charitable organizations are required to file with the Internal Revenue Service. Allowing charitable organizations to file Form 990 with the Department of Regulatory Agencies in place of audited financial statements would alleviate the financial burdens incurred by audits performed by certified public accountants. In addition, Form 990 will include substantially all the information contained in an audited financial statement while still insuring that the organization's financial condition is open for public review.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2191-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Saiki and Yee.

SCRep. 609-82 Consumer Protection and Commerce on H.B. No. 2405-82

The purpose of this bill is to repeal chapter 477, Hawaii Revised Statutes, relating to finance cost disclosures, a subject presently covered by federal and other state law.

Chapter 477 was enacted in 1963 to require persons extending consumer credit to disclose the terms and costs of those loans. In 1968 Congress enacted the Truth in Lending Act. The Legislature responded in 1969 by limiting the applicability of chapter 477 to transactions not covered by the federal Act. This bill now proposes to repeal chapter 477 in its entirety.

The Truth in Lending Act is substantially similar to, but much more comprehensive than, chapter 477. Your Committee heard testimony from the Hawaii Bankers Association that there are, moreover, numerous other laws which govern related areas of consumer credit, such as the Consumer Leasing Act and the Real Estate Settlement and Procedures Act in federal law and the Retail Installment Sales Act and the Industrial Loan Companies Act in state law.

Your Committee heard testimony from David Hill of the Hawaii Consumer Finance Association that, because of the greater disclosure requirements of these other laws, chapter 477 is largely, if not totally, ignored. The Department of Regulatory Agencies also submitted testimony that the repeal of chapter 477, proposed by this bill, will not adversely affect consumers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2405-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 610-82 Consumer Protection and Commerce on H.B. No. 2550-82

The purpose of this bill is to permit a savings and loan association to hold its annual meeting at any time during the year.

As the law is currently written, savings and loan associations are required to hold annual meetings during the months of January, February, or March. This bill provides savings and loan associations with greater flexibility in scheduling annual meetings.

Your Committee has amended this bill on page 1, line 8 by deleting the proposed amendment "any month", and by adding the following language after the word "association": "unless the meeting is dispensed with upon unanimous written consent of all of the members who would have been entitled to vote upon the action if the meeting were held". The purpose of the amendment is to allow savings and loan associations to dispense with the meeting altogether upon the unanimous written consent of all members entitled to vote.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2550-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2550-82, 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. 611-82 Consumer Protection and Commerce on H.B. No. 2902-82

The purpose of this bill is to clarify by codification the present uncertainty which exists with respect to fiduciary access to safety deposit boxes.

Presently there are no provisions in the Hawaii Revised Statutes governing the accessibility to safety deposit boxes by persons acting in the capacity of fiduciaries. Furthermore, the present common law in this area is unclear as to whether a financial institution-lessor may allow a single co-fiduciary access to a safety deposit box even if the trust agreement, will or document creating the fiduciary relationship specifically authorizes it. This uncertainty has created a risk of liability for lessors whenever less than all fiduciaries are permitted access to the box, regardless of the terms of the authorizing document.

This bill would clarify that uncertainty by providing that a co-fiduciary, unless expressly prohibited by the authorizing document, shall have access to the safety deposit box. Your Committee notes that this approach has been utilized by a number of other states to deal with this problem.

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

and purpose of H.B. No. 2902-82 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. 612-82 Consumer Protection and Commerce on H.B. No. 2935-82

The purpose of this bill is to allow banks to disburse cash to holders of credit cards at locations other than authorized banking offices.

Your Committee is aware that certain credit card companies are offering a new service which allows holders of credit cards to more readily obtain cash by use of credit cards. The service would allow a card holder to obtain cash against the credit card at participating businesses such as hotels, airlines, or car rental agencies if the card holder is utilizing the services of the business. This added feature of credit cards would be particularly helpful to tourists visiting the state.

This bill authorizes banks to process such cash disbursements at participating businesses by amending section 403-53, Hawaii Revised Statutes, which limits the number of branch banks allowed any one bank, to specifically state that the providing of such services shall not be considered as maintaining a branch office. Without the amendment, each participating business at which a credit card holder receives cash could be considered a branch of the bank processing the transaction and the bank would be in violation of section 403-53.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2935-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 613-82 Consumer Protection and Commerce on H.B. No. 3030-82

The purpose of this bill is to repeal section 448-14, Hawaii Revised Statutes.

Present law requires licensed dentists who practice in the counties of Hawaii, Kauai and Maui to first register with the county treasurer.

Your Committee heard testimony from the Board of Dental Examiners in favor of the repeal of this section because the requirement is no longer applicable and is outdated.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3030-82 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. 614-82 (Joint) Housing and Hawaiian Homes and Government Operations
and Intergovernmental Relations on H.B. No. 473

The purpose of this bill is to update the statute governing county housing powers.

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

Your Committee has amended this bill by making a technical change which has no substantive effect.

Your Committees on Housing and Hawaiian Homes and Government Operations and Intergovernmental Relations are in accord with the intent and purpose of H.B. No. 473, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 473, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 615-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 53 to 57, S.R. Nos. 74 to 79, and Stand. Com. Rep. Nos. 616-82 to 708-82 on April 2, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 616-82 Ecology, Environment and Recreation on H.B. No. 2172-82

The purpose of this bill is to prevent "midnight dumping" by hazardous waste transporters by making the generator of this waste responsible for the disposal rather than placing the responsibility upon the transporter.

This bill would amend current law to conform the state definition of the ownership of hazardous waste with the federal definition. The state definition presently makes the transporter responsible for disposal procedures for both solid and hazardous waste. This amendment would enhance coordination between federal and state hazardous waste management programs.

The Senate companion bill, S.B. No. 2211-82, was heard by your Committee on March 2, 1982, and was reported out of Committee with unanimous consent.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 2172-82 and recommends that it pass Second Reading and placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 617-82 Ecology, Environment and Recreation on Gov. Msg. No. 123

Recommending that the Senate advise and consent to the nomination of JACK KELLNER to the Environmental Council, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 618-82 Ecology, Environment and Recreation on Gov. Msg. No. 126

Recommending that the Senate advise and consent to the nominations of IVAN H. MORITA and DONALD K. ANDREWS to the Aquatic Life and Wildlife Advisory Committee, City and County of Honolulu, for terms ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 619-82 Ecology, Environment and Recreation on Gov. Msg. No. 129

Recommending that the Senate advise and consent to the nominations of WILLIAM KIKUCHI, Ph.D., HERBERT M. MARK, RICHARD PAGLINAWAN, BETTY ANN ROCHA, and BERNHARD HORMANN, Ph.D., to the Hawaii Historic Places Review Board, for terms ending January 1, 1986.

Signed by all members of the Committee.

SCRep. 620-82 Ecology, Environment and Recreation on Gov. Msg. No. 130

Recommending that the Senate advise and consent to the nomination of AUGUSTINE S. FURUMOTO to the Natural Area Reserves System Commission, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 621-82 Ecology, Environment and Recreation on Gov. Msg. No. 131

Recommending that the Senate advise and consent to the nomination of BRIAN L. GRAY to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, for term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 622-82

Consumer Protection and Commerce on H.B. No. 161

The purpose of this bill is to allow bread to be sold in one-half pound sizes.

Current statutory provisions require bread to be packaged and sold in weights of three-quarters pound, one pound, one and one-half pounds, two pounds and multiples of one pound. The bill would allow bread to be sold in one-half pound sizes in addition to those presently allowed.

Your Committee adopted the recommendations of the Hawaii Food Industry Association and amended the bill, as received, in the following manner:

(1) The language, beginning "one pound in weight" on page 1, line 4, and ending "after baking:", on line 6 thereof, has been bracketed for repeal.

(2) The language, beginning "at the rate" on page 1, line 9, and ending "prescribed by this chapter" on line 13 thereof, has been bracketed for repeal and the language, "from the above weights, the sampling size, definitions, and exemptions shall be established by rule adopted by the director of measurement standards, in accordance with chapter 91", substituted therefor.

The purpose of these amendments is to allow regulation by the director of measurement standards with sampling and testing procedures, developed and recommended by the National Bureau of Standards.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 161, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 161, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 623-82

Consumer Protection and Commerce on H.B. No. 1653

The purpose of this bill is to clarify the percentage of votes required to amend the declarations or bylaws of condominium associations under chapter 514A, Hawaii Revised Statutes.

Your Committee heard testimony indicating various ambiguities in the present voting requirements under section 514A-11(11) and 514A-82(11). Presently, the law does not specify the percentage of votes required to amend a declaration, and is unclear about whether the percentage required to amend the bylaws pertains to all owners or to those present at a meeting for that purpose.

This bill would require seventy-five per cent of all apartment owners of an association to approve an amendment to a declaration. Votes may be taken at an association meeting in person, by proxy, or by mail. The bill also deletes the requirement that bylaws be annexed to and made a part of the declaration. Otherwise, the stricter requirement for amending the declaration may supersede the specific provision relating to bylaws.

Nothing in this bill requires personal attendance at association meetings to vote on amendments to a declaration or the bylaws. Apartment owners may continue to vote in person or by proxy as presently provided by statute. Further, nothing in this bill prevents an association, if it so desires, from specifying a higher percentage than is required by this bill to amend a declaration or the bylaws. The bill merely specifies the minimum percentage of votes required for those amendments.

Your Committee has amended the bill to allow the bylaws to be amended by the approval of not less than seventy per cent of all apartment owners. Testimony received generally agreed that the present requirement of seventy-five per cent was too restrictive, especially in large associations. Your Committee finds that the sixty per cent proposed in the bill, as received, may be insufficient and therefore substituted the seventy per cent.

Your Committee has also amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1653, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1653, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 624-82 Consumer Protection and Commerce on H.B. No. 2028-82

The purpose of this bill is to repeal section 445-98, Hawaii Revised Statutes, relating to hotels.

Your Committee feels that this provision which was enacted in 1896 is obsolete and therefore recommends its repeal. Further, your Committee has also been informed that the Department of Regulatory Agencies, the Office of Consumer Protection, and the Department of the Attorney General have no objections to this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2028-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 625-82 Consumer Protection and Commerce on H.B. No. 2193-82

The purpose of this bill is to establish the maximum number of years a license may be suspended and to prohibit a licensee whose license has been revoked from applying for a new license for at least two years.

Currently, boards and commissions do not have penalty provisions setting a maximum period for suspension of license, or a minimum period for revocation. The Department of Regulatory Agencies has indicated that this does cause confusion and may result in inconsistent or unreasonable disciplinary action and the possibility of litigation by licensees.

Your Committee finds that the bill will establish practicable and reasonable guidelines for all boards and commissions.

Your Committee has amended the bill by correcting a typographical error in punctuation on line 1, page 3 to conform to the present statute.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2193-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2193-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 626-82 Consumer Protection and Commerce on H.B. No. 2198-82

The purpose of this bill is to allow the Board of Dental Examiners discretion in the scheduling of the semiannual examinations in dentistry and to recognize the National Board of Dental Examiners (NBDE) examination as a substitute for the theory portion of the state examination.

Presently, the board is required to hold examinations in February and August of each year. As a result, dental school graduates must generally wait two months after graduation to take the examination. This bill would allow the board to schedule examinations at dates more convenient to dental school graduates.

Current law also provides that the board may accept passing of the NBDE examination in lieu of taking the theory portion of the state examination. Since both theory examinations are identical, this bill would require recognition of an applicant's having passed the NBDE examination.

Your Committee has adopted the recommendations of the state Board of Dental Examiners by amending the bill as follows:

(1) Discontinuing entirely the administration of the theory portion of the state dentistry examination and instead requiring all applicants to have taken the NBDE examination. Presently, most dental school graduates take the examination administered by the NBDE.

(2) Requiring applicants to submit with their examination applications proof of having passed the NBDE examination. This amendment would provide the means by which the board can determine applicant qualification in the theory of dentistry.

(3) Changing the term "prosthetic" in the description of the practical exam requirements to "laboratory" and requiring the board to mail notices of the examination requirements to all applicants. These amendments are made to conform the laws to current board policies and practices.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2198-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2198-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 627-82 Consumer Protection and Commerce on H.B. No. 2295-82

The purpose of the bill is to defer sunset review of the various regulatory boards and commissions under chapter 26H, Hawaii Revised Statutes, for one year.

Chapter 26H, Hawaii Revised Statutes, provides for groups of regulatory boards and commissions to be repealed yearly unless affirmative action is taken by the Legislature to extend the existence of the boards and commissions scheduled for repeal. The next group of boards and commissions is scheduled to be repealed as of December 31, 1983. This bill defers the repeal of any board or commission until December 31, 1984 and thus postpones all sunset action for one year. The rationale for taking this action is that there are various proposals in the legislative process which would affect the regulated industries program of the Department of Regulatory Agencies and, therefore, sunset action should be deferred for one year until modified regulatory programs have been established.

During the course of its review of this measure, your Committee has noted that Act 87, Session Laws of Hawaii 1981, Regular Session, deferred for one year all sunset action on regulatory boards and commissions falling under chapter 26H. Your Committee finds that to defer all sunset action for an additional year would contravene the purpose of chapter 26H.

Accordingly, your Committee has amended the bill to delete the proposed amendment of section 26H-4 to defer sunset action for another year.

Your Committee has further amended the bill by inserting a provision amending section 26H-5 to limit the number of boards and commissions reviewed by the legislative auditor as part of the sunset process to no more than eight boards and commissions per year. This amendment is intended to ensure that the legislative auditor is not overburdened by the sunset process and can adequately review each board and commission.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2295-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2295-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 628-82 Consumer Protection and Commerce on H.B. No. 2408-82

The purpose of this bill is to conform chapter 410, the Hawaii Credit Union Act, to the Federal Credit Union Act.

Since enactment of the Hawaii Credit Union Act in 1973, rapid changes in federal financial regulations have made it increasingly outdated. Therefore, this bill will accomplish a major modernization of chapter 410.

Your Committee again heard testimony about the concerns of the Hawaii Credit Union League and the Hawaii Bankers Association. Upon consideration thereof your Committee has amended the bill as follows:

- (1) The words, "but three state-chartered" have been added after the word, "All" on page 1, line 10, and the word "operating" substituted for the first "chartered" on line 11 thereof;
- (2) The words, "and such other persons or organizations provided for in the articles of incorporation", on page 5, line 21, have been deleted;
- (3) Paragraph (5) on page 7 has been deleted, and the punctuation changed and the conjunction "and" shifted accordingly on line 2 thereof;
- (4) The words, "in any form", on page 7, line 21, have been deleted;
- (5) Paragraph (5) on page 8 has been deleted;

- (6) The words, "accept demand deposits from any source, and issue notes or debentures", on page 8, lines 16-17, have been deleted;
- (7) A comma has been added after the word "deposits" on page 14, line 12;
- (8) The word, "chairperson", has been deleted and, where necessary, "chairman" substituted therefor on: page 15, lines 15 and 19; page 17, lines 13 and 16; page 18, line 13; page 19, line 18; page 20, line 6; page 41, line 12; page 43, line 7; page 44, lines 5 and 13; page 63, line 17; page 65, lines 16 and 20; page 80, line 1;
- (9) The proposed word, "vice-chairperson", has been deleted from page 43, line 6, and page 44, line 14;
- (10) The words, "this State, any state agency or political subdivision thereof", on page 34, lines 7 and 8, have been deleted;
- (11) The word "by" has been deleted from page 40, line 15;
- (12) The sentence beginning with the words, "A credit union", and ending with the words, "of the State", on page 45, lines 10 through 17 has been bracketed for repeal;
- (13) The word, "eighteen", has been retained and the word, "twenty-one", deleted on page 45, line 18;
- (14) New language, "A credit union may grant unsecured loans based on loan policies of the board of directors. Loans may have (1) fixed interest rates, (2) interest rates based on an index which permits the credit union to charge a higher or lower interest rate whenever the index increases or decreases, (3) variable interest rates for both consumer and mortgage loans, or (4) fixed interest rates with a balloon payment,", included in the original bill and omitted from H.D. 1, has been reinserted after the word, "affected", on page 45, line 20;
- (15) Section 410-15.5 on page 53, lines 8-13, has been deleted and the reference thereto on page 25, line 4, deleted;
- (16) The words, "central liquidity", were substituted for "control liquidating" on page 58, line 8;
- (17) Paragraph (4) on page 92 has been deleted;
- (18) The word, "and", on page 93, line 1, has been bracketed for repeal;
- (19) Paragraph (10) on page 93 has been deleted; and
- (20) The word, "change", has been substituted for "charges" on page 95, line 10.

The purpose of amendments (13) and (15) to the bill, as received, is to retain the present interest rate ceiling at eighteen per cent.

Your Committee has also made technical, non-substantive changes to accommodate the above amendments, to comply with recommended drafting practices, and to correct typographical errors.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2408-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2408-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee,

SCRep. 629-82

Consumer Protection and Commerce on H.B. No. 2446-82

The purpose of this bill is to change the qualifications for Board of Cosmetology members.

Present statutory provisions require that no two members of the board may be graduates of the same school or practitioners of the same system or method. This bill would repeal this requirement.

Your Committee is aware that this requirement is no longer appropriate or necessary since cosmetology systems or methods are basically the same throughout the industry.

Your Committee has amended section 2 of the bill to delete the phrase "New material is underscored" as the bill adds no new material to the existing statute.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2446-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2446-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 630-82 Consumer Protection and Commerce on H.B. No. 2870-82

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes which would regulate the business practices of sensitivity-awareness groups.

Presently, business organizations dealing with the concept of sensitivity-awareness, self-awareness, understanding of self and others, and related subjects, are not regulated in any manner.

Your Committee heard testimony from the Office of Consumer Protection, indicating that the business practices of certain sensitivity-awareness groups should be subject to regulation. Your Committee notes that recruitment of participants for sessions or programs, introductory or follow-up, along with the payment of substantial deposits are sometimes made when the subject is most vulnerable to persuasion.

Your Committee finds that the nature of the sensitivity-awareness group's influence upon individuals who attend sessions or seminars makes explicit assurances of equitable business practices imperative.

Your Committee has adopted the recommendation of the Office of Consumer Protection by amending section 1 of the bill to reflect the particular problem to consumers posed by sensitivity-awareness groups, i.e., that entry into contracts is often induced when the consumer has been rendered susceptible by way of introduction seminar sessions conducted by the groups. Your Committee has also amended the bill to specifically address this circumstance in section 2 of the bill, dealing with rescission rights.

The recommendation of the Office of Consumer Protection to expand the definition of "sensitivity-awareness groups" to include individuals as well as groups and associations has also been adopted.

Your Committee has further amended the bill by recasting the sentence beginning on line 18, page 2, and ending on line 3, page 3, for consistency in language. Other technical amendments have been made which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2870-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2870-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 631-82 Consumer Protection and Commerce on H.B. No. 2890-82

The purpose of this bill is to amend section 408A-29 to permit industrial loan companies to use the same premium formulas currently used by savings and loan associations.

When chapter 408A was enacted in 1977, part of the intent was to correlate the thrift rates and practices of industrial loan companies with those of savings and loan associations. Since then, however, the rules and regulations governing the premium practices of savings and loan associations have been amended, resulting in a disparity between the premiums offered by savings and loans and industrial loan companies. For example, under the present law, savings and loans can give savers a premium worth \$20 for new passbook accounts over \$5,000. Industrial loan companies are limited to a \$10 premium.

This bill would reestablish parity between the thrift practices of industrial loan companies and savings and loan associations by simply allowing industrial loan companies to utilize premiums as an advertising or promotional expense rather than as an interest payment on thrift accounts.

Your Committee has made a technical amendment to the bill relating to the Ramseyer format of bill drafting and which has no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2890-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2890-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 632-82 (Majority) Consumer Protection and Commerce on H.B. No. 2942-82

The purpose of this bill is to allow persons employed as speech pathologists and audiologists by the state or a local government on July 1, 1982 to be considered in compliance with the licensure requirements of chapter 468E, Hawaii Revised Statutes, without taking the written examination as long as so employed.

Under present law, government employed speech pathologists and audiologists are exempt from licensure requirements under chapter 468E until December 31, 1984 when they must comply with the requirements of that chapter. This bill would allow such government employees to be considered in compliance with the chapter after December 31, 1984 without the necessity of taking the written examination required for private sector speech pathologists and audiologists as long as they remain employed by a government agency. The bill would further allow a government employed speech pathologist or audiologist to continue to practice for three years after leaving government employment before being required to meet the licensure requirements.

Your Committee received testimony from the Board of Speech Pathology and Audiology and the Hawaii Speech-Language-Hearing Association strongly opposing the three year grace period for former government employees to meet the licensure requirements. Your Committee agrees with the testimony that the proposed provision will be detrimental to the public health and welfare as it will allow such persons to practice speech pathology and audiology for three years essentially unregulated and without providing evidence of qualifications required of other private practitioners.

The testimony further suggested September 1, 1981 rather than July 1, 1982 as the employment cutoff date for government employed practitioners who would fall under the exemption provided for in this bill. Your Committee agrees that the cutoff date should be moved back to September 1, 1981 to cover currently employed practitioners but exclude new hires.

Based on the foregoing, your Committee has amended the bill to remove the three year grace period for former government employed practitioners to meet licensure requirements and change the employment cutoff date from July 1, 1982 to September 1, 1981. Your Committee has further amended the bill to require the records of the Board of Speech Pathology and Audiology to distinguish between practitioners who have met all licensing requirements and those who are deemed to be in compliance because of the provisions of this bill. The purpose of this amendment is to allow the public to distinguish between conventionally licensed practitioners and those who are granted an exception from full licensure requirements.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2942-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2942-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Carpenter did not concur.

SCRep. 633-82 Consumer Protection and Commerce on H.B. No. 2980-82

The purpose of this bill is to amend the present prohibition against anyone other than the professional owning stock in a professional corporation.

Under present law, only the professional person or the professional corporation may own stock in a professional corporation. This limitation was enacted for the purpose of ensuring that the professional has control of the business and is accountable for any services rendered.

Your Committee received testimony, however, indicating that should the professional die while holding such shares, the corporation will be subject to probate and may lose much of its value while the estate is being probated.

This bill would permit professional corporation shares to be transferred to an appropriate

trust in order that the corporate assets pass to the beneficiaries outside of probate thereby avoiding unnecessary expense and economic loss.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2980-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2980-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 634-82 Housing and Hawaiian Homes on H.B. No. 790

The purpose of this bill is to provide specific statutory authority under which the Hawaii Housing Authority may develop or assist in the development of employee housing.

This bill will allow the Authority to assist in the development of employee housing within the confines of its overall program of providing housing to low- and moderate-income residents of the state. Under current statutes, the authority is not prohibited from such developments, but in the absence of a clear statutory authorization, the Department of Budget and Finance has questioned whether such developments meet the public purpose test.

Your Committee has heard favorable testimony on this bill from the Hawaii Housing Authority, the Department of Housing and Community Development of the City and County of Honolulu, the Construction Industry Legislative Organization, and the Hawaii Resort Developers Conference. The authority testified that the policies, goals, objectives, and priority directions of the State Plan and its supporting functional plans indicate that the provision of low- and moderate-income housing for employees of vital economic activities in the state, such as agriculture and tourism, meets the test of public purposes.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 790, 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. 635-82 Housing and Hawaiian Homes on H.B. No. 2097-82

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

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

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2097-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 636-82 Housing and Hawaiian Homes on H.B. No. 2380-82

The purpose of this bill is to allow two or more unrelated elderly persons to live together in an elderly housing project.

Your Committee finds that while there is no restriction on unrelated elderly sharing units in federally funded housing projects, this restriction currently exists in the statute on state-funded housing projects. Since many elderly persons live on fixed incomes, sharing lodging and food costs is often very helpful. In addition, much of the loneliness experienced by the elderly may be avoided if they are allowed to share their dwelling unit with other elderly persons.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2380-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 637-82 Housing and Hawaiian Homes on H.B. No. 3119-82

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

Your Committee has amended this bill and its purpose to allow group living in residential areas of elderly, handicapped, developmentally disabled, and totally disabled persons; provided that the facility is properly licensed and provides housing for not more than eight such persons and two managers.

Your Committee heard testimonies in support of companion bill S.B. No. 2609-82 from the lieutenant governor, the state Planning Council on Developmental Disabilities, the Consumers' Housing Task Force, the Housing Consensus Alliance, the Hawaii Association for Retarded Citizens, and the Commission on the Handicapped. They recognized the need for clarification of some issues but testified that the companion bill as would this bill would provide a necessary service for special needs people.

There was some concern expressed by the Departments of Health and Social Services and Housing on the integration of the proposed program into existing care systems. Specific problems were identified:

1. The companion bill and this bill do not clearly specify the program intent of the group living facility and whether a social service or treatment component is required;
2. The companion bill and this bill do not address the specific conditions under which licensure is to be sought.

Your Committee has amended this bill as follows:

1. Adding a section defining the intent of the proposed program to read as follows:

"Findings and purpose. Present law limits the number of residents in special group homes to a level which is economically unfeasible. This Act, by allowing eight unrelated adults to live in a group home, will allow special needs people a chance to live independently in their own community."

2. Amending sections of Hawaii Revised Statutes which require the Director of Health and the Department of Social Services and Housing to adopt rules for the licensing of care homes and adult family boarding homes, respectively, by adding a proviso that such rules in areas zoned for residential use shall allow group living, as defined by the bill.

3. Adding a new section to county zoning law disallowing any prohibition on such group living in areas zoned for residential use.

4. Changing the effective date to September 1, 1982.

The purposes of these amendments are to address the questions brought up by the Departments of Health and Social Services and Housing and other possible objections.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 3119-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3119-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 638-82 Housing and Hawaiian Homes on S.C.R. No. 12

The purpose of this resolution is to adopt the State Housing Plan as a state functional plan, to be coordinated and monitored by the Hawaii Housing Authority. Furthermore, this resolution requires that the Hawaii Housing Authority update the implementation component of the plan at two year intervals, coinciding with preparation of the state biennial budget.

The State Housing Plan is one of twelve functional plans required by the Hawaii State Planning Act. This is the fifth revision of the plan. The plan has been reorganized and has been divided into two documents: the plan, containing objectives, policies, and implementing actions; and the Technical Reference Document, providing supportive and technical information for the plan.

The plan focuses on two areas of statewide concern:

1. Assisting the provision and maintenance of housing in government, private-sector business, and public areas; and
2. Researching additional information to make housing related decisions.

The overall scope of the plan focuses on increasing the supply of affordable rental housing and affordable housing for sale, by assisting in the provision of housing, reducing housing and related costs, and providing information for future decision making.

The plan contains fifteen implementing actions to carry out six policies. The effectiveness of these actions will depend upon the abilities of state and county agencies to follow through and to coordinate their efforts among themselves and the private sector.

Testimony presented to your Committee on the plan was generally supportive. Those testifying included the Department of Housing & Community Development of the City & County of Honolulu, the Consumer's Housing Task Force, the Council of Presidents, and the Building Industry Association of Hawaii.

Your Committee in consideration of testimony given is recommending the following amendments to the plan (with changes noted in the Ramseyer format):

- 1) On page 6, paragraph 4, include the general public in assessing proposed Plan actions; the amended version to read:

"Private industry and general public feedback on the performance of proposed Plan actions will be necessary to further revise and implement the State Housing Plan."

- 2) On page 14, change the third constraint to increasing the supply of lower cost housing by including "taxation policies"; the amended version to read:

"3. Government standards in the form of code requirements, subdivision regulations, zoning, [and] districting, and taxation policies;"

- 3) On page 16, amend implementing action A(2)(c) as follows:

"[Encourage] Require conditional redistricting measures to create opportunities and incentives to provide lands or homes for affordable or assisted housing development."

- 4) On page 21, amend implementing action B(1)(a) by removing the word "non-urban"; the amended version to read in part:

"Identification of [non-urban] lands suitable for Future Housing Development would be made by the counties as a continuation of general and development plans and should specifically be made in consonance with important agricultural lands."

The purpose of these amendments is to strengthen the State Housing Plan and to meet the concerns of community interest. Your Committee feels that the amendments clarify the intent of the plan. The amendments were made in accordance with testimony presented and in further discussions with concerned parties and are incorporated into the concurrent resolution as hereinafter indicated.

The concurrent resolution has been amended by deleting the State Housing Plan as an exhibit and instead identifying the plan being adopted as the plan prepared by the Hawaii Housing Authority, dated October 1981. Substituted as Exhibit A is the list of the foregoing amendments to the plan. Your Committee finds that appending the proposed plan to the concurrent resolution unnecessarily increases costs of printing the resolution as copies of the plan have been distributed to all members of the Legislature and are available to the public through the Department of Planning and Economic Development.

Your Committee has also amended the concurrent resolution by clarifying the purpose and intended use of the Technical Reference Document. The Housing Plan should be

considered separately from and should not be modified or interpreted through any reference to the Technical Reference Document.

Minor technical amendments have also been made with no substantive effect.

Your Committee on Housing and Hawaiian Homes concurs with the intent and purpose of S.C.R. No. 12, as amended herein, and recommends that it be referred to the Committee on Economic Development, in the form attached hereto as S.C.R. No. 12, S.D. 1.

Signed by all members of the Committee.

SCRep. 639-82 Government Operations and Intergovernmental Relations on
H.B. No. 2095-82

The purpose of this bill is to transfer the authority and functions related to vehicle number plates from the lieutenant governor to the director of finance of each county. In addition, the bill provides for the director of finance of the city and county of Honolulu to contract for the purchase of all vehicle license plates on behalf of the counties.

Since the regulation of vehicles and the issuance of vehicle number plates are presently handled on the county level, your Committee agrees that it would be more appropriate that the counties determine the design of vehicle number plates and contract for the purchase of vehicle plates. Further, the city and county of Honolulu has indicated its willingness to handle the contracting for the neighbor island counties. This bill would make the appropriate amendment to the Hawaii Revised Statutes.

Your Committee has amended the bill by substituting the word, "majority", for "unanimous" on page 2, line 17, and on page 5, line 11. The purpose of this amendment is to expedite vehicle number plate functions by conforming the language of the amendments to the intent of this bill.

Your Committee has further amended this bill by adding the words, "issue", on page 3, line 17, and "on behalf of the counties, contract for the number plates", on page 7, lines 3 and 4. The purpose of this amendment is to conform the language of this bill to the presently existing statutes.

Your Committee has further amended this bill by making technical changes which have no substantive effect.

Your Committee on Government Operations and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 2095-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2095-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 640-82 Government Operations and Intergovernmental Relations on
H.B. No. 2406-82

The purpose of this bill is to allow satisfaction of requirements of notice to lessees and co-owners for liquor license application purposes by giving notice only to those lessees who are of record and only to one of the several co-owners or co-lessees.

Under present law, applicants for liquor licenses are required to notify lessees (whether or not the lessees are noted as such in any government record) of and all of the several co-owners of property within certain vicinities of the premises in question.

Your Committee heard testimony that compliance with present requirements as to lessees is difficult, if not impossible, especially with the increasing number of multi-unit buildings. Because lessees, such as short-term renters, are often not of record in any government agency, applicants must go to individual buildings to determine their identities. Since there is no requirement that the building management disclose such information, these efforts are often frustrated by claims of confidentiality.

Testimony was also presented that the present requirement of notice to all of the several owners of any particular property results in costly duplication. For example, husbands and wives who jointly own property in the area must each be sent separate notices.

Your Committee finds that the intended benefits of the notice requirements are not being accomplished by the unreasonable burdens, set forth above, and that other benefits,

if any, do not justify the imposition of those burdens. This bill would alleviate those unreasonable hardships.

Your Committee on Government Operations and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 2406-82, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 641-82 Government Operations and Intergovernmental Relations on
H.B. No. 2939-82

The purpose of this bill is to clarify the scope of an exception to the definition of "standard bar."

Under present law, standard bar means any establishment licensed to sell liquor for consumption on the premises. One exception is licensed premises in which music is played for dancing by the patrons.

Your Committee notes that the original intent of defining "standard bar" in Act 256, Session Laws of Hawaii 1980, was to distinguish, for purposes of applications for liquor licenses and of notice to nearby residents, the type of business establishment that is being proposed. Your Committee also notes that disruption to the community through excessive noise of late night activity was one of the bases upon which the distinction was made.

This bill would limit the aforementioned exception to the definition of standard bar to those premises which have music for dancing after 11 o'clock p.m. Your Committee feels that this language more clearly expresses the legislative concern for residents in the area of the licensed premises.

Your Committee has amended this bill by appending a proviso authorizing the liquor commission to grant temporary exemptions from the 11 p.m. time limitation. The purpose of this amendment is to allow standard bar establishments trial periods to determine the practicality of such operation. Should the music and dancing prove inoffensive to nearby residents and economically feasible, the establishment could then elect to apply for a nonstandard bar license. Your Committee notes that these exemptions would be effective for only sixty days and would disqualify the establishments exempted from obtaining another temporary exemption for a period of two years.

Your Committee also amended the bill, as received, from line 14, page 1 through line 1, page 2 in conformance with recommended drafting procedures.

Your Committee on Government Operations and Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 2939-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2939-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 642-82 Government Operations and Intergovernmental Relations on S.C.R.
No. 42

The purpose of this concurrent resolution is to request President Reagan and the Congress of the United States to establish a national Academy of Peace.

As unprecedented amounts of money are being spent for military purposes, it is necessary to develop alternatives to the military resolution of international conflict. One alternative is U.S. Senate Bill 1889, introduced by Senator Matsunaga, which would establish a U.S. Academy of Peace. The proposed academy would train persons in techniques of conflict resolution, undertake research, and establish an information service relating to peacemaking.

Your Committee finds that this academy would be a first and significant step toward reducing the threat of war that has become a condition of life today.

Your Committee has amended the resolution to correct a typographical error.

Your Committee on Government Operations and Intergovernmental Relations concurs with the intent and purpose of S.C.R. No. 42, as amended herein, and recommends its adoption in the form attached hereto on S.C.R. No. 42, S.D. 1.

Signed by all members of the Committee.

SCRep. 643-82

Judiciary on H.B. No. 2215-82

The purpose of this bill is to streamline the procedures for obtaining and issuing ex parte temporary restraining orders to prevent acts of or the recurrence of domestic abuse.

The bill provides a new chapter entitled "Domestic Abuse Protection Orders" which will replace the existing chapter 585, Hawaii Revised Statutes, entitled "Ex Parte Temporary Restraining Orders."

The bill provides that the family court shall have jurisdiction with actions brought pursuant to this bill and that such actions be given docket priorities by the court.

The bill provides that there shall exist an action known as a petition for an order for protection in cases of domestic violence.

Your Committee amended the bill to substitute the word "abuse" for the word "violence" because domestic abuse is defined and the amendment would conform to the definition.

The bill retains the present law as to the current procedures for obtaining and issuance of an ex parte temporary restraining order. The bill also provided that the protective order to prevent domestic abuse or recurrence of abuse not exceed a period of ninety days from the date of its initial order.

Your Committee feels that ninety days is too short a period to cool violent relationships that have been developing for a number of years. Your Committee amended the bill to provide for a protective order not to exceed one year from the date of its initial order. Providing the court with the discretion to extend protective orders for up to one year would clearly provide greater flexibility in trying to calm the emotionally charged nature of such situations.

The bill provided that after a hearing on the application for a protective order, the court may issue an order to the police department to assist the petitioner. The provision implies that assistance of the police is no longer necessary in the service of a temporary restraining order and notice of hearing. Representatives of the Family Court and Victim Kokua testified that police assistance before the hearing is necessary and of vital importance. Your Committee thus amended the bill to reflect the concerns regarding police assistance prior to the hearing to indicate that the court may so require such assistance.

Your Committee heard testimonies of victims of such abuses where a temporary restraining order is outstanding and police officers responding to such domestic abuse cases have no knowledge that the offender violated the restraining order. Your Committee amended the bill to provide that the police department make available information as to the existence and status of any order for protection to other law enforcement officers.

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

Signed by all members of the Committee.

SCRep. 644-82

Judiciary on H.B. No. 2224-82

The purpose of this bill is to prohibit discrimination on the basis of a person's age when an appointment is made to a board or commission which requires part-time service.

Under present law, a person who has attained the age of seventy years is prohibited from being employed by the state or any county, except in certain circumstances. The Attorney General has issued an opinion indicating that this age restriction applies to full-time members of boards and commissions. This bill makes clear that this age restriction would not apply to an appointment to a board or commission which requires part-time service.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2224-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 645-82 Judiciary on H.B. 2377-82

The purpose of this bill is to protect the right to continue farming operations in the State of Hawaii by limiting the circumstances under which agricultural operations may be considered a nuisance.

This bill protects the right of legitimate farmers to continue farming despite urban encroachment in their areas by providing that a court or other official cannot declare a farming operation a nuisance if certain specific conditions are met by the farming operation.

Your Committee has adopted the recommendations for changes to the bill proposed by the Department of Agriculture and the Hawaii Farm Bureau Federation.

Your Committee has amended this bill by:

(1) Amending the definition of "farming operation" to clarify that this chapter is intended to cover only commercial farming operations.

(2) Amending the definition of "nuisance" and including references to Chapter 342, Hawaii Revised Statutes, relating to air, water, noise, and solid waste pollution.

(3) Including a declaration of public purpose section as section 3 of the chapter.

(4) Redesignating the right to farm section as section 4 of the chapter and including a reference to Chapter 342.

(5) Adding a section 5 to the proposed chapter to allow an appeal to be made by a farming operation to the Department of the Attorney General for legal representation.

Other technical, nonsubstantive amendments have been made to this bill by your Committee.

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

Signed by all members of the Committee.

SCRep. 646-82 Judiciary on H.B. No. 2598-82

The purpose of this bill is to double the fine imposed upon a person convicted of shoplifting if the person was previously convicted of shoplifting.

Your Committee heard testimony that shoplifting continues to be a serious problem faced by retail merchants in this state. These losses are ultimately passed on to the consumer in the form of increased costs of merchandise.

Your Committee received testimony that in many instances, shoplifting can be attributed to persons who repeatedly shoplift. The additional penalty proposed in this bill for the repeat offender is aimed at providing further deterrence to the professional shoplifter who makes shoplifting a career.

Your Committee has amended this bill by making technical, nonsubstantive changes.

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

Signed by all members of the Committee.

SCRep. 647-82 (Majority) Judiciary on H.B. No. 2629-82

The purpose of this bill is to provide that a person who is found guilty of violating an ex parte temporary restraining order prohibiting the removal of a child from the state, shall be guilty of custodial interference in the first degree, a class C felony.

Under existing law, the penalty for wilful disobedience of a temporary restraining order is a misdemeanor. When a parent knowingly violates an ex parte temporary restraining order by removing a child from the state the offense should be treated as custodial interference in the first degree, punishable as a class C felony, in the same manner as violations of

custody orders in divorce, separation, or other Family Court cases are treated. This will also enable the assistance of interstate and federal law enforcement agencies to be utilized in seeking the return of an absent child or parent.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2629-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Cayetano and O'Connor did not concur.

SCRep. 648-82 Judiciary on H.B. No. 2750-82

The purpose of this bill is to clarify the definition of a conviction.

Present law provides that a conviction is not final until the "time to appeal has expired." The courts have interpreted this to mean that a conviction is not valid for purposes of imposing extended term sentences until appeals are concluded.

The bill provides that an adjudication by a court of competent jurisdiction that the defendant committed a crime constitutes a conviction.

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

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

Signed by all members of the Committee.

SCRep. 649-82 Judiciary on H.B. No. 2972-82

The purpose of this bill is to require that service by publication on defendants in quiet title actions be made by publishing notices in an English language newspaper with statewide circulation when defendants are unknown or when known defendants do not reside within the state or cannot be served within the state.

Presently, notice is only required to be published in newspapers having circulation in the circuit in which the action has been instituted. Your Committee finds that while most quiet title actions occur on the neighbor islands, the majority of heirs to the lands claimed reside on Oahu. Your Committee also finds that in order to maximize proper notice, publication should be made in English language newspapers instead of foreign language newspapers as is allowed at present.

Your Committee has amended the bill to make technical, nonsubstantive changes to section 1 of the bill.

Your Committee has further amended the bill to change the law relating to adverse possession by requiring that anyone claiming land by adverse possession must show that he or she acted in good faith under claim of right or color of title.

Your Committee is aware that title by adverse possession frequently has its origin in a trespass, and that a great deal of unused land here in Hawaii has been acquired without any color of title. In some jurisdictions, the element of "good faith" has been found to be a necessary element of any claim or color of title relied upon in cases of adverse possession. However, in most other jurisdictions, "good faith" is said to be unnecessary. Your Committee believes that "good faith" should be required on the part of any claimants and that the claimants must believe that they have some claim of right, title or interest in or to the lands, and that something must exist upon which such belief of claim is based.

Black's Law Dictionary, in part, defines "good faith" as an "intangible and abstract quality with no technical or statutory meaning." However, many courts have construed the term and in any case what is "good faith" in a person claiming property is a question for the jury. Accordingly, your Committee has not provided a definition for the term "good faith." That should be left for the courts.

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

Signed by all members of the Committee.

SCRep. 650-82 Judiciary on H.B. No. 3124-82

The purpose of this bill is to restrict the authority of the administrator of a psychiatric facility to grant leaves of absence to persons committed to the facility.

The bill provides that for a patient who has been admitted or committed to a psychiatric facility on a court order after having been charged with a felony or misdemeanor pursuant to chapter 707, Hawaii Revised Statutes, there must be a court approval for any absence unless the absence is supervised by the presence of someone from the facility.

Your Committee feels that public safety necessitates closer supervision of patients who are committed to psychiatric facilities by the court. This is especially so when patients are charged with offenses against persons.

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

Signed by all members of the Committee.

SCRep. 651-82 Ways and Means on H.B. No. 1515

The purpose of this bill is to exempt securities of a corporation incorporated in Hawaii which are registered in the name of a nonresident decedent who was not a resident of a foreign country from the clearance requirements for the transfer of securities.

The bill also provides that in determining whether the nonresident decedent was not a resident of a foreign country, a Hawaii corporation and its transfer agents may conclusively rely upon an affidavit as prescribed by the director of taxation.

The Department of Taxation supports the enactment of this measure since it would save the transfer agent and the department considerable time in handling the estate of deceased persons. It would eliminate the needless paperwork and workload pertaining to nonresidents who would ordinarily not be taxable for Hawaii purposes.

Your Committee heard the Senate companion bill S.B. No. 642.

Your Committee has amended the bill by changing the effective date to July 1, 1982. Nonsubstantive, technical amendments were also made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1515, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1515, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 652-82 Ways and Means on H.B. No. 2051-82

The purpose of this bill, as received, is to terminate the Environmental Quality Commission and transfer the commission's functions to the Office of Environmental Quality Control and the Environmental Council.

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

The increased complexities of environmental issues now require the full-time attention of a public agency with expertise in environmental protection and ecology, therefore, to strengthen the environmental impact statement laws further, your Committee has amended this bill by:

1. Transferring the commission's functions only to the Office of Environmental Quality Control which is a full-time agency;
2. Making the council an advisory body only;
3. Leaving the office within the Department of Health for administrative purposes;

4. Providing the salary of the director of the Office of Environmental Quality Control be set by the governor subject to legislative appropriation;
5. Making the director an ex officio, nonvoting member of the council;
6. Providing that the chairperson of the council be elected by the members of the council; and
7. Making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2051-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2051-82, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 653-82 Ways and Means on H.B. No. 2147-82

The purpose of this bill is to allow the State Foundation on Culture and the Arts to enter into agreements to provide financial assistance to individuals, nonprofit associations, corporations, and agencies determined qualified through their plans, programs, and activities to implement the preservation and furtherance of culture and the arts and history and the humanities.

The attorney general has advised the foundation that it cannot make grants under existing law. Rather, the attorney general has advised that only contracts for purchases of services may be entered into. Contracts for purchases of service, under which specified goods or services must be provided in return for state moneys, will attach unrealistic conditions on persons or organizations seeking to promote culture and the arts and history and the humanities. Your Committee feels that grants, without rigid and unrealistic conditions attached, to artists and historians are necessary to ensure artistic and intellectual freedom.

Your Committee heard companion Senate Bill No. 2185-82.

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. 2147-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2147-82, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 654-82 Ways and Means on H.B. No. 2165-82

The purpose of this bill is to enable the State of Hawaii to enter into the Northwest Interstate Compact on Low-Level Radioactive Waste Management.

The Low-Level Radioactive Waste Policy Act was enacted by the U.S. Congress in December, 1980, which established a federal policy that each state is responsible for the disposal of low-level radioactive waste generated within its borders by placing it in a secure facility either within or outside the state. To carry out this policy, the states may enter into regional compacts to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

With passage of this legislation, the out-of-state shipment and storage of the state's low-level radioactive waste will continue.

Your Committee heard companion bill S.B. No. 2204-82.

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. 2165-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2165-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 655-82

Ways and Means on H.B. No. 2205-82

The purpose of this bill is to require that the personal representative or other person or fiduciary of a decedent's estate file a complete inheritance and estate tax return within eighteen months from the date of the death of the decedent together with payment of the taxes due on the return.

Your Committee heard companion Senate Bill No. 2257-82.

Under the present law, the personal representative of a decedent's estate is required to file an inheritance tax return, but is not specifically required to complete the return by computing the tax liability. Consequently, many inheritance tax returns are submitted incomplete with only an inventory of bequests and the tax department's staff must spend a lot of time computing taxes before it can commence with its auditing function.

This bill is a procedural measure which conforms the Inheritance Tax Law to other Hawaii tax laws by requiring that the taxpayer file a complete return and pay the taxes due at the time the return is filed.

Your Committee has amended the bill to make it clear that the return must be complete and the tax must be computed on the return.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2205-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2205-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 656-82

Ways and Means on H.B. No. 2206-82

The purpose of this bill is to eliminate the three-year depreciable life span required of capital goods sold to a licensed leasing company for lease to others and to redefine capital goods to mean goods which have a depreciable life.

The preferential wholesale rate of 0.5 per cent under the general excise tax law is allowed sales of such capital goods to licensed leasing companies for lease to others.

Your Committee notes that with the adoption of the federal Economic Recovery Act of 1981, all old rules relating to the depreciation of capital goods were changed. This means that for goods placed in service before 1981 there are different depreciation rules than for those goods placed in service during 1981 and thereafter. By deleting the reference to three years in the law, every person will be treated the same no matter how they depreciate their goods under the old or new depreciation rules.

Your Committee understands and intends that as used in this bill depreciable life means that period of time determined under the Internal Revenue Code provisions no matter what provisions apply to the particular capital goods in question.

Your Committee amended this bill by adding a new section providing that the substantive provisions of this bill shall amend any other conflicting Act enacted by the Regular Session of 1982, but nonsubstantive amendments shall not supersede any substantive amendments by any other conflicting Acts enacted by the Regular Session of 1982, because of the number of bills which may amend section 237-4, Hawaii Revised Statutes, this session.

Your Committee heard companion bill, S.B. No. 2258-82.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2206-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2206-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 657-82

Ways and Means on H.B. No. 2240-82

The purpose of this bill is to meet the requirement of Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, of the 96th Congress, 2nd Session, which mandates states to enact statutes prior to October 1, 1982, specifying child care goals for children receiving federal financial aid who have been in foster care for more than twenty-four months.

The congressional intent is to reduce the length of time children are in placement and to promote early reunification with their parents or to establish other permanent plans for the children.

Your Committee heard Senate Bill No. 2243-82, which is the companion to this bill. Your Committee is in agreement with the Department of Social Services and Housing's testimony, as expressed in that hearing, that too often, children in foster care placement have languished there without adequate and timely plans for their return to their parents or have other permanent plans arranged.

Your Committee has amended the bill by making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2240-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2240-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 658-82 Ways and Means on H.B. No. 2241-82

The purpose of this bill is to permit the state, upon the request of a state agency, to retain state income tax refunds for those persons who owe a debt to the state.

Your Committee finds that this bill will provide an effective technique to aid in the collection of delinquent child support debts owing to the state under the Aid to Families with Dependent Children (AFDC) program. AFDC recipients assign their child support rights to the state during their AFDC eligibility period. The state establishes, enforces, and collects the child support obligation, to repay in part, the taxpayer dollars expended by the state and federal governments to support the family.

Your Committee notes that the federal government began a Federal Income Tax Off-Set Program this year which allows for federal tax intercept of refunds in a similar manner as provided for in this bill.

Your Committee heard the Senate companion bill S.B. No. 2244-82.

Your Committee has amended the bill as follows:

(1) By deleting the references to part throughout the bill since chapter 231 has not parts but only groupings and amending the bill accordingly.

(2) By adding to the definition of "claimant agency", after the word "organization", the words "or any subdivision thereof".

(3) By adding to the section entitled "Setoff against refund" the requirement that any amount of refund in excess of the amount retained to satisfy the debt shall be refunded to the debtor.

(4) By making nonsubstantive, language amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2241-82, H.D. 1, as amended herein, and recommends that it pass Second Reading and be placed on the calendar for Third Reading in the form attached hereto as H.B. No. 2241-82, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 659-82 Ways and Means on H.B. No. 2243-82

The purpose of this bill is to provide for the confidentiality of reports and records of reports of elderly abuse or neglect, establish a penalty when professionals who are required to report elderly abuse or neglect do not make reports, repeal the provision granting immunity from civil or criminal liability to persons making reports in good faith, require the state to indemnify and hold harmless persons making reports from civil liability, and repeal the provision which excludes certain privileges from judicial proceedings resulting from elderly abuse or neglect.

Your Committee held a public hearing on Senate Bill No. 2246-82, which is the companion to this bill. On the basis of the hearing and in consideration of the amended version which was considered in the Senate, your Committee has amended this bill substantially. Only

the provision concerning the confidentiality of reports and records of reports of elderly abuse or neglect in the bill, as received, is retained. Your Committee has also changed the term "elderly abuse and neglect" in the provision to "elderly abuse or neglect". All other provisions are deleted.

Your Committee feels that the elderly abuse or neglect law should not be heavily amended at this time since it is less than a year old. Your Committee, however, feels that the confidentiality provision is justified because a similar provision in the child abuse or neglect law has demonstrated its worth. The other provisions are strong departures from existing law and the child abuse or neglect law upon which the elderly abuse or neglect law is based. Your Committee considers dramatic changes to be inopportune at this time.

Your Committee has also made technical amendments to conform to the changes made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2243-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2243-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 660-82 (Majority) Ways and Means on H.B. No. 2247-82

The purpose of this bill is to conform the Hawaii income tax law to the federal Internal Revenue Code, as the Code existed on December 31, 1981. This bill is the annual conformance measure which the Department of Taxation is required to submit under section 235-2.3, Hawaii Revised Statutes, and it includes most of the provisions of the Economic Recovery Tax Act of 1981.

Your Committee heard companion bill S.B. No. 2252-82.

Your Committee finds that the extensive modifications to the IRC enacted by Congress in 1981 add to the significance and import of this annual conformance bill.

The sweeping changes to the code, intended to encourage greater personal savings and the re-investment of capital into the nation's economy, have greatly altered federal treatment of income. Several new federal programs, most notably All-Savers Certificates and Individual Retirement Accounts, have already enjoyed widespread taxpayer acceptance and participation, in Hawaii and throughout the nation.

Your Committee finds that close conformance between the IRC and the state's income tax provisions is therefore very critical to a large number of Hawaii's taxpayers, as it will eliminate possible conflict and confusion and facilitate compliance.

Your Committee finds that Hawaii taxpayers have already begun to file income tax returns, many of whom are participants in All-Savers or IRA programs.

Your Committee therefore strongly recommends the expeditious enactment of this bill to obviate the filing of otherwise unnecessary amended returns and the resulting cost to both taxpayers and the Department of Taxation.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2247-82, H.D. 1, and recommends 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. 661-82 Ways and Means on H.B. No. 2313-82

The purpose of this bill is to increase from \$1 to \$3 the fine levied in support of the driver education and training fund.

Your Committee heard this bill's companion, S.B. No. 2295-82.

Your Committee has amended this bill by changing the increase in the fine to \$2 instead of \$3.

Your Committee also 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. 2313-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2313-82, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 662-82 Ways and Means on H.B. No. 2400-82

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

This bill would increase the amount of exempt interest passing to the surviving spouse from the present \$100,000 to \$150,000 and would lower the tax liability of direct line beneficiaries by increasing their exemption to \$250,000 from the present \$50,000. No changes are proposed for taxing the interests passing to other beneficiaries.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2400-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2400-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 663-82 Ways and Means on H.B. No. 2438-82

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

Your Committee finds that the stimulation and growth of small businesses will aid in the expansion of the state's economy. Current statutes authorize the Department of Planning and Economic Development to extend loans to local development companies only under section 502 of the federal Small Business Investment Act. Your Committee believes that broadening the scope of the current law to include loans to development companies under both sections 502 and 503 (Title V) of the Small Business Investment Act, as amended, would be beneficial to both the state and local development companies.

Your Committee further finds that the Departments of Planning and Economic Development and Taxation do not object to the passage of this bill.

Your Committee had a hearing on the companion bill, S.B. No. 2709-82.

Your Committee has amended the bill by inserting Public Law 699 when referring to the Small Business Investment Act of 1958 and by making technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2438-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2438-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 664-82 Ways and Means on H.B. No. 2560-82

The purposes of this bill are to increase the ceiling on the Department of Hawaiian Home Lands' farm loans to lessees and to add to the purposes for which farm loans can be made.

This bill increases the loan ceiling from \$35,000 to \$50,000 and allows loan proceeds to be used for refinancing farm debts, operating expenses, installation of soil and water conservation measures, and relief and rehabilitation from natural disasters and depressed economic conditions.

Your Committee heard the companion to this bill, S.B. No. 2429-82.

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. 2560-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form

attached hereto as H.B. No. 2560-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 665-82 Ways and Means on H.B. No. 2561-82

The purpose of this bill is to permit the investment of state funds in any savings account and repurchase agreement rather than restricting investments only to bank savings accounts and bank repurchase agreements as provided in the present law.

At the hearing on the companion bill, S.B. No. 2312-82, the director of finance recommended that investments in savings accounts be limited to federally insured financial institutions and investments in repurchase agreements be limited to federally insured banks and savings and loan associations authorized to do business in the state in order to insure safe investments. Your Committee is in agreement with this recommendation.

Your Committee has amended the bill to provide that these investments may be made in federally insured savings accounts, rather than bank savings accounts. Other technical, nonsubstantive amendments have also been made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2561-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2561-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 666-82 Ways and Means on H.B. No. 2562-82

The purpose of this bill is to provide the director of finance with the option of depositing securities for the protection of public funds with financial institutions with trust powers authorized to do business in the state.

Present law restricts the director of finance to depositing securities for the protection of public funds with banks in the continental United States. This bill authorizes the director of finance to also utilize financial institutions with trust powers in the state for this purpose. On the basis of a public hearing held on Senate Bill No. 2311-82, which is similar to this bill, your Committee is in agreement with this proposal. Your Committee is also in agreement with the amendment made by the House of Representatives.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2562-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 667-82 (Majority) Ways and Means on H.B. No. 2765-82

The purpose of this bill is to authorize the Department of Education to collect and expend special fees and charges from pupils for co-curricular activities and to clarify the provisions concerning collection and expenditure of fees for broken or damaged books, equipment, or supplies.

Your Committee has had a public hearing on Senate Bill No. 2823-82, which is the companion to this bill.

Thus, your Committee is in basic agreement with the general purpose of this bill, but has made the following amendments. Because the purpose section does not agree with the amendments made to this bill, the purpose section has been deleted and subsequent sections have been renumbered. The bill has been further amended to provide that the special fees and charges for co-curricular activities are to be expended by each individual school, instead of the department.

In addition, your Committee has made other technical amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2765-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2765-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Campbell did not concur.

SCRep. 668-82 (Majority) Ways and Means on H.B. No. 2815-82

The purpose of this bill is to give each county the option of adding to each vehicle registration a fee not to exceed 50 cents for the purposes of highway beautification and disposition of abandoned vehicles.

Your Committee had a hearing on the companion bill, S.B. No. 2851-82.

Your Committee has amended the bill by changing the effective date to January 1, 1983, and by making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2815-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2815-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Campbell did not concur.

SCRep. 669-82 Ways and Means on H.B. No. 2817-82

The purpose of this bill is to require the registration of all off-road vehicles in the state with the exception of U.S. military vehicles, construction and demolition motorized vehicles, and motorized vehicles and implements of farming and husbandry that are not designed for and not used on public highways.

Your Committee heard favorable testimony on this bill from the Hawaii State Association of Counties, the Honolulu City Council, the Honolulu Police Department, and the Hawaii Sugar Planters' Association since it will enable the police to readily obtain information on stolen and found off-road vehicles. The testimonies indicated that bicycle registration has been effective in assisting the police in reducing thefts and returning stolen bicycles to their owners. Since off-road vehicles such as dirt bikes, dune buggies, and racing vehicles are equally susceptible to thefts, the registration of these vehicles will assist the police in the same manner.

Your Committee has amended the bill by rewriting the last paragraph of SECTION 1 into two sentences rather than one sentence for purposes of clarity. Your Committee has also made other technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2817-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2817-82, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 670-82 Ways and Means on H.B. No. 2879-82

The purpose of this bill is to authorize the Department of Education to assess and collect fees and charges from users and deposit the fees collected into a separate fund.

Currently, the department must deposit any funds collected into the state treasury as general fund realizations. However, under this bill, schools could use these fees collected for expenses such as the Board of Education may provide by rules.

Your Committee heard the companion to this bill, S.B. No. 2354-82.

Your Committee has amended this bill by broadening its scope to include fees and charges for the use of school buildings, grounds, and equipment.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2879-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2879-82, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 671-82 Ways and Means on H.B. No. 2969-82

The purpose of this bill is to require the Office of Hawaiian Affairs to submit a budget request to the Legislature only in odd-numbered years and to permit budget submissions in even-numbered years, if necessary.

The present law requires an annual budget submission from the Office of Hawaiian Affairs to the Legislature.

Your Committee finds that the proposed amendment, also contained and heard in companion S.B. No. 2649-82, will bring OHA's fiscal planning process in line with other state agencies and the Legislature's biennium system.

Your Committee has amended this bill to require that each member be given a copy of the OHA budget and has made other technical changes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2969-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2969-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 672-82 Ways and Means on H.B. No. 3136-82

The purpose of this bill is to clarify existing legislation which authorizes the Aloha Tower Development Corporation to redevelop the Aloha Tower Complex.

Your Committee held a public hearing on this bill's companion, S.B. No. 2948-82.

Your Committee has amended this bill by deleting section 7 of the bill which authorized the state director of finance to make loans to the Aloha Tower Development Corporation as your Committee is not in favor of such loans.

Your Committee has also made nonsubstantive, technical amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3136-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3136-82, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 673-82 (Majority) Ways and Means on H.B. No. 3143-82

The purpose of this bill is to clarify certain provisions pertaining to the Hawaii Community Development Authority's power and role and provide specific authorization to the authority for implementation of the Kakaako community development district plan and rules.

Your Committee had a hearing on the companion bill, S.B. No. 2994-82.

Your Committee has amended the bill as follows:

1. Deleting the amendments to subsection (a) of section 206E-6, Hawaii Revised Statutes;
2. Deleting the amendments to subsection (b) of section 206E-6, Hawaii Revised Statutes, allowing the subsection to remain as presently found in the statutes except for deleting the alternative for the authority which gives the authority the power to establish rules pursuant to chapter 91 for assessing the cost and special benefits of payments for district-wide improvements, while leaving the amendment in the bill which adds another paragraph to subsection (b) relating to empowering the authority to issue and sell bonds as authorized by the Legislature;
3. Replacing the amendment to subsection (c) of section 206E-6, Hawaii Revised Statutes, with another amendment to subsection (c) which is basically the same except that the rule making power of the authority providing for the making and financing of improvement districts is in lieu of the procedure set forth in subsection (b) of section 206E-6 of the bill;
4. Amending section 206E-32, Hawaii Revised Statutes, further describing the area of the Kakaako community development district;

5. Deleting the new Part III, to chapter 206E, Hawaii Revised Statutes, entitled Reserved Housing Loan Programs; and

6. Making other technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3143-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3143-82, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Anderson, Kawasaki and Saiki did not concur.

SCRep. 674-82 Ways and Means on H.B. No. 329

The purpose of this bill is to grant the legislative service agencies the authority to make adjustments to the compensation, conditions, and benefits of excluded officers and employees in their agencies.

Presently, the chief executives of the state and counties, as well as the chief justice, are authorized to make such adjustments for the excluded employees under their supervision. The directors of legislative service agencies, who also supervise excluded employees, are not similarly authorized.

This bill authorizes the directors of the legislative service agencies to make such adjustments. Adjustments, however, are to be decided by majority vote of the directors and are to be uniform for their employees.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 329, H.D. 1, S.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 675-82 Ways and Means on H.B. No. 1974-82

The purpose of this bill is to allow the state to purchase goods and services from any qualified rehabilitation facility operating workshops for handicapped individuals, and to provide handicapped individuals with more employment opportunities.

Present statutes limit the purchasing of certain commodities by the state from certain workshops operated by the state and the Oahu Community Correctional Center.

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

Due to increasing numbers of disabled persons seeking employment services from rehabilitation facilities, additional work is needed to accommodate those who are seeking and receiving services. Your Committee agrees that these workshops would provide meaningful work opportunities for the handicapped.

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. 1974-82, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1974-82, H.D. 2, S.D. 1.

Signed by all members of the Committee.

SCRep. 676-82 Ways and Means on H.B. No. 2207-82

The purpose of this bill is to expand the definition of a "heat pump", as defined in section 235-12(c), Hawaii Revised Statutes, and thereby qualify commercial as well as residential heat pumps for existing alternate energy device income tax credits and to cap the total amount of credit claimed.

Your Committee finds that heat pumps are proven energy-saving devices. Heat pumps can reduce the amount of energy a household needs to heat water by as much as sixty-six per cent. Estimates place the number of single-family dwelling heat pumps installed in Hawaii at 4,000. These heat pumps can save the state 20,000 barrels of imported oil per year. This represents an estimated annual savings of \$740,000 for the state. Larger-sized commercial heat pumps are available for apartments, condominiums, restaurants, and fast-food outlets, and the estimated savings for these facilities are substantial.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2207-82, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 677-82 Ways and Means on H.B. No. 2210-82

The purpose of this bill is to clarify when repayment of principal and interest of state higher education loans must be made by the student recipients.

As amended by the Senate Higher Education Committee, this bill requires that loan recipients begin repayment when they graduate or when they cease to be enrolled at least half-time in a degree program. Under present law, students are not required to begin repayment until they graduate or withdraw from their degree program. As such, a student could delay repayment by continuing enrollment in a degree program with only one course per semester.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2210-82, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 678-82 Ways and Means on H.B. No. 2349-82

The purpose of this bill is to amend the provisions of the public employees' retirement system law relating to the crediting of interest to the various funds and the determination of the employer normal cost and accrued liability contributions.

This bill will provide a more realistic approach to the funding of the public employees' retirement system. It also provides the board of trustees of the system with more flexibility in the administration of the system.

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. 2349-82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2349-82, S.D. 2.

Signed by all members of the Committee.

SCRep. 679-82 Ways and Means on H.B. No. 2511-82

The purpose of this bill is to establish a compliance resolution fund from which the Director Of Regulatory Agencies could expend moneys for hiring and training needed personnel.

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

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

The bill also authorizes the use of surpluses in existing departmental funds or board or commission special funds to provide initial start-up moneys for the fund.

Your Committee has amended the bill as follows:

1. By requiring the director to submit an annual report to the governor and legislature on the use of the compliance resolution fund;
2. By providing that the compliance resolution fund and the language creating it shall exist through June 30, 1983;

3. By adding boiler plates to provide for substantive amendments made to section 26-9, Hawaii Revised Statutes, by other bills during this regular session; and

4. By making other technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2511-82, 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. 2511-82, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 680-82 Ways and Means on H.B. No. 2674-82

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

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

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2674-82, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 681-82 Ways and Means on H.B. No. 2806-82

The purpose of this bill is to amend the provision concerning the amount of the bond which a concessionaire on public property must post,

Under current law, a concessionaire must post a bond in the amount which equals two months' rental or other charge, if any. This bill proposes to amend current law by requiring the amount of the bond to be not less than two months' rental and other charges, if any. In effect, the proposed amendment repeals the statutorily set bond amount and establishes a minimum bond amount.

Your Committee finds that this bill will provide public agencies with flexibility in the administration of concessions, which flexibility should benefit the public.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2806-82, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 682-82 Transportation on H.B. No. 1094

The purpose of this bill is to exempt antique motor vehicles from the present requirement that they be certified for safety purposes once every six months.

Under present law, all motor vehicles ten years or older must be certified once every six months. This bill would exempt antique motor vehicles as defined in section 249-1, Hawaii Revised Statutes, from this requirement, and would instead require certification for said vehicles on an annual basis along with those not specifically listed in section 286-26(a), (c), and (d).

Your Committee believes that the effect of this bill is not contrary to the intent of the Highway Safety Law of Chapter 286.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1094, 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 Kawasaki.

SCRep. 683-82 Transportation on H.B. No. 2092-82

The purpose of this bill is to correct inconsistencies in the Motor Vehicle Safety Responsibility Act, section 287, Hawaii Revised Statutes.

Your Committee heard supporting testimony from the Honolulu City Council and the Office

of the Administrative Director of the Courts. Sections 287-1, 287-7, and 287-18 are amended to correct the inconsistencies which exist in sections 287 and 294 relating to motor vehicle financial responsibility. Section 287-3 is amended to transfer the burden of furnishing operating records to the Traffic Violations Bureau of the district courts. The judiciary requested a change in the proposed amendment to 287-3 in order to clarify the authority of the Traffic Violations Bureau to furnish traffic abstracts and to raise the fee for this service from fifty cents to \$2.00. Section 287-17 is amended to correct a conflict with the bankruptcy laws and the supremacy clause.

Your Committee amended section 287-20 to clarify the application of this section by including adjudications relating to driving under the influence of intoxicating liquor. Further amendments to this section clarify and set workable standards under which the administrator will act to suspend the driving license of an individual who has been convicted of certain offenses and under certain conditions until he furnishes proof of financial responsibility. The amendments eliminate certain inequities that have resulted in unfairly barring countless persons from the lawful use of our roadways, while retaining all rational sanctions of prior law that protect the people of the State of Hawaii from financial loss.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2092-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2092-82, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 684-82 Transportation on H.B. No. 2105-82

The purpose of this bill is to amend section 290-41, Hawaii Revised Statutes, by requiring tow companies to contact the police before towing a vehicle from a private parking lot or private property. It would allow the police to ascertain whether or not they have any investigative interest in a vehicle before it is towed.

Your Committee heard supporting testimony from the Department of Transportation, the Honolulu Police Department, the Honolulu City Council, the Hawaii State Association of Counties and the Hawaii Automotive and Retail Gasoline Dealers Association. Under present procedures, tow companies are required to contact the police department within twenty-four hours after they have towed a vehicle from private property. This bill would change the requirement so that the police would be called prior to towing. Because many abandoned vehicles have been used in the commission of crimes, the police department should have the first opportunity to take custody of these vehicles.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2105-82 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. 685-82 Transportation on H.B. No. 2232-82

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

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

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

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2232-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 686-82

Transportation on H.B. No. 2975-82

The purpose of this bill is to exclude labor unions with job placement centers from those organizations that are required to provide a driver improvement program for drivers of heavy vehicles.

Operating Engineers Local Union No. 3, which operates as a job placement center rather than an employer, testified before your Committee that it should not have to bear the cost of such a program. Your Committee is aware that the purpose of the present statute is to improve traffic safety by requiring that all regularly employed and casual drivers of heavy vehicles take an annual driver improvement course. At the request of your Committee the Department of Transportation met with all interested parties including Local No. 3, the General Contractors Association of Hawaii and the Hawaii Trucking Association. The participants in the meeting agreed that for purposes of the subsection concerned in this bill, the word "organization" should not include any labor union with a job placement center and, further, that an employer will continue to have the option of turning down any driver sent by a job placement center who has not qualified within the past year under a driver improvement program.

Your Committee feels that the language of the bill addresses the concerns of Operating Engineers Local Union No. 3 without jeopardizing the driver improvement program.

Your Committee amended the bill to provide a definition of "job placement center".

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2975-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2975-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 687-82

(Joint) Ecology, Environment and Recreation and Economic Development on H.B. No. 2624-82

The purpose of this bill is to allow a time extension for an applicant to complete an Environmental Impact Statement (EIS) as part of the Conservation District Use Application (CDUA). This extension may be granted only upon Board of Land and Natural Resources approval.

The present 180-day time limit for CDUA processing often places an undue burden upon an applicant because of a requirement of an acceptable EIS determination prior to the consideration of the application. The EIS procedure may, itself, extend beyond the 180-day decision-making period of the entire CDUA process. In such instances, the applicant would be forced to withdraw his application for conservation district use and resubmit it at a later time or the board would be forced to disapprove the application.

The House Committee on Water, Land Use, Development and Hawaiian Affairs and on Energy, Ecology, and Environmental Protection amended the original bill to allow an additional 130 days for the applicant during the CDUA process, if approved by the Board of Land and Natural Resources. This action would eliminate the disadvantage placed upon the applicant in present circumstances.

Your Committees agree with the House committees that the applicant is placed in an unfair position when the EIS and CDUA processes overlap. However, your Committees believe that the applicant should be entitled to an automatic 90-day extension when such instances occur, and that this extension should not crowd the board's agendas for approval and action.

The bill has been amended to provide for an automatic 90-day extension for the applicant should circumstances indicate that such an extension is a necessary one. Any requests for extensions beyond the 90 days shall be subject to the approval of the board.

Your Committees on Ecology, Environment and Recreation and on Economic Development are in accord with the intent and purpose of H.B. No. 2624-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2624-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Mizuguchi, Yee and Yamasaki.

SCRep. 688-82 Agriculture on H.B. No. 2148-82

The purpose of H.B. No. 2148-82 is to prohibit the feeding of garbage to swine unless the garbage is properly cooked.

Your Committee received favorable testimony regarding this measure which would guard against the potentially dangerous effects of feeding uncooked garbage to swine.

Technical amendments to the bill were made.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2148-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2148-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 689-82 Agriculture on H.B. No. 2150-82

The purpose of H.B. No. 2150-82 is to amend the penalty provision of Part I, Chapter 142, to allow for the penalty established in H.B. No. 2148-82, S.D. 1.

Favorable testimony was received regarding this measure which would alleviate any conflict between the existing penalty provisions of Section 142-12, pertaining to animal diseases, and the penalties prescribed in H.B. No. 2148-82, S.D. 1, which forbids the feeding of uncooked garbage to swine.

Technical amendments to the bill were made.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2150-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2150-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 690-82 Agriculture on H.B. No. 2565-82

The purpose of this bill is to encourage membership in agricultural cooperative associations, and thus strengthen the cooperatives, by providing agricultural cooperative associations with the flexibility to distribute net earnings of the cooperative association to its members on a different basis than to nonmembers.

Your Committee finds that the present law, section 421-11(c), Hawaii Revised Statutes, requires that net margins be equally distributed, on a basis of patronage, to members and nonmembers alike. This creates a disincentive for co-op membership. Your Committee is in favor of amending section 421-11(c) in order to permit distributions of net margins primarily or solely to members, and your Committee finds that H.B. No. 2565-82 appears to be patterned carefully on the language used in most other states, which would serve not only to solve the problem before us, but would also bring Hawaii into conformance with established statutory language and thus assist any future analysis of the meaning and intent of the section.

Your Committee investigated the matter of whether a cooperative association may discriminate in the sale of its goods and services in favor of its membership. Currently it is the practice of the State of Hawaii to prohibit agricultural cooperative associations from charging differential rates on their goods and services sold to members and nonmembers. Your Committee has received information indicating that this state position is contrary to federal law which provides for co-ops to discriminate in favor of their membership in the sale of goods and services.

Chapter 421, Hawaii Revised Statutes, presently contains no clear right of differential rate-setting for co-ops. Your Committee has amended H.B. No. 2565-82 by adding a new section which would allow a co-op to charge differential rates on the sale of its goods and services to members and nonmembers, as provided for in its bylaws.

The purpose of this amendment to the bill is to clarify the rights of co-ops to grant differential rates, specifically discounts, to their membership, in order to provide incentives for co-op membership and to advance the principles of cooperation upon which co-ops are founded.

Your Committee additionally investigated the matter of whether a cooperative association should be limited to eight per cent interest payments on loans from its membership. The current law, section 421-11(b), Hawaii Revised Statutes, states: "Dividends in excess of eight per cent on the actual cash value of the consideration received by the (cooperative) association shall not be paid on common or preferred stock or membership capital, but dividends may be cumulative."

The unofficial state position on interpreting this law is to membership, including loans, and so such loans would be limited to eight per cent interest. In a high-interest financial environment as we are experiencing today, such an interpretation obviously serves as a disincentive to capital formation by co-ops.

A study of cooperative theory indicates clearly that "membership capital" has always meant that particular capital which is paid in by the membership as equity and as a membership fee. It is differentiated from debt capital, which may be borrowed money from financial institutions or the co-op's own membership. Section 421-11(b), Hawaii Revised Statutes, based on similar statutes in other states and the federal government, appears to have been originally intended to only limit the return on membership equity capital and not debt capital.

In order to correct this problem, your Committee has amended the bill by adding a new section which would amend section 421-1, Hawaii Revised Statutes, to add a new definition of "membership capital" meaning that capital paid to a nonstock association by a member in order to be a member and have the rights of membership in the association.

The purpose of this amendment is to clarify section 421-11(b)'s use of the term "membership capital". Specifically, by making clear that "membership capital" does not include debt capital loaned from the membership, this amendment will allow co-ops to borrow from their membership without the eight per cent interest ceiling on such loans.

Your Committee also amended section 421-1, Hawaii Revised Statutes, to place the definitions in alphabetical order.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2565-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2565-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 691-82

Consumer Protection and Commerce on H.B. No. 1489

The purpose of this bill is to update the Standard Valuation Law's minimum standards for reserve liabilities for life insurance policies and annuity contracts and to provide for future automatic updating in order to permit products offered to the consumer to keep pace with changes in the economy and in longevity.

Under present law the minimum valuation standards are established by setting the methods which actuaries must follow in calculating minimum values and by specifying the interest and mortality assumptions which may be used in these calculations.

This bill would update both the methods and the interest and mortality standards as follows:

(1) The bill would make technical changes to the formulas which actuaries must follow in calculating minimum values. These changes take account of special features of newer products not contemplated when the model bill was developed nearly forty years ago. The bill also provides authority for the commissioner to promulgate rules to cover new products developed in the future.

(2) This bill would establish a system for automatic updating of the valuation interest rate standards applicable to new business. Under that system the valuation interest rate which could currently be used for permanent insurance would be five and one-half per cent. Under current law, companies are not allowed to base reserves for permanent insurance on interest rates of more than four and one-half per cent.

(3) This bill would introduce the 1980 Commissioners Standard Ordinary Mortality Table as the new minimum standard for new policies. It would replace the 1958 Commissioners Standard Ordinary mortality table. The following tables show how mortality rates have improved over the years between the two tables:

MORTALITY RATES PER 1000 LIVES

Age	<u>Male</u>		<u>Female</u>	
	<u>1958</u>	<u>1980</u>	<u>1958</u>	<u>1980</u>
	<u>CSO</u>	<u>CSO</u>	<u>CSO</u>	<u>CSO</u>
5	1.35	.80	1.24	.76
25	1.93	1.77	1.86	1.16
45	5.35	4.55	4.17	3.56
65	31.75	25.42	24.31	14.59
85	161.14	152.95	129.17	116.10

These changes to the Standard Valuation Law follow the changes adopted by the National Association of Insurance Commissioners at its December 1980 meeting. During 1981, these changes were enacted by 17 states. This year three additional states have passed these changes and bills are now being considered in a number of other states.

This bill is supported by the life insurance industry, both companies and life underwriters. The bill is also supported by the Department of Regulatory Agencies. Their testimony indicated that H.B. No. 1488, H.D. 1 and H.B. No. 1489, H.D. 1 will save consumers an estimated fifteen per cent on the purchase of life insurance policies. This figure is an estimate based on actuarial calculations made by the California Insurance Department.

Your Committee has amended the bill by making technical, non-substantive corrections, as follows:

- (1) For compliance with recommended drafting practices: page 4, line 15; page 5, lines 1 and 20-21; page 8, line 6; page 9, line 1; page 10, line 10; page 11, line 4; page 12, lines 8 and 24; and page 31, line 21;
- (2) For correction of typographical errors: page 6, line 19; page 13, lines 3, 7, 10, 14, and 1719; page 14, lines 9 and 15; page 18, lines 17-19; page 25, line 15; page 29, line 1; and page 34, lines 17 and 19; and
- (3) For correctness in grammar and punctuation: page 14, line 14; page 15, lines 2, 8, and 21; page 17, line 13; and page 26, line 2.

Your Committee has also amended section 3 of the bill by making the effectiveness of the Act contingent upon the passage and approval of H.B. No. 1488. The reason for this amendment is the numerous references to section 431-561 as it will be amended by proposed H.B. No. 1488.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1489, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1489, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Machida and Yee.

SCRep. 692-82

Consumer Protection and Commerce on H.B. No. 2018-82

The purpose of this bill is to incorporate the unfair claim settlement practices provision of section 431-647, Hawaii Revised Statutes, into chapter 432.

Your Committee finds that this provision was enacted in 1972 and should have been referenced in chapter 432. The Department of Regulatory Agencies gave testimony that the unfair claim settlement practices provision was inadvertently omitted from chapter 432.

Your Committee is in agreement that this bill would establish guidelines for unfair claim settlement practices pertaining to title insurance and title insurers, and therefore will provide protection for the public in claim adjustment and settlement service.

Your Committee on Consumer Protection and Commerce is in accord with the intent of purpose of H.B. No. 2018-82 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 Uwaine, Machida and Yee.

SCRep. 693-82 Consumer Protection and Commerce on H.B. No. 2866-82

The purposes of this bill are to allow the Real Estate Commission to delegate its examination function to a national testing service and to define the purposes to which the real estate education fund can be put.

Act 23, Session Laws of Hawaii, Regular Session 1981, authorized the filing of real estate examination applications with either the commission or the testing service. The commission, however, testified that it has been advised by the Attorney General that section 467-9.6 in its present form may, contrary to proposed commission rules, still require commission involvement at the examination application stage.

This bill would allow applicants to file directly with the testing agency and thus allow the commission to review only successful examinees' applications for licensure. This will considerably reduce commission workload in processing real estate license applications.

The bill would also establish guidelines for the commission to follow in determining "educational purpose" expenditures from the Real Estate Recovery Fund.

Presently, the definition of "educational purpose" is unclear. This bill clarifies the legislative intent of these expenditures to promote the advancement of education and research in the field of real estate for the benefit of the public and licensees.

Your Committee has amended the bill on page 1, lines 9 and 10, by bracketing for repeal language requiring the commission to administer a written examination. The amendment is made to conform the bill to its intent and purpose. A technical, non-substantive amendment was also made on page 5, line 16.

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

Signed by all members of the Committee except Senators Uwaine, Machida and Yee.

SCRep. 694-82 Consumer Protection and Commerce on H.B. No. 2489-82

The purpose of this bill is to establish new licensing classifications for journeyman industrial electricians and supervising industrial electricians.

Your Committee heard testimony from the Construction Industry Legislative Organization, the Hawaii Building and Construction Trades Council, and the Board of Electricians and Plumbers in support of the creation of these new classifications. Industrial electricians are specialists who perform a narrower range of electrical operations than journeyman electricians and thus may lack the experience required for licensure as a journeyman electrician. This causes a hardship for the former.

For example, the Board of Water Supply of the City and County of Honolulu requires a journeyman electrician's license for promotion to certain middle-management positions. Since plant electrical maintenance workers are currently being denied such licensure, there is no opportunity for these specialists to advance. The board, however, testified to its reluctance to dispense with the qualification entirely in order to safeguard the public.

This bill would remedy the situation by providing new licensure categories with standards to ensure applicant qualification.

Your Committee has amended section 1 of the bill, as received, by deleting bus duct and cable splicing from the industrial engineer qualifications since they are unrelated to that specialized work. The phrase, "in existing industrial buildings and work places" was inserted on line 16, page 1 to keep the two new definitions consistent.

New sections 4 and 5 were added to the bill to make sections 448E-9 and 448E-11 consistent with the new licensure classifications.

Technical, non-substantive amendments, including a rewording of line 20 on page 3 through line 3 on page 4, were also made.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2489-82, H.D. 1, as amended herein, and recommends that

it pass Second Reading in the form attached hereto as H.B. No. 2489-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Machida and Yee.

SCRep. 695-82

Consumer Protection and Commerce on H.B. No. 2057-82

The purpose of this bill is to improve and clarify certain provisions of chapter 328, Hawaii Revised Statutes, regulating the sale of drugs.

The changes to the law made by this bill are: to define "principal labelers" and their responsibility upon the recall of a drug; to define "agents" of dispensers and their permitted role in informing consumers about equivalent drug products; to specify the conditions under which a dispenser may or may not substitute an equivalent drug product; to require prescription labels for generic drugs to state the brand names of the drugs to which they are equivalent; and to change the content of the State Drug Formulary and allow charges for the distribution thereof.

Your Committee heard testimony generally supportive of the above changes from the Department of Health, the Pharmaceutical Manufacturers Association with whom the Hawaii Medical Association concurred, and the Hawaii Business League. However, some concerns raised by them have led your Committee to amend the bill, as received, in several respects.

First, the definition of "agent" on page 2 of the bill was amended to also require the agent to act in the dispenser's presence. The purpose of this amendment is to ensure that persons, acting as dispensers' agents, are adequately trained and supervised and to avoid any ambiguity in the term, "direct supervision".

Second, new language proposed on page 3, line 10, and present language to be repealed on lines 11 through 13 thereof were respectively deleted and retained. Instead, a proviso was added to prohibit the substitution of an equivalent drug product when orally so instructed by a prescriber or his authorized employee regardless of what may be written on the prescription about substitutions. These amendments were made because section 328-92(b), in the form proposed by H.B. No. 2057-82, H.D. 1, would not have prohibited substitution where a written prescription, bearing the words, "do not substitute", is orally ordered refilled and the prescriber, assuming the written instruction stands, fails to orally restate the prohibition.

Third, the proposed requirement of stating the brand name equivalent on generic drug prescription labels was discarded from page 4, lines 1 and 2. Your Committee found convincing the arguments of the Pharmaceutical Manufacturers Association that such a proposal would create potential confusion to the consumer about which of the named drugs was purchased (especially when a primary objective of the generic drug law is to ensure consumer knowledge of when a substitution has been made) and that such a proposal may involve trademark infringement.

Finally, your Committee amended page 3, line 22 of the bill by substituting for the term "manufacturer" to conform the language to the new term of significance, "principal labeler".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2057-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2057-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Machida and Yee.

SCRep. 696-82

Economic Development on H.B. No. 2697-82

The purpose of this bill is to extend the deadline by which the residents of Maunalaha Valley must complete negotiations for and enter into lease agreements with the state. The deadline (January 1, 1983) was set by Act 225, Session Laws of Hawaii 1981. The proposed extension will be to January 1, 1984.

Your Committee finds that the extension is required because the Maunalaha Valley residents' homesites are located partly within a conservation district and partly within an urban district. As such, subdivision approval in order to award the leases to the residents must be obtained from the City and County of Honolulu. A delay in obtaining such approval is expected inasmuch as the existing condition of the Maunalaha Valley site does not meet city requirements in terms of subdivision. The possible solutions, such as administrative exemptions, boundary changes, horizontal property regimes and the like, will very likely

take more time than originally projected.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2697-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 697-82 Transportation on H.B. No. 2698-82

The purpose of this bill is to prohibit the use of motor vehicle glass tinting materials which do not meet Federal Motor Vehicle Safety Standards for luminous transmittance.

The current federal standard requires transmittance of light of at least 70 per cent. Your Committee finds that said standard, which applies only to manufacturers and "first purchase" transactions, is overly restrictive with respect to subsequent applications of tinting material and not necessary for the maintenance of highway safety. Accordingly, your Committee has amended the bill to require luminous transmittance of at least 50 per cent.

Your Committee has further amended the bill to provide that inspection of tinted glass will be done by the reconstructed vehicle stations in each county rather than as a part of the vehicle safety inspection required under Section 286-25, Hawaii Revised Statutes. Your Committee also made several nonsubstantive, technical amendments in the definitions section of the measure for the sake of clarity, and included amendments to Section 286-83 in order to eliminate any ambiguity regarding the role of the Department of Transportation in the regulation of tinted glass.

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

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Toyofuku.

SCRep. 698-82 Ecology, Environment and Recreation on H.B. No. 2477-82

The purpose of this bill is to clarify the hazardous waste management responsibilities of the Department of Health.

The bill will amend chapter 342, Hawaii Revised Statutes, to include language that explicitly authorizes the director of health to regulate and issue permits for facilities that treat, store, and dispose of hazardous waste. This bill will also authorize the director of health to impose financial responsibility requirements on facilities that treat, store and dispose of hazardous wastes.

Current law does not include specific references to hazardous waste pollution in the state. Due to the nature of hazardous waste and the effects that such material would have upon the state's environment, proper procedures concerning the treatment, storage, transfer and disposal of this bill are needed. Your Committee shares the concern expressed by the Department of Health, and agreed that provisions which address this problem are needed.

The Department of Public Works of the City and County of Honolulu, in testimony presented before your Committee, suggested that the bill be amended to conform with the full definition of hazardous waste as used by the federal government. The state Department of Health has indicated that it can work with the changes as proposed by the city and county and contained in your Committee's amendments to this bill.

Your Committee has amended this bill by adding solid waste pollution, including hazardous waste pollution, to the definitions under Section 342-1. The definition of hazardous waste under Section 342-51 has also been amended to conform to the federal definition as contained in the Resource Conservation and Recovery Act of 1976.

This bill has been further amended to make technical corrections.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 2477-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2477-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Mizuguchi and Uwaine.

SCRep. 699-82 Economic Development on H.B. No. 2183-82

The purpose of this bill is to provide for the clarification of powers and duties of the marine affairs coordinator and the Department of Planning and Economic Development with respect to marine affairs coordination.

The prime purpose for establishing the Office of the Marine Affairs Coordinator was to provide for the integration and coordination of the various marine related affairs. Your Committee however has found no evidence of any improved coordination of integration efforts which are attributable to the marine affairs coordinator. Your Committee finds that the Department of Planning and Economic Development is better staffed to develop ocean related programs important to Hawaii.

Your Committee therefore has amended the bill to repeal the Office of the Marine Affairs Coordinator.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2183-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2183-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 700-82 Economic Development on H.B. No. 2813-82

The purposes of this bill are to increase the value of work which can be done in a Special Management Area with a minor permit and use permit, and to direct the Department of Planning and Economic Development to undertake a study of the Special Management Area minor permits to evaluate the effectiveness of the total cost or fair market value criterion.

Your Committee finds that the present cutoff between minor and major permits of \$25,000 was set in 1975. The valuation was an attempt to distinguish between projects with significant impacts on the shoreline. Since that time, however, development costs have risen steadily, and \$25,000 is no longer considered an accurate cutoff for minor construction. Increasing the dollar amount to \$100,000 would correct the situation.

Your Committee has amended the bill to expand the scope of the study to include an assessment of how Chapter 205A, Hawaii Revised Statutes, and the counties' implementation thereof has affected development within the Special Management Area on the various islands. The Department of Planning and Economic Development has also been directed to assess future funding of the Coastal Zone Management Program.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. 2813-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2813-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 701-82 Health on H.B. No. 2682-82

The purpose of this bill is to update the State Health Planning and Development Agency (SHPDA) functions and procedures in light of recent federal and judicial developments.

Present law requires SHPDA to perform appropriateness reviews at least every five years. The Federal Register, January 26, 1982, however, indicates that the Department of Health and Human Services (DHHS) has promulgated a regulation which no longer mandates state appropriateness reviews or reviews of proposed uses of federal funds. Moreover, with dwindling federal funding of health planning and development programs these no longer necessary reviews cannot continue to sap SHPDA resources. Thus, the bill makes such reviews discretionary.

Current law also defines "expenditure minimum", upon which the applicability of certificate of need (CON) requirements depends, as \$150,000 which may be adjusted only for inflation. Federal changes in this amount have also been announced by DHHS. Accordingly, this bill discards the outdated figure.

Present law has recently been interpreted by the First Circuit Court to require for purposes of judicial review final decisions by SHPDA on CON applications within 90 to

150 days after agency review has begun. The Brown Schools of Hawaii, Inc. vs. SHPDA, et al., Civ. No. 66748. The effect of this ruling is to remove administrative reconsideration and review of a SHPDA denial since such post-decision review may well take longer than 90 to 150 days. This bill remedies the situation by substituting post-decision review procedures for present statutory language.

Your Committee has amended the bill by allowing the discretionary appropriateness reviews to be made no more frequently than once every five years and by deleting the discretionary reviews of proposed uses of federal funds. Your Committee made these changes because neither is now required by federal law.

Your Committee adopted the recommendations of the Administrator of SHPDA and the Hospital Association of Hawaii and amended the bill by raising the CON thresholds from \$150,000 to \$600,000 for capital expenditures, \$400,000 for major medical equipment, and \$250,000 for operating costs for new services, to meet federal recommendations. This amendment would limit the number of CON reviews and thus enable SHPDA to further conserve its resources.

Your Committee deleted the word "such" from page 6, line 13 of the bill as received in conformance with recommended drafting practices. Technical changes in the bill format were also made to accommodate these amendments by your Committee.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2682-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2682-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Toyofuku.

SCRep. 702-82 Health on H.B. No. 2167-82

The purpose of this bill is to enable the Department of Health to require the administration of prophylaxis for the prevention of blindness in the newborn at childbirth.

Current law does not require the application of preventive health measures to prevent blindness in newborn infants.

Your Committee finds that the instillation of an acceptable prophylactic agent in the eyes of the newborn infant to prevent blindness ranks as one of the most successful treatments in ophthalmology and should be a required practice.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2167-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Toyofuku.

SCRep. 703-82 Health on H.B. No. 2444-82

The purpose of this bill is to clarify which persons are authorized to determine that a person is dead and which persons are authorized to determine cause of death.

Your Committee finds that the current provisions under section 327C-1, Hawaii Revised Statutes, limit persons who can determine that an individual is dead to doctors of medicine licensed under Chapter 453, Hawaii Revised Statutes. Thus, doctors of osteopathy and commissioned medical officers of the United States Army, Navy, Marine Corps or Public Health Service and doctors of medicine licensed in another state, cannot legally determine that an individual is dead although they are authorized to certify the cause of death under chapter 338.

This bill amends section 327C-1, to permit physicians, medical or osteopathic, or those excepted from the licensing requirements by section 453-2(3) to determine that a person is dead.

This bill also amends Section 338-1(6) which currently includes naturopaths in the definition of "physician." Department of Health findings indicate that naturopaths are not qualified to certify causes of death. Section 328-1(6) has been amended in this bill to delete naturopaths from the definition of "physician" and the definition was also amended to conform with revisions to section 327C-1 as specified in this bill.

Your Committee is aware that there are inconsistencies in the Hawaii Revised Statutes regarding the definition of "physician" and recommends that the DOH look into this matter and suggest necessary changes needed to bring the statutes into consistent form.

Sections 442-17 and 455-8 presently authorize chiropractors and naturopaths respectively, to certify causes of death. This bill deletes references to certification of the cause of death by chiropractors and naturopaths on the basis that neither are qualified to certify the cause of death or to determine that a person is dead.

Your Committee has amended the bill to correct a typographical error by changing the word "office" to "officer" on page 6, line 1. Your Committee also made technical amendments with no substantive effect.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2444-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2444-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Toyofuku.

SCRep. 704-82 (Majority) Health on H.B. No. 2170-82

The purpose of this bill is to prohibit smoking in all specified places operated by the state regardless of whether these places are owned, rented, or leased by the state.

The present law prohibits smoking in places owned and operated by the state. Accordingly, places rented or leased by the state are not covered by this prohibition.

Your Committee finds that, for the health and well-being of the general public, smoking in enclosed conference rooms, elevators, auditoriums, and community centers should not be allowed if the facility is state-operated. Ownership of those facilities is irrelevant to this policy decision, and this bill, therefore, deletes that criterion.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2170-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Ajifu and Toyofuku did not concur.

SCRep. 705-82 Economic Development on H.B. No. 2176-82

The purpose of this bill is to enable the Board of Land and Natural Resources to more effectively act against those who encroach upon public lands. The bill would provide a direct penalty for encroachment, including a fine, the payment of administrative costs incurred in the enforcement of the law against those who encroach, and the payment of damages.

The bill would also permit the board to set, charge, and collect interest charges on delinquent leases, sales, or other accounts administered by the department.

Your Committee finds that these proposals should be enacted to assist the department in discharging its obligations, and that a fine of not more than \$500 a day to discourage encroachment on public lands and interest of not more than one per cent per month on delinquent account are not unreasonable.

However, in order to provide the department with maximum flexibility, your Committee has amended the bill to provide that the imposition of fines, administrative costs, and payment of damages is discretionary with the department.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2176-82, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2176-82, H.D. 2, S.D. 1.

Signed by all members of the Committee except Senators Yee, Machida and Yamasaki.

SCRep. 706-82 Economic Development on H.B. No. 2177-82

The purpose of this bill is to permit the state to recover administrative costs and damages in addition to a fine in cases where a person is found to be in violation of regulations regarding permitted use of lands in forest and water reserve zones.

Your Committee finds that, especially in recent years, the state has been forced to expend large amounts of time and money to enforce its rules and regulations against alleged violators.

However, in order to provide the department with maximum flexibility, your Committee has amended the bill to provide that the imposition of fines, administrative costs, and payment of damages is discretionary with the department.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2177-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2177-82, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Yee, Machida and Yamasaki.

SCRep. 707-82 Tourism on H.B. No. 3007-82

The purpose of this bill is to add a new definition of bedroom to Section 486K-1, Hawaii Revised Statutes. This definition would clarify what accommodations in hotels are specifically assigned to respective guests.

Present law uses the term "bedroom" when referring to guest accommodations. Since a bedroom may technically constitute only a portion of the guest's room or suite, there is some confusion with potentially significant consequences. For example, notices of certain provisions of chapter 486K, including limits on hotelkeeper liability, are required to be posted in each "bedroom". The bill seeks to remedy this technical ambiguity by defining "bedroom".

Your Committee received testimony from the Hawaii Hotel Association supporting the intent of this bill but requesting certain amendments. Your Committee concurred and added new sections 2 and 3 for the following reasons.

Current law makes the hotelkeeper liable for losses of certain guest property if it "appears" that the keeper was negligent or at fault. This standard not only is ambiguous and discordant with legal principles but is also unfair as a determinant of liability; the hotelkeeper should pay for those losses only if actually negligent or at fault. The new section 3 of the bill would amend section 486K-5, Hawaii Revised Statutes, to make hotelkeepers liable only if actually negligent or at fault.

Testimony from the Hawaii Hotel Association also indicated that there are additional problems with the limits of hotelkeeper liability. Act 83, Session Laws of Hawaii, Regular Session 1981, was enacted in response to guest failure to make use of hotel vaults and the resultant risk of property crimes when guest valuables were left in individual rooms. Pre-Act 83 law exempted hotelkeepers from liability if a vault was available, its availability was conspicuously posted, and the guest nevertheless failed to place the valuables in the safe, and limited hotelkeeper liability for property placed in the safe to \$500.

The purpose of Act 83 was to limit the liability of hotelkeepers who provide another means for safekeeping of guest valuables--security boxes in the individual guest accommodations. The testimony indicated, however, that because of other changes effected by Act 83 hotelkeeper liability is unclear and perhaps even unlimited.

Moreover, your Committee upon review of section 486K-4(b) relating to security boxes finds that the section is vague and ambiguous as to the liability of a hotelkeeper for losses in rooms where a security box is provided. No differentiation of the liability for losses is made as to valuables placed or not placed in the security box and no specific liability of the hotelkeeper is specifically set forth in the section although the section states that the keeper has no liability if a notice is posted explaining the keeper's liability for losses from the security box.

In view of the foregoing, your Committee has added to the bill a new section 2 amending section 486K-4, to place a \$500 limit of liability for losses from a hotel's safe or vault and clarify the liability of a hotelkeeper when a security box is provided in the rooms of guests.

Under the proposed amendment, when a security box is provided within the room of a guest the hotelkeeper is not liable for any loss of valuables not placed in the security box. If the guest sustains losses of valuables placed in the security box, the hotelkeeper, if negligent, is liable for up to \$500.

The foregoing limitation of liability is effective only upon proper posting of a notice explaining the liability of a hotelkeeper when a security box is provided.

In addition, your Committee has amended the bill in new section 3 to limit any liability of a hotelkeeper for losses of guest personal property under section 486K-5 to \$500.

Your Committee has further amended this bill to have an effective date of July 1, 1982. The purpose of the latter amendment is to provide hoteliers with sufficient time for the printing and posting of notices explaining the keeper's liability for losses.

Your Committee on Tourism is in accord with the intent and purpose of H.B. No. 3007-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3007-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 708-82 (Majority) Public Utilities on H.B. No. 2627-82

The purpose of this bill is to make the Water Carrier Act more responsive to economic uncertainty and by doing so to secure service to the public.

The bill adds language to the policy section of the Water Carrier law which recognizes the need for transportation by means of water carriers and provides guidelines to insure continued service in the public interest. The bill states that "reasonable" rates shall provide for "a fair return on the property actually used or useful to the carriers in providing such service." Further, the bill amends Section 271G-16(e), Hawaii Revised Statutes, to conform this section with the amended provision in Section 271G-2, Hawaii Revised Statutes.

This bill also allows the Public Utilities Commission to grant rate increases of up to seven per cent in any twelve month period without "suspension". However, any subsequent rate increase application within the same twelve month period is limited to seven per cent and subject to the "file and suspend" procedures. Thus, a fourteen per cent "ceiling" is imposed for increases sought pursuant to this new exception to the "file and suspend" process.

Finally, this measure provides for hearings if interested persons desire to contest any rate increases granted without suspension.

Your Committee has made nonsubstantive, technical language changes in Section 3 of the bill in order to better express and clarify these provisions.

Your Committee on Public Utilities is in accord with the intent and purpose of H.B. 2627-82, H.D. 1, as amended herein, and recommends it pass Second Reading in the form attached hereto as H.B. 2627-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Young did not concur.

SCRep. 709-82 Judiciary on H.B. No. 1340

The original purpose of the bill was to prohibit any member of the Campaign Spending Commission, during his tenure, from holding or seeking election to public office or from actively participating in or contributing to an election campaign.

Your Committee has amended the purpose of the bill to revise the campaign spending statutes relating to campaign expenditure limitations.

Under the new provisions of this bill, a candidate need not adhere to the spending limitation if he has filed a campaign spending affidavit agreeing to limit his campaign expenditures and is opposed by another candidate who has not filed an affidavit. Moreover, the candidate shall be entitled to receive tax deductible contributions allowed under section 11-226, Hawaii Revised Statutes, but shall not be eligible to receive public funding. This provision will provide further incentive to a candidate to abide by voluntary spending limitations.

This bill also revises section 11-209, Hawaii Revised Statutes, to raise the base amounts allowable under the voluntary campaign spending limits from a five per cent increase per year to a ten per cent increase per year. These increases represent the inflation factor in computing voluntary campaign spending limits.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1340, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1340, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Anderson, O'Connor and Yee.

SCRep. 710-82

Judiciary on H.B. No. 2125-82

The purpose of this bill is to clarify the scope of transactions covered by the plain language law in Chapter 487A, Hawaii Revised Statutes.

The present law has caused some confusion and uncertainty as to which kinds of consumer transactions are subject to the provisions of the plain language law.

This bill attempts to clarify the coverage of the law by redefining or exempting the following transactions:

1. Leases. The language relating to leases in subsection 487A-1 (a) (2) is clarified to more clearly refer to the lease itself and not to agreements concerning leases or other collateral documents such as sales contracts, mortgages or assignments. Leases within the coverage of the chapter have been limited to those with terms of five years or less, in order to exclude long term condominium conveyance documents and ground leases.

2. Wills and Trusts. In all but exceptional cases, wills and trusts simply are not agreements and would not ordinarily be covered. However, under certain peculiar circumstances or in the case of inter vivos trusts, and agreement may be said to exist. To avoid any possible question, the exemption for wills and trusts other than land trusts is now clearly stated.

3. Incorporation by Reference. The exemption proposed in subsection 487A-1 (d) (2) is intended to clarify that a document need not be in plain language merely because it is incorporated by reference or referred to in an agreement. Documents incorporated by reference have often been drafted by other parties and may be lengthy or technical. They are often referred to merely for convenience and are incidental to the transaction covered.

4. Legal Description of Real Property. Legal descriptions of real property, including technical surveying terminology such as metes and bounds descriptions and are exempted because a translation into plain language would be less exact and involve more risk of error and greater costs. Moreover, some aspects of land descriptions are required by statute.

5. Government Approved Forms. Forms or language which are approved or required by government agencies are exempt. Financial institutions often use forms adopted and required by federal agencies in order to participate in the national secondary loan market.

Your Committee has made an amendment to subsection 487A-1 (d) (4). The present language in the bill would exempt forms required or approved by law or by rule or regulation of a governmental agency. However, some forms commonly used are government approved but are not required or approved by law or by rule or regulation of a governmental agency. The language has been amended to extend the exemption of these forms.

6. \$25,000 Definition. This bill also attempts to define more clearly in subsection (e) the application of the \$25,000 limitation.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2125-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2125-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Anderson, O'Connor and Yee.

SCRep. 711-82

Judiciary on H.B. No. 2318-82

The original purpose of this bill transferred the Intake Service Center from the Department of Social Services and Housing to the Judiciary.

Your Committee feels that this bill will prevent the Intake Service Center from being the independent body it presently is, and, thus, lessen its capacity to better develop to its potential as a unique and vital part of the criminal justice system.

Your Committee finds that the Hawaii Correctional Master Plan had envisioned the Intake Service Center to be the single agency to coordinate the interfacing elements of the cognizant agencies to enable them to make appropriate and informed decisions required by the criminal justice system. This plan has never been fully implemented and has been resisted by other agencies in the counties and the Judiciary due to perceived threats

to their "vested interests." It has been over eight years since the Legislature accepted the Hawaii Correctional Master Plan. Full implementation of the plan has been long overdue.

The Legislature must take this action now, or our criminal justice system will continue in its chaotic and fragmented state. Cooperation by all agencies with all agencies in the criminal justice system is mandatory for the proper implementation of the plan. The Legislature expects all agencies involved in the criminal justice system to share their expertise and knowledge, as well as to lend their assistance to achieve the goal and the realization of the concepts of the Hawaii Correctional Master Plan.

Your Committee also finds that the Intake Service Center Board has been wrought with problems for over a year. Their problems stem from being unable to produce a quorum at their meetings to feeling that they "had never provided the policy direction to the executive director of the Intake Service Center on how to proceed in attempting to resolve the problems."

In addition, the "Board members felt that a discussion of a range of alternatives should have taken place regarding (a) the organizational location of the Intake Service Center as well as (b) the ways in which the concept of the ISC can best be moved forward," as stated in the board's March 9, 1982 Minutes.

Your Committee has heard from several of the board's members that the board was never kept abreast of the agreement made between the Governor and the Chief Justice on the future of the Intake Service Center. Further, the board was never consulted on the final outcome of these discussion to transfer Intake Service Center to the Judiciary, nor had they ever approved of such a transfer.

The board is responsible statutorily to set the policies, directions, priorities, and procedures for the operation of the Intake Service Centers. However, the transfer of the Intake Service Center had never received the board's approval.

Your Committee has amended this bill to address the concerns mentioned previously. The bill retains the Intake Service Center for administrative purposes in the Department of Social Services and Housing. The bill further amends the responsibilities of the Intake Service Center by delineating the center as the primary agency for such services as pre-sentence investigations for the courts and post-sentence correctional prescription program planning for committee persons.

The original bill had provided that the Intake Service Center be responsible for studying and recommending bail for pre-trial detainees. Your Committee has retained this provision.

Your Committee has also amended the bill by amending section 706-602 to clarify that the Intake Service Center would be the agency responsible for pre-sentence reports.

In addressing your Committee's concern to develop the Hawaii Correctional Master Plan and to obtain cooperation from all state and county agencies and agencies in the Judiciary relating to the criminal justice system, the bill has been amended by adding two new sections. Your Committee amended the bill to provide the purpose of the Intake Service Center. Your Committee further amended the bill to provide for better coordination and cooperation to enable the Intake Service Center to carry out its prescribed functions under Chapter 353.

Finally, your Committee has amended the bill to repeal the Intake Service Center Board. Your Committee finds that this board has not been able to serve its original purpose and more importantly, has seldom been able to obtain a quorum at board meetings. Further, your Committee received information that at one of its own meetings, a board member moved to abolish the Intake Service Center Board. However, the motion was defeated for lack of a unanimous vote with the result of the vote being 7 in favor of abolition, 1 opposed, and 1 abstention. Your Committee finds that the amendment to repeal the board is in keeping with the board's desires.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2318-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2318-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Anderson, O'Connor and Yee.

SCRRep. 712-82

Judiciary on H.B. No. 2355-82

The purpose of this bill is to shift from the state to the applicant, the burden to prove that a conditional release, discharge or modification of a conditional release following

a judgment of acquittal on the grounds of disease, disorder or defect excluding responsibility, may be safely granted without danger to the person or the community.

Presently, the state bears the burden to show by a preponderance of the evidence, that an insanity acquittee may not be safely discharged and must be committed or conditionally released during the post-acquittal hearing pursuant to section 704-411, Hawaii Revised Statutes, and at subsequent applications for discharge pursuant to section 704-415, Hawaii Revised Statutes.

Your Committee heard testimony from the Hawaii Crime Commission, the Chamber of Commerce and the Department of the Attorney General supporting this bill as a measure that appropriately resolves medical and judicial doubts in predicting dangerous behavior in favor of the public.

Your Committee has amended this bill so that the state retains its burden to show present dangerousness by a preponderance of the evidence at the post-acquittal hearing stage where the state seeks to commit an insanity acquittee following the judgment of acquittal. Your Committee feels that the reallocation of the burden of persuasion here is tantamount to mandatory commitment following qualified acquittal which was previously rejected as abusive and wasteful.

Furthermore, your Committee believes that placing a burden upon the acquittee at the post-acquittal hearing without at least a finding that the person committed the acts for which he was acquitted may be of questionable constitutional validity. As to the proponents' assertions that the prosecution is saved from the untenable position of having to argue sanity at the trial and insanity at the post-acquittal proceedings, your Committee notes that the prosecution must still argue accordingly regardless of who bears the burden of persuasion by a preponderance of the evidence.

The bill, as amended, would shift the burden of persuasion onto the parties most capable of bearing it, particularly where the institution is the applicant, in addition to resolving all doubts in favor of the public. Your Committee is convinced that where the state has previously shown the person to be dangerous, the burden to show a change of status should be placed on the person(s) alleging that change.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2355-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2355-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators O'Connor and Yee.

SCRep. 713-82 Judiciary on H.B. No. 2606-82

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

Your Committee has amended the bill to provide that notice of furlough actions be given to the prosecutors and police in writing at least 30 days prior to the commencement of the work furlough, conditional release, and other such programs. This provision will give the police and county prosecutors time to determine the status of victims and witnesses affected by the release of the convicted defendant.

Your Committee also amended the bill to provide that moneys earned from employment under such programs be first used to satisfy a restitution order and then to reimburse the state. Any moneys remaining shall be held in trust for the defendant.

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

Signed by all members of the Committee except Senators Anderson, O'Connor and Yee.

SCRep. 714-82 Judiciary on H.B. No. 2826-82

The purpose of this bill is to change the method of admitting mentally retarded persons to Waimano Training School and Hospital from the present commitment procedure to guardianship and voluntary admission procedures.

Present law provides for admission to Waimano Training School and Hospital through

the Family Court civil commitment procedure and requires that the Director of Health serve as guardian for any person admitted to the facility.

Your Committee finds that a guardianship procedure for adults is more appropriate than civil commitment in providing for the care of mentally retarded persons through institutionalization. Mentally retarded persons are generally admitted to Waimano because they lack the ability to care for themselves in the community and can benefit from institutional programs. The emphasis at Waimano is not upon coercive confinement due to dangerousness but upon placement in an optimum care setting.

This bill provides for voluntary admission of an adult by a legally appointed guardian who has been specifically authorized by court order to apply for admission to Waimano. Application for voluntary admission of a minor may be filed by a parent or person having legal custody of the minor, as similarly provided under current law. The Family Court, in establishing the need for a guardian, would ascertain that a person is in need of institutional care, and is incapable of independent self-management. The Director of Health may be appointed as guardian only when no other suitable person is available.

Basic eligibility criteria for admission to Waimano are not changed, in that a committee consisting of a physician, a clinical psychologist, and a social worker must certify that a person is mentally retarded, incapable of independent self-support and self-management, and currently in need of institutionalization. However, authority to approve or reject applications for admission, currently vested in the Family Court, is shifted to the Director of Health. The director must determine that no less restrictive alternative exists before approving an application for admission. A re-examination and redetermination of the need for institutionalization is required at least annually.

Your Committee has amended the bill by adding a new section to Chapter 560, Hawaii Revised Statutes, which covers guardianships, to allow the Family Court the authority to grant a guardian the special power to voluntarily admit a person to Waimano, in accordance with the new admission procedure proposed in this bill.

Other technical, nonsubstantive amendments have been made to this bill by your Committee.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2826-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2826-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators O'Connor and Yee.

SCRep. 715-82

Judiciary on H.B. No. 2348-82

The purpose of this bill is to provide law enforcement agencies a reasonable opportunity to investigate and recover stolen precious or semi-precious metals and gems.

Your Committee heard testimony indicating that secondhand jewelry and precious or semi-precious metals are particularly difficult to recover when stolen because they are easily altered or disassembled, such as through a melting process. The vagueness of the present statutory provisions relating to secondhand dealers has hampered the investigation and recovery of stolen jewelry and property which may be sold to businesses engaged in buying and selling precious metals and gems.

This bill will require dealers of precious or semi-precious metals or gems to maintain specific records regarding all articles received. It will also allow law enforcement agencies to inspect a dealer's place of business and records for the purpose of identifying and recovering stolen property.

The bill also requires dealers of precious or semi-precious metals or gems to retain the articles for a ten day period. A violation of the proposed chapter is deemed to be a misdemeanor.

Your Committee amended the bill by deleting the provision in section 6 of the proposed chapter which would have applied the coverage of this chapter to non-licensed dealers. Your Committee feels that this bill is aimed at covering those licensed businesses regularly engaged in buying or selling of precious or semi-precious metals or gems, and that the scope of the law would be overly broad if it applied to other persons.

Your Committee further amended the bill by deleting the provisions in section 5 of the chapter which would allow law enforcement officers to inspect the dealer's place of business and all precious or semi-precious metals or gems kept there. Limiting the scope

of inspections to the examination of only the required records is consistent with the purpose of the bill and conforms to the constitutional requirement that regulatory inspections of a business premise be carefully limited in time, place and scope.

Other technical, nonsubstantive amendments were made to the bill by your Committee.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2348-82, 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. 2348-82, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Anderson, O'Connor and Yee.

SCRep. 716-82 Judiciary on H.B. No. 2385-82

The purpose of this bill is to clarify the liability of a person involved in a motor vehicle accident where the person is liable under an exception to the abolition of tort liability created by the no-fault insurance laws.

Presently, section 294-6(d), Hawaii Revised Statutes, provides that there is no limitation of liability arising from motor vehicle accidents where intentional or criminal acts are alleged or where punitive damages are sought. A recent decision by the Third Circuit Court has interpreted this subsection to allow civil suits, but only on the issue of punitive damages.

This bill clarifies that the intended scope of the exceptions to the abolition of tort liability allows for the recovery in civil suits, or all damages--general, special and punitive, as may be appropriate.

Your Committee has amended section 1 of the bill by correcting the references to section 294-6(d) instead. A reference to "special damages" has also been added to be consistent with the proposed language in the bill.

Other technical, nonsubstantive amendments have been made by your Committee.

Your Committee on Judicary is in accord with the intent and purpose of H.B. No. 2385-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2385-82, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Anderson, O'Connor and Yee.

SCRep. 717-82 (Majority) Housing and Hawaiian Homes on H.B. No. 2733-82

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

Your Committee finds that the provisions of chapter 519, Hawaii Revised Statutes, relating to real property lease rent renegotiations can be extended to housing cooperatives because the lessee as a housing corporation is a single entity. Recent lease rent increases faced by cooperatives have brought undue hardship on many residents. Your Committee believes that this bill will provide both lessee and lessor with equitable treatment in lease rent reopenings.

Your Committee heard testimony from the Hawaii Housing Authority recommending that the bill be amended to provide for arbitration in the event the lessor and lessee are unable to reach an agreement.

Your Committee adopted the recommendation of the Hawaii Housing Authority and has amended the bill by adding a provision allowing for binding arbitration by the Hawaii Housing Authority in the event the parties to a lease rent reopening negotiation are unable to reach agreement. Other technical, nonsubstantive amendments have also been made.

Your Committee on Housing and Hawaiian Homes concurs with the intent and purpose of H.B. No. 2733-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2733-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.
Senator Ajifu did not concur.

SCRep. 718-82

Housing and Hawaiian Homes on H.B. No. 2869-82

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

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

Your Committee has amended the bill to require that the county's zoning provisions applicable to residential use must be met. This amendment was made for clarification. Other technical, nonsubstantive amendments have also been made.

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

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2869-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2869-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 719-82

Housing and Hawaiian Homes on H.B. No. 3117-82

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes which would provide guidelines for the establishment of limited-equity housing cooperatives.

Your Committee finds that the concept of limited-equity housing cooperatives developed as a response to the high cost of housing across the country and the general shortage of affordable housing. This bill would provide the enabling legislation for the establishment of this form of cooperative. Your Committee also finds that the National Consumer Cooperative Bank, which was chartered by Congress in 1978, is available to provide financial and technical assistance to consumer cooperatives, including housing cooperatives, and has contributed substantial resources to the development thereof.

Limited-equity housing cooperatives are business entities in the form of nonprofit corporations which are designed to provide affordable housing to a certain economic class of the general population. Initial members are allowed to purchase stock in the cooperative at low initial prices, but the value of such stock is limited to an increase of ten per cent a year. The fact that appreciation of the value of membership in the cooperative is limited allows the future purchasers to buy into the cooperative at realistic prices which are not affected by rapid inflation or widespread speculation which would otherwise force housing costs to rise at a much faster rate in an uncontrolled situation.

This bill also removes incentives for investors by providing a procedure for distribution of a cooperative's equity upon dissolution. Purchase of stock is also limited to owner-occupants.

Your Committee has made the following amendments to this bill as received:

1. On page 5, line 9, subparagraph (e) was amended to reword the antidiscriminatory provision to be in the charter of incorporation and bylaws to require a provision that there shall not be any social, political, racial, or religious discrimination nor any discrimination on the basis of age, sex, marital or parental status, subject only to limitations under applicable federal, state, or county laws or regulations.

This particular language is added as it is taken from 12 United States Code §3015, which requires such nondiscrimination for eligibility of a co-op to receive assistance from the National Co-op Bank, as mandated by Congress. Since this funding and technical assistance source is important to aid in development of limited equity co-ops in Hawaii, such language should be included to make them eligible.

2. On page 7, line 6, the first sentence was amended to read: "All members of the board of directors except for initial provisional directors shall be shareholders."

This provision is considered mandatory for initial functioning and development of any cooperative by Mr. Al Bonnett, Housing Consultant from California who has developed many limited equity cooperatives and helped draft that state's statute, and who is also now on contract with the City's HCD for consultant services for co-op development here.

3. On page 7, line 11, the words "resident manager" were deleted and replaced with the word "employees".

Since the board makes policy to be carried out by its employees, no employee, including resident manager, should be making policy and carrying out policy. Since co-op principals are often extended to encompass shareholders serving as employees (maintenance, bookkeeping, etc.) those persons could otherwise be eligible for board membership.

4. On page 9, line 8, the word "for" was deleted and replaced with the word "and", since this sentence does not make sense with the word "for", as other encumbrances and liens besides transfer value of shares will likely exist (mortgage, lease, etc.).

5. The section on bylaws has been deleted as unnecessary and subsequent sections have been renumbered.

6. Other technical, nonsubstantive amendments were also made.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 3117-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3117-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 720-82 Education on H.B. No. 34

The purpose of this bill is to authorize the Department of Education to provide appropriate educational placements and programs for gifted children.

Your Committee recognizes the need to identify gifted children and to provide programs that meet their unique educational needs to enable them to develop their skills and potentials.

Your Committee heard testimony in support of this bill from the Board of Education, Hawaii State Teachers Association, Ms. Anne Hayes, and other interested individuals.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 34, H.D.2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 721-82 Education on H.B. No. 2161-82

The purpose of this bill is to exempt from the jurisdiction of the Department of Education (DOE), those private trade, vocational, and technical schools licensed by the Department of Regulatory Agencies (DRA).

Under current law, certain vocational schools, such as real estate and cosmetology schools, are regulated by both the DOE and DRA. According to testimony received by your Committee, this situation has resulted in dual regulation, overlapping, and unnecessary administrative effort. This bill would exempt such schools from the jurisdiction of the DOE.

Your Committee has amended the bill on page 2, line 12, by substituting "registered" for "licensed" to more accurately reflect the Department of Regulatory Agencies' function of "registering" not "licensing" schools. This amendment is intended to eliminate any doubt raised in testimony concerning the registration of certain schools with the DRA.

Your Committee has also amended the bill by making a technical change which has no substantive effect.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2161-82, H.D.1, as amended herein, and recommends that it pass Second Reading in the form

attached hereto as H.B. 2161-82, H.D.1, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 722-82 Education on H.B. No. 2667-82

The purpose of this bill is to exempt certain activities which occur on school campuses from the noise control rules of the Department of Health.

Although your Committee is in accord with the intent of this bill, which attempts to balance the social benefits of school activities which cause noise against the rights of persons living adjacent to schools, it has two major concerns regarding the bill in its present form. First, the bill grants an exemption to schools from the state's noise code without providing any other form of noise control rules to regulate school activities. Second, the bill addresses both the public and private schools and may cause jurisdictional problems as the state has no direct control over the activities of private schools.

Your Committee has amended the bill to address these two concerns. Your Committee has amended the bill by mandating the state Board of Education to adopt rules to prevent, control, and abate excessive noise prior to September 1, 1982 and making public schools exempt from the noise pollution provisions of Chapter 342 only upon adoption of such rules. Your Committee has also amended the bill by requiring the Department of Accounting and General Services to include specifications necessary to prevent excessive noise in the design of all public school facilities.

Your Committee finds that the amendments to this bill are an attempt to realistically address and balance the normal operations of a school and the rights of surrounding residents. Your Committee further finds that the approach outlined in the amendments to this bill can address that delicate balance. The amendments to this bill are in no way an attempt to subvert the intent or purpose of Chapter 342, relating to noise pollution, which your Committee does find to be an essential part of our state laws relating to environmental quality.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2667-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2667-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 723-82 Consumer Protection and Commerce on H.B. No. 509

The purpose of this bill is to provide life insurers with alternate methods for the fixing of maximum interest rates chargeable on life insurance policy loans.

Presently, insurance companies may charge up to eight per cent per annum on life insurance policy loans. The bill would allow life insurers to periodically vary the maximum interest rate chargeable on life insurance policy loans by reference to an index of long term corporate bonds as published by Moody's Investors Service, or alternately by the rate used in determining the policy's cash surrender value plus one per cent per annum.

The bill also provides that the maximum rate chargeable shall be fixed at least annually for such policies and requires the insurer to notify the policyholder of the actual rate and any changes thereto.

Your Committee notes that this bill is patterned after the model law which was adopted unanimously by the National Association of Insurance Commissioners in December 1980. Further, your Committee has been informed that in 1981, the model law was enacted or approved in 20 states.

Your Committee heard testimony from representatives of the insurance industry to the effect that the artificially low ceiling on policy loans in a high interest rate environment results in a substantial increase in policy loans and creates serious cash flow problems for the industry. The diversion of investment funds to low interest policy loans results in less investment income to the detriment of policyholders. Your Committee believes that allowing life insurance companies to make a reasonable rate of return on policy loans will help to keep the cost of insurance lower than it would otherwise be.

Your Committee has amended the bill by limiting the rate of interest charged on a policy loan to ten per cent for policies with a face amount of \$50,000 or less. The purpose of

this amendment is to benefit those persons in the lower income levels who are less able to pay high rates of interest.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 509, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 509, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 724-82 Consumer Protection and Commerce on H.B. No. 1553

The purpose of this bill is to make an offeror of a take-over bid liable to a dissenting stockholder, for the difference in value of shares, for a merger or consolidation caused by the take-over bid.

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

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

Your Committee has amended the bill by adding a new Section 2. The purpose of this amendment is to more strictly regulate the merger of subsidiaries of the same corporation.

Presently, subsidiaries of a parent corporation merge under general statutory provisions relating to mergers. The merger of subsidiary corporations, however, because of the very nature of their "familial" relationship should be more carefully regulated.

This bill as amended would require a corporation's subsidiaries to follow procedures similar to those relating to mergers between a parent corporation and its subsidiary.

It should be noted that this amendment only applies to situations where the parent corporation owns at least ninety per cent of the outstanding shares of each class of stock of the subsidiaries to be merged.

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

Signed by all members of the Committee.

SCRep. 725-82 Consumer Protection and Commerce on H.B. No. 2192-82

The purpose of this bill is to clarify and amend certain requirements for corporate filings with the Department of Regulatory Agencies and to clarify the existence of the department's rule making authority with respect to corporations.

Presently, certificates of an increase or reduction of capital or capital stock, of an amendment of the corporate articles or charter, and of an extension of the duration of the articles or charter must be signed by two officers of the corporation. This bill would clarify that these certificates, required to be filed with the department, cannot be signed only by one person who is a dual officer of the corporation.

Current law also requires all corporations to file by March 31 of each year corporate exhibits, stating each corporation's state of affairs as of the preceding December 31. This bill would extend the filing deadline to June 30 so that the Department of Regulatory Agencies is not inundated with these filings in such a short span of time.

This bill, as received, would also specifically state in chapters 416 and 418 the department's rule making authority with respect to corporations.

Your Committee has amended the bill by adding a new section 7 thereto. The purpose of this amendment is to more strictly regulate the merger of certain subsidiaries of the

same corporations.

Presently, subsidiaries of a parent corporation merge under general statutory provisions relating to mergers. The merger of subsidiary corporations, however, because of the very nature of their "familial" relationship should be more carefully regulated.

This bill would require a corporation's subsidiaries to follow procedures similar to those relating to mergers between a parent corporation and its subsidiary.

It should be noted that this bill only applies to situations where the parent corporation owns at least ninety per cent of the outstanding shares of each class of stock of the subsidiaries to be merged.

Your Committee has also made technical, non-substantive amendments to the bill, as received, to comply with recommended drafting practices.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2192-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2192-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 726-82 (Majority) Consumer Protection and Commerce on H.B. No. 2199-82

The purpose of this bill is to provide for internal consistency in the provisions of the Landlord-Tenant Code.

Act 235, Session Laws of Hawaii 1981, amended section 521-64(b), Hawaii Revised Statutes, to increase the amount which a tenant may deduct from his rent for repairs of conditions constituting a health or safety violation from \$200 to \$300. However, section 521-64(d), which allows a tenant to deduct from his rent not more than \$200 for repairs of conditions in material noncompliance with section 521-42(a) (which requires the landlord to supply and maintain fit and habitable premises) or the rental agreement, was left unchanged.

This bill amends section 521-64(d) to increase the amount allowed to be deducted under that section to \$300 to make the amount consistent with the deduction allowed under section 521-64(b).

Further, Act 235 amended section 521-64(c), which sets time limits for the landlord to perform certain repairs, by adding a proviso that requires the landlord, in any case involving repairs to electrical, plumbing or other facilities necessary to provide sanitary and habitable living conditions, to "commence affirmative good faith efforts to make repairs" with three business days of receiving notification of a defective condition. As to other repairs covered by section 521-64(c), the landlord is required to "commence repairs" within a given period of time.

This bill amends the proviso added by Act 235 to require the landlord to actually "commence repairs" within three business days after notification.

Section 521-71, Hawaii Revised Statutes, requires a landlord before terminating a month to month tenancy because of voluntary demolition of the dwelling unit or conversion to a condominium, to give ninety days prior notice of the anticipated termination. This bill would increase the notification period to one hundred twenty days and would make the period consistent with section 521-38 which provides for a one hundred twenty day notification period for tenants under rental agreements under similar circumstances.

Your Committee amended this bill by correcting a typographical error to conform this bill to the present law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2199-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2199-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Yee did not concur.

SCRep. 727-82

Consumer Protection and Commerce on H.B. No. 2270-82

The purpose of this bill is to clarify statutory provisions relating to cancellation or non-renewal of no-fault insurance policies.

Present law is unclear as to whether a no-fault policy which has expired may be considered to be automatically renewable on a retroactive basis, even if a renewal notice by the insurer is not accepted by the policy holder.

Your Committee finds that there is concern within the insurance industry that upon failure of a policy holder to respond appropriately to an insurer's offer of renewal by the expiration date of the policy, a thirty-day cancellation notice must be sent. This in effect requires insurers to extend thirty days of free coverage beyond the policy period.

This bill would clarify that a no-fault policy will expire at the end of its term by reason of lapse of the policy term and non-renewal by the policy holder after thirty-day prior notice by the insurer.

Your Committee amended the bill by deleting the sentence pertaining to the requirement of the insurer to notify, in writing, a policy cancellation to the director of finance and chief of police of the respective county, on page 2, lines 5 to 10. The purpose of this amendment is to conform the language to the current statute.

Your Committee also amended the bill by adding a provision to the effect that an offer is deemed accepted when mailed. The purpose of this amendment is to equalize the acceptance date of persons mailing such acceptance to foreign jurisdictions with those persons mailing the acceptance to offices located within the state.

Further, your Committee was informed by the Department of Regulatory Agencies that the language in S.B. No. 2138-82, S.D. 1, a companion measure, more clearly reflects the intent of the bill. Therefore, your Committee has amended the bill to adopt the language of the Senate bill.

Your Committee also made technical amendments which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2270-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2270-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 728-82

Consumer Protection and Commerce on H.B. No. 2334-82

The purpose of this bill is to make permanent the temporary regulations prohibiting price discrimination in the supplying of liquor to wholesalers in the state.

Act 280, Session Laws of Hawaii 1980, established the existing regulations on discriminatory pricing, which is scheduled to expire on June 30, 1982. The prohibitions, commonly known as the "affirmation" law, insure that the prices being charged for liquor sold to Hawaii wholesalers are the best possible and that Hawaii is not being discriminated against because it is a non-contiguous state.

Your Committee heard testimony from the Retail Liquor Dealers Association of Hawaii in favor of the bill, which would remove the expiration date in Act 280.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2334-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 729-82

Consumer Protection and Commerce on H.B. No. 2404-82

The purpose of this bill is to create an exception to the prohibition on recovery of compound interest for certain types of loans.

Presently, the recovery of compound interest is not permitted. This bill would provide a limited exception to that prohibition.

The adjustable rate mortgage loan is a loan made with a long term repayment schedule,

with an interest rate which is adjustable at regular intervals, typically six months to five years. Since borrowers are qualified for loans based primarily upon an ability to repay at a certain installment amount, adjustable rate loans are usually made with a stable installment amount over a period of time. In the event that interest rates rise to the extent that the previously set installment amount is inadequate to cover the debt servicing, a so called "negative amortization" results, and the unpaid interest debt is added on to the principal. Under present law, this represents compounding of interest and would not be recoverable.

Your Committee notes that the federal government has approved the concept of negative amortization. This bill would exempt lenders from not recovering compound interest from adjustable rate mortgage loans.

Your Committee has amended the bill to provide for certain restrictions on adjustable rate mortgage loans for the protection of borrowers. The amendment provides that such loans (1) are not subject to any prepayment penalty; (2) are not subject to adjustment of the interest rate more often than once a year; (3) can not charge costs or fees upon adjustment of the interest rate; and (4) can not increase payments in excess of ten per cent of the payment amount prior to an interest adjustment.

The bill has also been amended to include provisions raising the usury ceiling from twelve to eighteen per cent for certain transactions. The purpose of this amendment to more accurately reflect the present cost of borrowing money.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2404-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2404-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 730-82

Consumer Protection and Commerce on H.B. No. 2434-82

The purpose of this bill is to require that the Liquor Commission and the liquor license applicant provide forty-five days notice for a public hearing on the license application rather than the present twenty-one days.

Your Committee heard testimony from the Holiday Mart Residents' Council that twenty-one days is an insufficient period of time for residents and businesses in a community to adequately prepare for a public hearing on a liquor license application. Your Committee feels that forty-five days is a more reasonable period of time for all parties concerned to be apprised of the forthcoming public hearing.

Your Committee amended the bill on page 2, line 9 by inserting an omitted comma which appears in the present statutory language.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. 2434-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2434-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 731-82

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

The purpose of this bill is to regulate mortgage servicing agents in order to protect mortgagors from failure or wrongful acts of such agents.

Currently, mortgage servicing agents are not specifically regulated by law. Such agents generally contract with mortgage lenders to collect monthly mortgage payments from individual homeowners, then make payments on their behalf to the lenders, to tax collectors and to insurance carriers for a servicing fee. Mortgage lenders often require that periodic payments of principal and interest, real property taxes, fire insurance, lease rent, etc. be made to a mortgage servicing agent who in turn will make the various payments when required. This arrangement provides the mortgagee with assurance of payment by the homeowner of real property taxes, fire insurance and other obligations, the non-payment of which will affect the security of the mortgage. However, the homeowner is not protected against failure of the mortgage servicing agent to make the required payments.

This bill provides homeowners with some protection against failure of mortgage servicing agents to properly deal with their funds by requiring bonding of such agents, a physical

presence in the state and recordkeeping. The bill also provides penalties for failure to comply with the requirements imposed.

Your Committee is in agreement that there is need for some form of regulation of mortgage servicing agents in order to protect the interests of consumers.

Upon consideration of this measure, your Committee has amended the bill by:

- (1) Expanding the exemption section to include institutions such as banks, savings and loan associations and other entities which are presently regulated by the state or the federal government. The reason for the amendment is that these entities are adequately regulated under current laws.
- (2) Clarifying the bonding requirement by specifying that the bond run to the state for the benefit of any person injured by the wrongful act or default of the servicing agent.
- (3) Deleting the requirement that a servicing agent have an office in the state and substituting therefor a requirement that a servicing agent have an agent authorized to act on its behalf in the state.
- (4) Deleting the requirement that the trust account for funds collected by a servicing agent on behalf of its customers be maintained within the state. Amendments (3) and (4) were made in response to testimony that the provisions, if not amended, would contradict the policies and requirement of the Federal National Mortgage Association (FNMA) and jeopardize the flow of FNMA funds to Hawaii.
- (5) Deleting willfulness as a necessary element for violations of the provisions of the bill. As amended, the bill subjects persons who "knowingly" violate the requirements to certain penalties. As received by your Committee the violations were required to be done "knowingly and willfully."

Your Committee emphasizes that this bill is intended to provide some measure of protection to mortgagors who make payments to mortgage servicing agents and in no way detracts from the right of mortgagees to take legal action against servicing agents who misuse funds and thereby breach their contracts with mortgagees for whom they are collecting moneys. Rather, it is the intent of your Committee that in such circumstances, a mortgagee take prompt action against the servicing agent.

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

Signed by all members of the Committee.

SCRep. 732-82

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

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

Your Committee heard testimony on this and a related bill and concluded that substantial amendment was necessary. Having followed with concern the development and practices of the many elements of the time share industry over the past several years and being keenly aware of the related concerns of citizens with respect to time sharing practices, your Committee also concluded that the imposition of further geographic limitation of time sharing is both desirable and necessary.

In so doing, your Committee reaffirms the intention expressed in earlier legislative action which prohibited time sharing in areas zoned for residential use. Your Committee has amended this bill by deleting the escrow provisions and addressing that subject in a companion measure, H.B. No. 3078-82, H.D. 1, and by inserting instead language which further delineates the geographic proscriptions of section 514E-5, Hawaii Revised Statutes.

Specifically, the bill as amended: (1) retains the legislative delegation of authority to county governments to enact appropriate zoning and land use restrictions for the control of time share units, time share plans, and transient vacation rentals; (2) allows time sharing in hotels and in projects wholly designated for time sharing in their declarations and bylaws, if they are in areas zoned for hotel, transient vacation rental, or resort

use; and (3) prohibits further time sharing in residential units, projects, and buildings unless their bylaws and declarations specifically and explicitly so authorize and unless they are situated in areas appropriately zoned.

Section 514E-5 presently allows time sharing in hotels without reference to the zoning of their locations. As amended, this bill will allow time sharing in hotels only if they are located in areas appropriately zoned by the county government. Hotels not so located may otherwise cause time sharing intrusion into areas not appropriate for that use. Your Committee rejects the concept that a non-conforming use building may be modified at will into another non-conforming use without the approval of the county government concerned.

It should be noted that the "grandfathering" language of section 514E-5 of the statute remains undisturbed by the amendments of this bill, which will become effective upon approval.

It is the intention of your Committee that the mixed use of residential buildings, where it presently exists as a non-conforming use, be frozen at its present level upon the approval of this bill and that time share holdings in such buildings may subsequently be increased only upon the specific amendment of the declaration and bylaws of such buildings. Your Committee has accordingly amended the bill to amend section 514E-6(a), Hawaii Revised Statutes.

In the absence of a total ban of time sharing, the language of this bill as amended will provide the restrictive geographic limitations which your Committee considers timely and feasible. It will circumscribe time sharing, placing it in areas zoned for hotel, transient vacation rental, or resort use by the county governments, and in hotels or projects wholly designated for time sharing by their declarations and bylaws. This will alleviate the mixed-use problem and allow for legislative analysis of the effects of time sharing when it is limited only to areas zoned for hotel, transient vacation rental, or resort use.

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

Signed by all members of the Committee.

SCRep. 733-82

Consumer Protection and Commerce on H.B. No. 2936-82

The purposes of this bill are to allow industrial loan companies to charge up to twenty-four per cent per year interest on open-end loans made or committed between May 31, 1980 and July 1, 1985, to retain the full amount of loan fees or points paid by borrowers who prepay their loans, and to permit the more economical and efficient method of extending rather than re-documenting loans that were made prior to May 31, 1980, and which mature between that date and July 1, 1985.

Act 197, Session Laws of Hawaii 1980, increased the maximum interest rate that can be charged on closed-end loans made or committed after May 31, 1980 and prior to July 1, 1985, to twenty-four per cent per year. It is unclear, however, whether the present law permits the interest charged on open-end loans to be adjusted up to the twenty-four per cent rate. This bill would clarify that the interest rate charged on open-end loans made between May 31, 1980 and July 1, 1985 may be increased up to twenty-four per cent maximum, provided that the borrower is given fifteen days prior notice of the increase.

Presently the law is silent as to the refundability of loan fees (commonly called "points") in the event of early repayment in full. This bill would allow industrial loan companies to retain all points and fees even if the borrower pays off the loan prior to maturity.

Similarly, present law does not contain any provision regarding interest rate limits for loans which were made prior to May 31, 1980, which mature prior to July 1, 1985 and which are to be extended. Borrowers are therefore forced to re-contract and re-document such loans in order to obtain an interest rate in excess of 18 percent and borrowers incur the resulting fees for re-documenting. This bill will save borrowers such extra costs by allowing simple extensions of these loans.

Your Committee notes that the effect of this bill is not to allow industrial loan companies to charge any higher interest rates than they otherwise would charge. If a loan is rewritten and re-documented as required under the present law, or extended as provided for by this bill, the rate of interest would be subject to negotiation between the lender and borrower. This bill merely allows for a more economical method of refinancing a loan made prior

to May 31, 1980.

Your Committee has amended the bill beginning on page 10, line 15 after the word "loan" by including the phrase "except to the extent that the maximum interest rate is exceeded on loans prepaid ninety or more days after the date the loan was made". The purpose of this amendment is to ensure that the total fees, points and interest charges do not exceed the maximum interest rate.

Your Committee also amended section 408-15(k), subparagraphs (A), (B), (C), and (D) by substituting "annual" for "monthly" and "dividing" for "multiplying". The purpose of this amendment is to keep the language of the section internally consistent.

Your Committee also made technical corrections which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2936-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2936-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 734-82 Consumer Protection and Commerce on H.B. No. 3072-82

The purpose of this bill is to allow liquor wholesale dealers to sell liquor samples back to the manufacturer.

It has long been a trade practice for representatives of distilleries and wineries to withdraw merchandise from wholesale distributors for sampling purposes. The goods withdrawn for that purpose are charged back to the supplier for reimbursement. This practice has not adversely affected the public interest or operations within the trade, but its legality has recently been questioned on the grounds that wholesale liquor dealers are authorized to "sell only to licensees or to others who are by law authorized to resell but are not by law required to hold a license...". The claimed illegality of the practice is based on the fact that suppliers are not licensees and are not authorized to resell their merchandise.

This bill would include suppliers or manufacturers in the category of buyers authorized to purchase liquor from wholesale distributors.

The bill also allows wholesale dealers to sell draught beer in quantities of not less than five gallons for private consumption if the dealer files an affidavit with the commission stating that a class four retailer is unavailable to sell that brand of draught beer.

Your Committee has amended the bill by making technical nonsubstantive changes to conform with recommended drafting procedures.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3072-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3072-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 735-82 Consumer Protection and Commerce on H.B. No. 3078-82

The purpose of this bill is to require sales agents and acquisition agents who solicit or encourage others to attend time share presentations, to have a real estate salesman or broker license.

Upon hearing extensive testimony on this and a related bill, your Committee concluded that amendments were in order and elected to expand the bill to address a broader spectrum of considerations relating to the merchandising of time share interests. Among the substantive amendments has made are:

- a. The provision of additional definitions in section 514E-1, Hawaii Revised Statutes, including "blanket lien" and "nondisturbance agreement," and the redefinition of "time share unit".
- b. The establishment of parameters of conduct for outside public contacts, who are defined in this bill, placing them under the direct supervision of acquisition agents and restricting their activities to the place of business, site office, or booth of

the developer, acquisition agent, sales agent limiting their activities to communicating invitations to prospects, , but precluding them from participation in time share sales presentations.

Your Committee also concluded that consistent with accepted business practices, the subject of escrow procedures required attention. Taking note of rules concerning time sharing already adopted by the Department of Regulatory Agencies, your Committee has incorporated in this bill those portions of the department's rules dealing with escrow.

Your Committee has also maintained its concern for the protection of purchasers of time share plans and units, and has included language relative to the effect of blanket liens upon such purchasers.

One of the principal amendments deals with the telephone solicitation of prospective time share customers, a practice of recent origin which has resulted in complaints from hotel proprietors and their guests alike, and which seriously detracts from the image of hospitality which our state seeks to nurture. Your Committee has provided that telephone solicitation is prohibited unless the following conditions have been met:

- a. The prior written approval of the hotel manager;
- b. Complete written notice to prospective purchasers, such notice to comply with the 24-point bold print disclosure provisions of section 514E-9, Hawaii Revised Statutes, and to be in the hotel room of the guest to whom the call is to be made.

In event a sale results from telephone solicitation, the purchaser shall immediately be given a receipt for payment indicating that he had a five-day right of contract rescission.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3078-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3078-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 736-82

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

The purpose of this bill is to improve the procedures and powers of the Board of Medical Examiners with respect to disciplinary investigations and proceedings.

Presently, the board has numerous responsibilities regarding the regulation and review of the medical profession. In order for the board to better carry out its statutory duty of protecting the public interest, it has been suggested that the disciplinary and investigatory functions of the board be handled by other means and methods. This bill attempts to improve the present procedures relating to those functions.

The bill enables the board by written order to delegate its investigatory and prosecutorial functions to the executive secretary of the board or the Department of Regulatory Agencies for the purpose of reducing the potential for bias in contested case hearings. Further, the board would also be able to delegate certain routine administrative tasks which do not require technical skill or expertise.

The bill also requires the Director of the Department of Regulatory Agencies to appoint a medical advisory committee consisting of physicians, for the purposes of assisting the board in its review of complaints against physicians referred for possible medical malpractice. Due to the technical nature of these cases, it is essential that the investigators assigned to review claims be able to consult with experts in the field of medicine.

Further, this bill provides for increased reporting of medical tort claims. Presently section 671-5, Hawaii Revised Statutes, requires every self-insured physician and every self-insurer providing professional liability insurance to a physician to report information on such claims to the Insurance Commission. However, there is a loophole in the law in that physicians who do not possess professional liability insurance are not required to report the information. This bill would close the loophole.

In addition, the bill requires court clerks to report any judgment or other determination of the court which finds that a physician is liable for any death or personal injury caused by professional negligence or the rendering of unauthorized professional services. The purpose of these provisions is to assist the board in detecting physicians whose actions may be in violation of chapter 453.

The bill also revises the definition of a "professional society" by eliminating the requirement that the membership comprise a majority of people in the profession. This amendment would delete an unrealistic requirement since no association of physicians meets this requirement.

The bill also specifies the type of information that must be contained in an adverse peer review decision. This amendment is necessary if the board is to review adverse decisions pursuant to its statutory mandate. Under the present statutory language of section 663-1.7, Hawaii Revised Statutes, a peer review committee need only report the mere fact of an adverse decision. Such information is, of course, insufficient for the board to properly screen or evaluate a case. The proposed language addresses this problem by specifying the information which must be included in the adverse decision.

Moreover, the board presently has difficulty in obtaining the medical records of patients whose cases were reviewed by a peer review committee because of section 624-25.5, which section prohibits discovery of "the records and proceedings" of peer review committees. It has also been suggested that the board is not entitled to such records because under section 453-8.3, Hawaii Revised Statutes, the board cannot guarantee the confidentiality of records provided by peer review committees.

This bill authorizes the Director of the Department of Regulatory Agencies to subpoena documents needed by the board to review a licensee who was the subject of an adverse peer review decision subject to the condition that the information received be kept confidential by the board.

This bill also adds two new grounds for disciplinary action. Specifically, disciplinary action by another state on grounds similar to section 453-8 and conviction of a penal offense substantially related to the qualifications and duties of a physician are made grounds for disciplinary action.

Your Committee adopted the recommendation of the Board of Medical Examiners and amended the bill by substituting "physicians referred for possible disciplinary action" for "alleged medical malpractice claims" on page 2, line 5, in order to clarify the nature of the action.

Your Committee further amended the bill beginning on page 9, line 22, by adding the phrase "including, but not limited to, the consistent use of medical service which is inappropriate or unnecessary", after "incompetence," for purposes of clarification. In addition, page 10, line 9 through 12 were rewritten for grammatical clarity.

Further, your Committee amended page 16, lines 2 and 3 to conform the bill to existing statutory language and establish the fine provided for in the section to be not less than \$100. Other nonsubstantive, technical amendments were made to the bill to conform to recommended drafting style.

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

Signed by all members of the Committee.

SCRep. 737-82

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

The purpose of this bill is to allow a person with six years of full-time lawful experience in landscape architecture the opportunity to be eligible for registration as a professional landscape architect.

The present law requires 12 years of full-time lawful experience for persons without degrees. This bill would reduce the requirement to only six years.

Your Committee finds that this bill would penalize an applicant having a landscape architectural degree, since he would be required to have 7 years total experience (four years of college plus three years of full-time experience) as opposed to the 6 years experience required of the applicant without a degree.

Your Committee also finds that to reduce the experience requirement to 6 years in lieu of a degree would also lower the standard of the profession in the Islands, as well as make this state a target for applicants from other states having more stringent experience requirements.

Your Committee has amended the bill by requiring a person applying for registration as a professional landscape architect to have had six years full-time lawful experience and to have graduated from a school or college with a four year prelandscape architectural curriculum degree. The purpose of this amendment is to insure the safety and well being of consumers and those involved in the design and construction professions.

Your Committee has also amended the bill by making technical changes which have no substantive effect.

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

Signed by all members of the Committee.

SCRep. 738-82 Housing and Hawaiian Homes on H.B. No. 791

The purpose of this bill is to expand the applicability of the Housing Loan and Mortgage Program to include persons who own vacant residential property.

Your Committee finds that there are a number of persons who own vacant lots and as a result, are ineligible for Hula Mae loans although they would qualify in all other respects.

Your Committee has amended the bill as follows:

1. By amending the definition of "eligible loan" to allow the funds to be used by persons owning a vacant parcel of real property for financing of the construction of a principal residence on the parcel, or by persons for the financing of the purchase of a principal residence;
2. By changing the requirement of nonownership of any residential property within three years in the definition of "eligible borrower" to the requirement of nonownership of any real property within 10 years prior to application for a loan, excepting the ownership of a vacant parcel on which is proposed the construction of a principal residence; and
3. Adding a new section with provisions applicable to eligible loans for vacant parcels which:
 - a. Limit the amount of a loan for construction of a principal residence on the parcel to twice the appraisal value of the vacant parcel, as well as requiring the loan amount not to exceed the cost of improvements to be made to the parcel by the borrower;
 - b. Disallow such loans if the appraisal value of the real property, including the land and all improvements to be made thereto, exceeds the median sales price of comparable property sold within the county in the preceding year;
 - c. Defining "appraisal value" to mean the fair market value as determined by rules adopted by the authority; and
 - d. Requiring the authority to adopt rules to implement this new section.

In amending the Housing Loan and Mortgage Program to allow loan funds to be used by persons owning a vacant parcel of real property for the financing of construction of a principal residence thereon, it is the intent of your Committee that the Hawaii Housing Authority in administering this program take appropriate action to ensure that the persons qualifying for such loans are really in need of financial assistance. For example, an applicant who is otherwise eligible for a loan, but who owns a vacant parcel of land valued at \$300,000, is not the type of person the Committee intends to assist under the Housing and Loan Mortgage Program.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 791, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 791, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 739-82 (Majority) Agriculture on H.B. No. 2222-82

The purpose of this bill is to amend section 150A-6(3), Hawaii Revised Statutes, in

order to permit the importation of the species *Anguilla rostrata* for experimental or other scientific purposes.

Under the present law, there is a general prohibition on the importation of eels of the order Anguilliformes. Under this bill, this general prohibition would remain.

However, this bill provides an exception for the limited importation of eels of the species *Anguilla rostrata* into the state, provided that such importation be only for experimental or scientific purposes. Additional safeguards are provided in that conditions of entry and maintenance of the eels may be set by the state Board of Agriculture.

This method of providing for the importation under certain conditions of a specific species of animal generally prohibited, is the same method used for the limited importation and maintenance of snakes at zoos in the state.

Your Committee finds that any proposal for importation would be subject to the Department of Agriculture's administrative review. This would include review by the advisory subcommittee on invertebrate and aquatic biota as well as the advisory committee on plants and animals. These bodies would provide scientific expertise and make recommendations to the Department of Agriculture and the Board of Agriculture regarding the entry of and safeguards on the eels.

Your Committee further finds that the bill would provide sufficient measures to insure the safety and welfare of the local environment and the public.

Your Committee has amended the bill to make only technical, nonsubstantive changes.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. 2222-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2222-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Henderson, Holt and Young did not concur.

SCRep. 740-82 Agriculture on H.B. No. 2327-82

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

Your Committee finds that existing land classification systems such as the Agricultural Lands of Importance to the State of Hawaii (ALISH) and the Land Study Bureau's Detailed Land Classification are primarily soil-based systems, and as such, were never intended to be used as the sole criterion for determining agricultural land use policies. Moreover, in order to establish a rational basis for classifying and identifying important agricultural lands, as mandated by Article XI, Section 3 of the State Constitution, there must first be a clear articulation of the agricultural goals of the state.

Therefore, your Committee has replaced the original language of this bill with language based upon S.B. No. 2434-82, S.D. 2, to create an independent study commission as the mechanism for achieving the purpose of the bill and the findings above.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2327-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2327-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 741-82 Agriculture on H.B. No. 2331-82

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

Your Committee has made technical amendments to the bill to clarify that leases may be granted to sugar, pineapple, ranch, and other farming or ranching business organizations if they qualify.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. 2331-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2331-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 742-82 (Joint) Agriculture and Economic Development on H.B. No. 2332-82

The purpose of this bill is to establish a minimum lease term of fifteen years for state lands which are leased for intensive agricultural and pasture uses.

Your Committees find that under the existing law there is no minimum term for leases of state lands which are to be used for intensive agricultural and pasture uses. The absence of a minimum lease term has resulted in the issuance of short term leases which do not allow a lessee enough time to recoup his investments and discourage lessees from improving their lease parcels. Your Committees further find that lending institutions are reluctant to make loans to farmers or ranchers who have short-term leases.

Your Committees have amended the bill by changing the fifteen year minimum lease term to a twenty year minimum lease term. Your Committees find that a twenty year minimum lease term will work to prevent speculation in leases and the idling of valuable agricultural and pasture lands.

Your Committees on Agriculture and Economic Development are in accord with the intent and purpose of H.B. No. 2332-82, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2332-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 743-82 (Joint) Agriculture and Economic Development on H.B. No. 2573-82

The purpose of this bill is to permit major water storage tanks ancillary to agricultural and domestic practices to be built within certain agricultural lands.

Your Committees find that water storage tanks may need to be placed in agricultural districts in order to serve the lower residential districts. Sometimes it is necessary to place tanks on hills high up on agricultural lands in order to best utilize gravitational force.

Your Committees further find that the bill would permit water storage tanks to be placed in the most advantageous spots, and concur with such provisions.

Your Committees have amended the bill to make technical changes to clarify the intent of the bill.

Your Committees on Agriculture and Economic Development are in accord with the intent and purpose of H.B. 2573-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. 2573-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senator Yee.

SCRep. 744-82 (Joint) Health and Education on H.B. No. 2778-82

The purpose of this bill is to require the Department of Health to provide occupational therapy, physical therapy, school health services, mental health and medical services for diagnostic or evaluative purposes to exceptional children.

Presently, the law only provides that the Department of Health may provide certain services. This bill would require the department to do so.

Your Committees heard testimony in support of this bill from the Commission on the Handicapped, Board of Education, Department of Health, and the Hawaii Medical Association.

Your Committees have made clarifying language changes to the bill and have further amended the bill by deleting the provisos that services be provided "to the extent of available funding". Your Committees find the provisos unnecessary as it is axiomatic that services can only be provided within available funding as authorized by the Legislature.

Your Committees on Health and Education are in accord with the intent and purpose of H.B. No. 2778-82, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2778-82, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Kuroda, Kobayashi and Saiki.

SCRep. 745-82 (Joint) Ecology, Environment and Recreation and Economic Development on H.B. No. 1882

The purpose of this bill is to authorize the Department of Land and Natural Resources to protect instream uses of water for fishery, wildlife, recreational, aesthetic, scenic, and other related beneficial uses.

Your Committees received favorable testimony from the Department of Land and Natural Resources and various special interest and private sector organizations. The department's testimony revealed that Hawaii's laws do not specifically provide for the protection or preservation of water for instream uses. The usual assessment of current water use and projections of future demands account for traditional offstream uses--municipal, agricultural, industrial, and military--but do not include water for instream ecological, aesthetic, and recreation purposes.

The testimony of the department further revealed that the bill would provide for establishing interim protective measures, would provide for establishing instream flow standards on a stream-by-stream, site-by-site basis, and would protect stream channels from alterations by requiring permits for such work. Lastly, the department recommended amending the bill to establish penalties for violations of standards and procedures established by the board.

Your Committees have amended the bill to restrict the protection of instream water uses to Windward Oahu. The Department of Land and Natural Resources considers Windward Oahu an area of high competition for surface water which will have major effect upon instream water uses.

Your Committees have also amended the bill to terminate the effect of this bill upon the adoption of a statewide water code.

Your Committees on Ecology, Environment and Recreation and Economic Development are in accord with the intent and purpose of H.B. No. 1882, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1882, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Yee, Machida, Mizuguchi and Yamasaki.

SCRep. 746-82 Ways and Means on H.B. No. 1642

The purpose of this bill is to increase the present limit on Airport Special Facility Revenue Bonds to \$50 million, and to provide that no funds shall be expended on non-public air facilities and that no funds shall be expended on land acquisition by amending section 261-52 of the Hawaii Revised Statutes.

Proceeds from the sale of these bonds would be used to finance specific airport capital improvements. The increase on the limit on the Airport Special Facility Revenue Bonds from \$25 million to \$50 million is critical to the on-going development program at Honolulu International Airport as well as other public air facilities in the state.

Your Committee 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. 1642, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1642, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 747-82 (Majority) Ways and Means on H.B.No. 1948-82

The purpose of this bill is to amend section 155-9, Hawaii Revised Statutes, to increase the maximum amounts on various classes of farm loans as follows:

- (1) Class A loans for farm ownership and improvement from \$100,000 to \$200,000.
- (2) Class B loans for soil and water conservation purposes: to individual farmers from \$35,000 to \$50,000; and to farm associations from \$200,000 to \$300,000.

- (3) Class C loans for farm operating expenses from \$100,000 to \$200,000.
- (4) Class E loans for farmers' cooperatives and corporations for: capital improvement purchases from \$250,000 to \$500,000; and operating expenses from \$150,000 to \$300,000.
- (5) Class F loans for initial loans to new farmer programs from \$75,000 to \$100,000.

This bill also provides that facility loans shall be for an amount not to exceed \$500,000 or eighty per cent of the cost of the project, whichever is the lesser, and that initial loans to new farmers shall not exceed \$100,000 or 85 per cent of the cost of the project.

Your Committee heard testimony on a companion bill, S. B. No. 2289-82, and based on such testimony, has amended the bill as follows:

(1) An amendment of section 155-4, Hawaii Revised Statutes, has been included to permit the board of agriculture to authorize its chairperson to approve loans where the requested amount plus any principal balance on existing loans to the applicant, does not exceed \$25,000 of state funds. This amendment would expedite actions on applications for relatively small loans since the Board of Agriculture meets only once a month.

(2) At the end of the first paragraph of section 155-9, Hawaii Revised Statutes, a new sentence has been added to make the maximum amount of a loan for Classes A, C, D, and F allowed to an individual applicant apply to any loan application submitted by a partnership, corporation, or other entity where the individual applicant has any legal or equitable interest exceeding 20 per cent.

(3) The present loan limits for Classes A, B, and C loans have been retained rather than increased since testimony indicated that present sources of credit, including commercial banks, the Federal Land Bank Association, and the Hawaii Production Credit Association are meeting the needs of the established farmer.

(4) For Class D loans, allows such loans for other emergencies as determined by the Board of Agriculture, and provides that the maximum amount and period for Class D loans be determined by the Board of Agriculture. The intent of this provision is to assist agricultural enterprises by providing the Department of Agriculture with flexibility to respond to emergencies, such as the present milk situation, to allow loans for such things as operating losses incurred while herds are being purged of heptachlor.

(5) An appropriation section has been added to provide \$1,500,000 for fiscal year 1981-1982 and \$3,500,000 for fiscal year 1982-1983 to the agricultural loan revolving fund to carry out the purposes of this Act.

Your Committee supports efforts to assist the agricultural industry however concern has been expressed regarding the vitality of agriculture loan programs. Your Committee therefore strongly suggests that the department reports to the Legislature each year on loan fund balances to allow monitoring of possibly underutilized funds.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1948-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 1948-82, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 748-82 (Majority) Ways and Means on H.B. No. 1949-82

The purpose of this bill is to assist sugar growers annually producing less than 4,500 tons of raw sugar by authorizing the Department of Agriculture to make supplemental direct loans to independent sugar growers to cover deficits in the repayment of production loans made by commercial lending institutions and to cover the amount required for production expenses which is not available from commercial lending institutions.

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

Your Committee has heard testimony on S.B. No. 2169-82, a companion bill, and agrees with the concept of providing loan assistance to independent sugar growers. But, since

special loan program has been in effect through Act 19, of the 1977 Special Session, and other subsequent acts, a different approach in effectuating this loan concept has been taken.

Your Committee has amended the bill to provide for the repeal of the existing acts relating to independent sugar growers and to allow the remaining appropriated balance from these acts to lapse. Rather than amending section 155-8, Hawaii Revised Statutes, your Committee has provided for the addition of a new section to chapter 155. This new section provides for the same terms and conditions for loans to independent sugar growers as was provided in the H.D. 2 version, except that the limit on the term of the loans to not more than twenty-four months after the effective date of this bill has been deleted.

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

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 749-82 (Majority) Ways and Means on H.B. No. 1971-82

The purpose of this bill is to appropriate funds for the Office of Hawaiian Affairs (OHA) for fiscal year 1982-83.

This bill, as amended, provides \$554,245 in general funds for the operations of OHA, a thirty-three per cent increase from the amount appropriated for the present fiscal year which ends on June 30, 1982.

Your Committee recognizes that although the increase provided for in this bill is quite significant it is far less than the total amount originally requested.

OHA was established by the Legislature in 1980, acting in accordance with a state constitutional amendment approved by the voters. The office has been in operation for a relatively brief period, however your Committee expects that OHA will probably grow and expand the scope of its program in the future.

Your Committee does not oppose the eventual development of OHA however it recognizes the need for a well-planned and orderly growth and acknowledges the need for a cautious funding philosophy until OHA's long-range goals and implementing actions are fully charted out.

This session your Committee was faced with a request to increase the OHA budget 467% without a clear statement or indication of OHA's long-range plan and objectives, and the resulting long-term financial requirements which would be placed on the state.

This bill provides funds for a Needs Assessment Study, to assist OHA in developing such a blueprint for the future.

Your Committee also believes that the adoption of six-year financial planning, as used by the executive and judicial branches, would assist both OHA and future legislatures to better assess the funding needs of OHA within the context of its overall goals and objectives.

Your Committee has already acted favorably on measures to require OHA to submit a biennial, rather than an annual, budget to the Legislature.

Finally, as noted in Standing Committee Report No. 655-82, from the House Committee on Finance, another problem regarding the large initial request of OHA was the issue of use of proceeds from its ceded land trust.

Your Committee hopes that these issues can be addressed within the near future to enable both the Legislature and OHA to map out a positive and constructive course of action for the future.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1971-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1971-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 750-82

Ways and Means on H.B. No. 2049-82

The purpose of this bill is to appropriate funds for the salary of the director of the Office of Environmental Quality Control.

Your Committee finds that it would be in the best interest of the state to ensure the existence of an environmental review system that provides appropriate consideration to environmental concerns in decision making along with economic and technical considerations. Necessary funding for a director will ensure that the Office of Environmental Quality Control can continue to effectively meet its legislatively mandated functions.

Your Committee has amended this bill by deleting the amount of \$30,000 and leaving the sum to be appropriated blank and by deleting the lapsing provision as unnecessary.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2049-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2049-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 751-82

Ways and Means on H.B. No. 2086-82

The purpose of this bill is to provide a one-time \$25 general income tax credit for each resident taxpayer who qualifies for an excise tax credit under section 235-55.5(a), Hawaii Revised Statutes, multiplied by the number of qualified exemptions, but not multiple exemptions for age or deficiencies in vision, hearing, or other disability for the taxable year 1982.

Your Committee notes that certain individuals who are not presently residing in the state but are nevertheless considered residents for income tax purposes have paid income taxes to the state and therefore should also be provided the tax credit. Your Committee has amended this bill to make it clear that the tax credit shall apply to such qualified resident individuals who have been residents of the state as defined under section 235-1, Hawaii Revised Statutes for at least nine months whether or not such qualified resident was physically in the state for nine months. This will allow residents, whether in or out of the state to claim the credit, but will prevent transients from obtaining credit.

Your Committee agrees with the House of Representatives' findings relating to prisoners' claims to the excise tax credit.

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

Signed by all members of the Committee.

SCRep. 752-82

Ways and Means on H.B. No. 2203-82

The purpose of this bill is to repeal the existing income tax rates and schedules and adopt new tax rates and schedules for individuals based on the zero-bracket amounts adopted by the 1981 regular session and to provide schedules for estates and trusts.

Your Committee heard the companion Senate Bill No. 2255-82.

In 1981, the Legislature enacted Act 208, Session Laws of Hawaii 1981, which adopted the zero-bracket method of computing state income tax liability. This was to conform to the federal method which was adopted in 1976. The zero-bracket amounts were set at \$1,000 for joint returns, \$800 for single individuals and heads of households, and \$500 for married individuals filing separately.

Under the zero-bracket method, the zero-bracket amounts must be incorporated into the tax schedules. Adoption of these changes will enhance individual compliance with the income tax laws as the computation will be similar to the federal method. As determined under Act 208, this revision of the tax schedules results in no loss of revenue. Your Committee finds that this bill is necessary to the Department of Taxation to enable them to carry out the intent of Act 208 and the income tax law.

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

2203-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 753-82 Ways and Means on H.B. No. 2204-82

The purpose of this bill is to permit taxpayers to compute additional withholding allowances on the basis of the zero-bracket amount (which is now applicable for computing the state income tax) rather than the old ten per cent standard deduction. It further provides that calculations resulting in a remainder of one-half or more shall be counted as an additional withholding exemption.

This bill further permits the director of taxation to adopt by rule under chapter 91, the rules and regulations promulgated by the U.S. Secretary of Treasury or a delegate of the secretary relating to the provisions of subtitle C, Chapter 24, (with respect to collection of income tax at source on wages), of the Internal Revenue Code operative in this section.

Your Committee is in support of this measure because it represents another provision which conforms the state income tax law to the federal Internal Revenue Code provisions and eases the burden of compliance for state taxpayers. In addition, it is believed that adopting the applicable federal regulations will assist the department in enforcing compliance with these provisions.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2204-82, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 754-82 Ways and Means on H.B. No. 2244-82

The purpose of this bill is to amend the state's veteran's rights and benefits law by amending the definition of "dependent" of a veteran and repealing obsolete sections pertaining to the burial of an indigent veteran.

Presently, the Department of Social Services and Housing is servicing all dependents of veterans. The existing statutes only allow for servicing people who became dependents prior to or during the veteran's enlistment period in any of the armed services. This bill will clearly identify individuals who are eligible for services, specifically to include persons who became dependents of veterans after the veteran entered the service. This bill also repeals sections 363-8, 363-9, and 363-10, Hawaii Revised Statutes, which pertain to burial in a pauper's grave. There are no "paupers' graves" or cemeteries for the indigent in Hawaii.

Your Committee held a public hearing on Senate Bill No. 2247-82, which is the companion to this bill.

Your Committee has made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2244-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2244-82, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 755-82 Ways and Means on H.B. No. 2312-82

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

This bill, as amended, provides an additional \$1,985,780 in general funds for operating expenses and an additional authorization of \$6,800,000 in general obligation bond funds for capital improvement projects for the Judiciary.

A large portion of the funds appropriated shall be used to implement new programs mandated by the Legislature, such as the juvenile intake agency and the transfer of a number of functions, previously the responsibility of the executive branch, to the judiciary (e.g., prisoner transport and security services).

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

Signed by all members of the Committee.

SCRep. 756-82 Ways and Means on H.B. No. 2407-82

The purpose of this bill is to prohibit the issuance or renewal of a liquor license unless the applicant does not owe any federal taxes.

Under present law, applicants must present a certificate to the Liquor Commission issued by the Department of Taxation, certifying payment of all state taxes. This bill would extend that requirement to include a certificate from the Internal Revenue Service.

Your Committee has deleted the waiver provision regarding the certificate from the Internal Revenue Service as a possible result thereof may be many false claims of waiver.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2407-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2407-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 757-82 Ways and Means on H.B. No. 2430-82

The purpose of this bill is to amend Act 231, Session Laws of Hawaii 1981, to make it clear that residents of this state, whether or not they have physically been in the state for nine months, may claim the \$100 general income tax credit for the taxable year 1981.

Your Committee finds that Act 231, Session Laws of Hawaii 1981, was enacted to provide a tax credit against income taxes for resident taxpayers as a refund of excess revenues and as required by the state constitution.

Your Committee also finds that while persons in the military and students do not physically reside in the state for nine months, if they wish to retain residency in the state they pay income taxes to the state and are included in the definition of resident in chapter 235, Hawaii Revised Statutes.

Your Committee has amended this bill by providing that a qualified exemption shall have been a resident of the state for at least nine months whether or not such qualified exemption was physically in the state for nine months. This amendment will assist those persons who are taxpayers to claim the credit but at the same time prevent transients from claiming the credit.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2430-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2430-82, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 758-82 Ways and Means on H.B. No. 2551-82

The purpose of this bill is to require the Board of Regents of the University of Hawaii to waive certain tuition fees for any veteran who is currently enrolled as a student working towards a degree on any campus of the university system and who is not receiving "G.I. Bill" educational benefits.

This bill is directed at those veterans who are pursuing academic degrees and whose "G.I. Bill" benefits will soon expire. Upon expiration of the benefits, these veterans may not be able to finish their education without financial assistance. This bill provides some financial assistance by requiring the waiver of certain tuition fees.

Your Committee has held a public hearing on S.B. No. 2347-82, which is similar to this bill. Senate Bill No. 2347-82, however, differs from this bill in that it applies only to veterans enrolled as undergraduate students. This bill does not limit the program to undergraduates. Your Committee has decided that the tuition waivers should be available only to undergraduate students.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2551-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2551-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 759-82 (Majority) Ways and Means on H.B. No. 2742-82

The purpose of this bill is to provide a \$25 income tax credit to resident taxpayers who purchase a new approved child passenger restraint system.

Your Committee recognizes the importance of child passenger restraint systems for insuring the safety of children riding in motor vehicles. An economic incentive such as an income tax credit would reduce the purchase price of child passenger restraint systems and therefore encourage greater use of child passenger restraint systems.

Your Committee has made nonsubstantive, language amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2742-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2742-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.
Senator Campbell did not concur.

SCRep. 760-82 Ways and Means on H.B. No. 2838-82

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

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

Your Committee has amended the bill by appropriating out of the general revenues of the State of Hawaii the sum of \$250,000 instead of \$500,000 for the fiscal year 1982-1983 and made nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2838-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as, H.B. No. 2838-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 761-82 (Majority) Ways and Means on H.B. No. 2839-82

The purpose of this bill is to require the immediate appointment of members to fill vacancies on the Tax Review Commission, require the commission to submit its review thirty, instead of one hundred twenty, days prior to the convening of the applicable session, clarify the date by which the commission which replaces the initially appointed commission is to submit its review, and appropriate moneys for the operation of the commission.

Currently, there are no members on the Tax Review Commission. Thus, the constitutional mandate requiring the appointment of a commission to evaluate the state's tax structure is not being met. This bill is necessary to reconstitute the commission and provide for its operation.

Your Committee has held a public hearing on S.B. No. 2983-82, which addresses the same problems as this bill does. Your Committee amended S.B. No. 2983-82 to include substantially the same provisions as are contained in this bill. Thus, your Committee is in basic accord with this bill.

Your Committee, however, has amended the appropriation section of this bill by reducing the appropriated amount to \$300,000 and making the appropriation available for the fiscal year 1982-1983. The bill, as received, proposes to appropriate \$350,000 which is not to lapse until December 31, 1983. Your Committee feels that the appropriation should

be on a fiscal year basis instead of one and one-half years. Accordingly, the appropriated amount has been reduced to reflect the shortened fiscal period for which it will be available. If the commission requires moneys for its operations after June 30, 1983, it may make a request to the Legislature during the regular session of 1983.

In addition, technical, nonsubstantive amendments have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2839-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2839, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Senators Anderson, Abercrombie, Cayetano and Henderson did not concur.

SCRep. 762-82 (Majority) Ways and Means on H.B. No. 2947-82

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

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

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

Your Committee has amended this bill by changing the amount appropriated to \$200,000 and by changing the word "should" to "shall" in line 1 of section 3 of the bill, as received, and by deleting the lapsing provision as unnecessary.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2947-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2947-82, H.D. 2, S.D. 1, 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. 763-82 Ways and Means on H.B. No. 2965-82

The purpose of this Act is to amend chapter 342, Hawaii Revised Statutes, to provide for grant funding, expended by the state Department of Health to the counties to assist in financing the federal share of planning and design costs of wastewater treatment facilities.

The need for this revision arose when the Federal Clean Water Act was amended in 1981. The amendments resulted in federal reimbursements for the planning and design of wastewater treatment facilities which would not occur until actual construction starts. This bill would allow an advance of the federal share of the project to the counties and would be repaid when federal funds are released.

Because federal funding assistance is to be cut from 75 per cent to 55 per cent in 1984, it is necessary to begin planning and design as early as possible in order to maximize federal funding. The advancement of state funds would allow this to occur.

Your Committee had a hearing on the companion bill, S.B. No. 1308.

Your Committee has amended the bill as follows:

1. By leaving intact the statement in subsection (a) of section 342-34, Hawaii Revised Statutes, which provides that "If federal funds are not available, the director may make grants up to one hundred per cent of the estimated reasonable cost of the project";
2. Requiring that the advances made by the state to the county or state agency must be reimbursed to the state within four years after the advance was made, deleting the alternative for reimbursement immediately upon receipt from the federal government, whichever occurs first;
3. Deleting the establishment of a treatment works revolving fund and its abolishment date;

4. Providing that the unexpended or unencumbered balance of any appropriation shall lapse into the general fund on June 30, 1983;

5. Clarifying that the sum appropriated to be expended by the Department of Health shall be expended under the department's HTH-840 program as grants for counties for the purposes of this Act; and

6. Making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2965-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2965-82, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 764-82 Ways and Means on H.B. No. 3142-82

The purpose of this bill is to allow the Hawaii Housing Authority (HHA) to increase the income limits for Hula Mae program applicants.

Present statutory provisions require the HHA to set income limits at 125 per cent of the median income figures most recently published by the U.S. Department of Health, Education, and Welfare, superseded since then by the U.S. Department of Health and Human Services (HHS).

This bill would allow the HHA to increase this percentage to 150 per cent of the median income data published by HHS. It is the intent of your Committee that Hula Mae program applicants whose income is within the original 125 per cent median income figures however should continue to be given priority by the HHA in determining who shall qualify for the mortgage loans if an appropriate project is available.

The Hawaii Housing Authority submitted testimony indicating problems of outdated median income schedules and high interest rates. These problems have severely limited the number of families able to qualify for Hula Mae mortgage loans. The most recent median income schedule released by HHS was published in November 1980. The authority believes that unless the income limits are raised immediately, many families in need of assistance will not be able to participate in the Hula Mae program. Outdated income limits may also prevent the issuance of Hula Mae bonds in the future, thereby jeopardizing the viability of the entire program.

Your Committee notes that the Governor has recommended immediate consideration of this bill.

Your Committee had a hearing on the companion bill, S.B. No. 2861-82.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3142-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 765-82 Ways and Means on H.B. No. 3178-82

The purpose of this bill is to enable the counties to engage in mortgage loan programs and to issue bonds to support such programs.

Your Committee has heard the companion to this bill, S.B. No. 2808-82.

Your Committee amended the bill by making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3178-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3178-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 766-82 Ways and Means on H.B. No. 76

The purpose of this bill is to support fisheries development in the state by providing

for the acquisition, reconditioning, and operation of a vessel as a fuel supply and fish catch storage facility. The bill provides for an appropriation of \$1 from the general revenues of the state to be expended by the department to carry out the purposes of the Act, and gives guidelines and a mechanism by which the department may enter into a special vessel lease with another person engaged in fishery and fishery-related operations.

The Department of Land and Natural Resources is in favor of this bill as it will provide supporting legislation for an appropriation contained in another bill.

Your Committee has amended this bill by including a proviso requiring that no money shall be expended for the purposes of this Act, unless money is appropriated in H.B. No. 2070-82, the executive budget.

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. 76, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 76, H.D. 2, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 767-82 Ways and Means on H.B. No. 765

The purpose of this bill is to amend section 2 of Act 7, First Special Session Laws of Hawaii 1981, to establish a special revenue fund to maintain the state Deferred Compensation Plan.

Act 7 allows for the establishment of a state Deferred Compensation Plan for the benefit of public employees to defer a portion of their compensation to a period of time in the future.

Your Committee has amended this bill by providing for a simple appropriation of \$30,000 without the establishment of a special revenue fund, since the state Deferred Compensation Plan has been operating for only one year and has no track record on which to base the establishment of a special revenue fund.

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

Signed by all members of the Committee except Senator Anderson.

SCRep. 768-82 Ways and Means on H.B. No. 1970-82

The purpose of this bill is to assist the state in resolving the many issues relating to ceded lands. This is to be accomplished by completing the ceded land inventory; studying the legal and fiscal issues relating to use of ceded lands; and studying the use and distribution of revenues generated from ceded lands.

Your Committee finds that the many uncertainties surrounding the matter of ceded lands, and the disposition of revenues generated by the use of ceded lands can best be resolved by ascertaining what and where ceded lands exist, the legal and fiscal problems which may exist or arise from their use, and the effect on all parties concerned with the use and distribution of revenues generated from ceded lands.

Your Committee approves the \$100,000 appropriation to expedite through competent and concentrated effort issues related to ceded lands.

Your Committee has amended this bill so that the funds are to be expended by a neutral party, the Office of the Auditor, instead of the Department of Land and Natural Resources.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1970-82, H.D. 1, as amended herein, and recommends that it pass Third Reading as H.B. No. 1970-82, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 769-82 Ways and Means on H.B. No. 2113-82

The purpose of this bill is to make an appropriation to fund the rental assistance program established by Act 111, Session Laws of Hawaii 1981, to assist low- and moderate-income

individuals and families in obtaining affordable rental housing accommodations in the state.

Act 111, Session Laws of Hawaii 1981, established a rental assistance fund to enable the Hawaii Housing Authority to assist owners of rental housing accommodations in maintaining their rental rates at levels appropriate for low- and moderate-income individuals and families.

The funds appropriated by this bill would be invested and the earnings used to make rental assistance payments to owners of eligible rental housing projects, thereby reducing the rents paid by eligible tenants. The principal amount of the rental assistance fund would remain unchanged.

Your Committee has amended the bill to provide that \$2,000,000 be appropriated for the development of an elderly rental housing project in cooperation with the nonprofit Ewa Housing Foundation.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2113-82, 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. 2113-82, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 770-82 Ways and Means on H.B. No. 2155-82

The purpose of this bill is to appropriate moneys for the payment of tax refunds, and judgments, settlements, and claims against the state.

Your Committee has amended the bill by including an appropriation for the payment of an \$8,612.62 judgment for Rose M. DeMello. In addition, your Committee has made a technical, nonsubstantive amendment.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2155-82, 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. 2155-82, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 771-82 Ways and Means on H.B. No. 2359-82

The purpose of this bill is to provide for the establishment of a statewide witness program by the Department of the Attorney General for the security and protection of government witnesses. The bill appropriates the sum of \$1,200,000 to the Department of the Attorney General to be expended for witness protection efforts, with greatest priority given to cases involving organized crime, racketeering, or career criminals. County and state prosecuting and law enforcement agencies may request witness protection or funding for that purpose from the Attorney General.

Your Committee finds that there is a need for statewide assistance to enable state and county law enforcement agencies to provide protection against witness intimidation, tampering, and retaliation when witnesses are willing to testify in government criminal investigations and prosecutions. The high cost of witness protection is often beyond the means of the counties. Moreover, many cases have statewide as well and local impact, especially in the area of organized crime.

Your Committee notes that the federal government's witness security program has been successful and that a similar program on the state level would enhance efforts by the counties in obtaining the cooperation of witnesses who are necessary for successful prosecution.

Your Committee has amended the bill by changing the appropriation from \$1,200,000 to \$500,000 and establishing the fiscal year of the appropriation.

Your Committee also made nonsubstantive, technical amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2359-82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2359-82, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 772-82 Ways and Means on H.B. No. 2559-82

The purpose of this bill is to provide funds for the payment of a settlement negotiated by the State of Hawaii and Dillingham Corporation, doing business as Hawaiian Dredging and Construction Company ("HD&C"), involving a suit (Civil No. 59357) filed by Dillingham Corporation against the State of Hawaii in 1979.

The Department of Transportation contracted with HD&C in 1973 for a construction project on Interstate Route H-2, Waikakalaua Stream Bridge calling for 380 working days. The project actually took almost three years to complete and is the basis of HD&C's \$1.8 million suit against the state. An extensive evaluation conducted during a joint analysis and negotiation procedure found that the state's errors, primarily in designs and plans, were responsible for 129 days of the delay.

The \$520,000 appropriation will cover the negotiated settlement rather than engage in costly and time-consuming litigation. Also, the Federal Highway Administration has been asked to participate by reimbursing 90 per cent of the settlement amount paid by the state.

The appropriation is to lapse into the general fund on June 30, 1983.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2559-82, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 773-82 Ways and Means on H.B. No. 2669-82

The purposes of this bill are to: (1) shift the responsibility of receiving and processing consumer complaints with respect to unlicensed activities from the Office of Consumer Protection to the complaints office of the Department of Regulatory Agencies; and (2) change the department's name to the Department of Commerce and Consumer Affairs.

Your Committee is aware of the study and criticism by the Legislative Auditor regarding consumer complaints against regulated industries. This bill is one part of an effort to modify the present process to improve the responsiveness of government to the consumer. This bill transfers the handling of complaints against unlicensed activity from the Office of Consumer Protection to the Regulated Industries Complaints Office. This shift is intended to (1) allow the Office of Consumer Protection to devote more of its resources to public interest litigation and education related to unfair and deceptive business practices; and (2) consolidate all consumer complaints related to regulated industries and unlicensed activity into one department where there is adequate staffing, expertise and common purpose.

Your Committee notes that the title, "Regulatory Agencies" does not reflect the department's present jurisdiction over the rapidly growing areas of commerce that it oversees, nor does the title reflect consumer concerns and complaints handled by the department.

The bill also requires the department to take greater responsibility for receiving, investigating and taking appropriate legal action against unlicensed practitioners.

Your Committee has added boiler plate to provide for substantive amendments made to sections amended by this bill by other bills during this regular session. Your Committee has also amended the bill by making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2669-82, 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. 2669-82, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 774-82 Ways and Means on H.B. No. 2679-82

The purpose of this bill is to amend Act 22, First Special Session Laws of Hawaii, 1981, by increasing the appropriations for appointments of legal counsel made by the courts for indigent defendants in criminal and related cases.

Act 22 of the First Special Session Laws of Hawaii, 1981, appropriated \$400,000 for each of the fiscal years 1981-1982 and 1982-1983. This bill would increase the appropriation for fiscal year 1981-1982 to \$700,000 and the appropriation for fiscal year 1982-1983 to \$800,000.

Your Committee finds that increased appropriations are needed because Act 22 also increased the allowable compensation for services rendered by court-appointed counsel. Costs of increased fees, together with increased numbers of court appointments, exceeding previous estimates, have resulted in rapid depletion of appropriated funds. However, your Committee estimates that an increase of \$200,000 for each fiscal year will be sufficient, and has amended the bill accordingly.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2679-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2679-82, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 775-82 (Majority) Ways and Means on H.B. No. 2710-82

The purpose of this bill is to enable the Department of Agriculture to make supplementary loans to assist growers of raw sugar during periods where there is insufficient national protections against imported sugar. These loans are to be made to growers whose production exceeds 5,000 tons, at an interest rate of six per cent, and shall not be for terms of not more than twenty-four months.

Your Committee has amended this bill by changing the amount of appropriation from \$10,000,000 to \$1,500,000, by inserting the fiscal year of expenditure, and by changing the effective date of the Act to July 1, 1982.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2710-82, 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. 2710-82, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Anderson.
Senators Abercrombie and Kawasaki did not concur.

SCRep. 776-82 Ways and Means on H.B. No. 2767-82

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

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

In this regard, your Committee supports and recommends the system of educational resources provided by this bill which would provide schools with equitably distributed discretionary funding for supplies, textbooks, equipment, and services that directly benefit students and improve the educational programs of the schools. Your Committee believes that this innovative system of educational resources would provide schools with the necessary flexibility, resources, and authority to help implement their responsibility for ensuring the quality and completeness of their educational programs.

Your Committee has amended the bill by:

1. Providing that the superintendent of education may withhold up to five per cent of the moneys of the school priority fund for reserve, and thereafter shall allot the balance of the moneys to the school districts based on enrollment. Your Committee made this amendment to provide the superintendent with some flexibility in the distribution of moneys in the fund.

2. Providing that the district superintendents may withhold up to seven per cent of their district allotment of moneys for a reserve which may be used first to ensure that any elementary school may continue its participation in the Hawaii English Program at its fiscal 1981-82 level. This amendment will ensure the continuance of this multi-grade level program at the 1981-82 level.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2767-82, 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. 2767-82, H.D. 3, S.D. 2.

Signed by all members of the Committee.

SCRep. 777-82

Ways and Means on H.B. No. 2907-82

The purpose of this bill is to require the Department of Social Services and Housing to provide personal care services to eligible individuals.

This bill is necessary to prevent the unnecessary institutionalization of individuals with physical or mental illnesses who are unable to adequately care for themselves, but who do not need the degree of care provided by nursing facilities. Some individuals with physical or mental illnesses cannot live in independent settings without custodial care assistance. These individuals are often placed in nursing facilities for lack of better alternatives. Personal care services will enable some of these individuals to remain in their homes by making available periodic custodial care services sufficient for their needs.

Your Committee has made the following amendments to the bill:

(1) The words "shall provide" on page 1, line 12 of the bill, as received, have been replaced with the words "may offer within the funds available". This amendment recognizes that resources are finite and that the provision of personal care services cannot be open ended, but must be subject to legislative appropriation.

(2) The appropriation sections have been deleted and subsequent sections renumbered. Your Committee intends to include an appropriation for personal care services in the supplemental appropriations bill.

(3) The words "adult family" have been inserted before "boarding" on page 1, line 2 and page 2, line 11 of the bill, as received. These amendments clarify the intent of the bill.

In addition, your Committee has made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2907-82, 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. 2907-82, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Anderson.

SCRep. 778-82

(Majority) Ways and Means on H.B. No. 1988-82

The purpose of this bill is to provide an annual deduction from gross income of \$5,000 for contributions to an individual housing account, a trust account, the proceeds of which must be used towards the down payment on or purchase of the first principal residence of a taxpayer.

The individual housing account established by this bill is similar to individual retirement accounts allowed by state and federal income tax law. A maximum of \$5,000 may be contributed each year with a \$25,000 maximum over a ten-year period. The interest accrued and paid on the account is also tax exempt. The moneys from the account must be used for the first principal residence of the person for whom the account was established or the total amount wrongfully paid out is taxable as income in the year paid plus a ten per cent penalty. Once purchased the residence must be lived in for a three-year period or the taxpayer will be penalized.

Your Committee notes that housing in Hawaii is becoming harder and harder to obtain for the first time home buyer. Inflation has escalated the prices of homes and condominiums to an all time high. The Legislature has always felt that the state must assist Hawaii's people to enter the housing market as evidenced by the enactment of the Hula Mae program and many other housing programs during the past fifteen years. Your Committee feels that the revenue loss from this bill will not be a burden that the state is incapable of handling, particularly since the first time homebuyer will generally be a young person just starting out in life. This person will not have been paying large amounts of income taxes at this stage in life, and therefore the revenue loss of allowing up to \$5,000 a year tax exemption to this person will not be large.

At this point your Committee notes that the use of an individual housing account will benefit the low- and middle-income person, but all persons using this account should be aware of the possible negative tax impact upon them as their income rises. This is due to the different tax treatment by the state and federal governments of the moneys and interest in these individual retirement accounts. The federal government does not at this time exempt moneys paid into this type of account. Therefore, higher federal income taxes may result due to the federal taxation of the interest on these accounts plus the reduction of state income taxes due to the exemption resulting in smaller federal deductions,

if itemizing. Extrapolations of income and the federal tax burden thereon indicate that at higher income levels a person having an individual housing account may have a federal tax liability more than offsetting the state income tax benefit allowed by these accounts. Being aware of this problem, your Committee still feels that these accounts will enable our young people to save the necessary moneys for the purchase of their first home at income levels that will obtain the benefits of the individual housing account without the possible negative effects.

Your Committee has amended this bill to provide that interest on these individual housing accounts is taxable in the year accrued to ease the taxes that will be paid upon distribution and to provide that upon distribution of the account the proceeds of the account are taxable in the year of distribution.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1988-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1988-82, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.
Senator Kawasaki did not concur.

SCRep. 779-82 Ways and Means on H.B. No. 2070-82

The purpose of this bill is to appropriate or authorize, as the case may be, supplementary funds to various state programs for the fiscal biennium 1981-83.

This bill, as amended, provides an additional \$13.0 million in general fund operating costs and \$1.7 million in special fund operating costs for fiscal year 1982-83.

This bill, as amended, also provides \$209.6 million for capital improvement projects for the fiscal year 1982-83, of which \$60.3 million is in general obligation fund, \$.3 million is in general fund cash, and \$16.8 is in general obligation bond fund-reimbursable.

This bill, as amended, also appropriates \$6.3 million in fiscal year 1982-83 for grants-in-aid to private agencies.

Economic outlook

Your Committee began this session's work on January 5, 1982, with a public hearing which featured an overview of the state's economy. Mr. Jensen S. L. Hee, Director, Department of Budget and Finance, set the stage for your Committee's deliberations by testifying:

"Reiterating our earlier caution, taking into consideration the lagging effects on the State of Hawaii of the mainland recessionary trend, the softness of the local tourist and sugar industries, and the actual tax collection trend, a conservative stance by the State would be in order in the consideration of State program requirements for fiscal years 1982 and 1983."

Mr. Shurei Hirozawa, Vice-President, Research Division, First Hawaiian Bank also testified at that hearing:

"...there can be coincidences, and 1981 happened to be one of those years. Tourism was in the second year of recession last year. Sugar, after enjoying a boom in 1980, was in the worst shape last year in more than two decades, and the best years that pineapple was enjoying deteriorated in 1981 into a year of deep concern as world overproduction and competition from other fruits badly eroded profit margin. So for the first time that I can remember, three major industries were in decline phases in the same year."

Since January, your Committee held a number of hearings and received testimony from many other speakers however it did not receive evidence to dispute the trends forecast at the initial hearing and in fact, since that time, even more grim predictions for the sugar industry have been presented.

Within the last two weeks page one stories in the state's newspapers have been headlined by declarations that: "Fragile' Isle economy no longer growing kid", and "Times of rethinking loom as visitors cease to boom."

State tax revenues rise and fall with the prevailing economic fortunes of the community and although there presently exists a surplus of revenues, accumulated during the final

years of the boom years of the 1970's, it is quite apparent that the combined factors of a slowing economy and the natural increases in state spending may soon consume a large portion of those funds.

This somber scenario is exacerbated by fact that state and local governments can no longer turn to the largess of the federal government to perpetuate perennial spending patterns.

Your Committee finds that it is imperative that a cautious and conservative philosophy be adopted regarding revenues and expenditures, to preserve the financial vitality of the state.

However, your Committee also recognizes, that programs critical to the health and safety of the citizens of the state as well as programs critical to the maintenance and expansion of the economy must continue to be funded at adequate levels.

Your Committee finds that the preservation of important programs and the exercise of financial prudence are not mutually-exclusive interests.

Your Committee therefore considered this and other bills of financial impact, with the intent and purpose of effectuating both those important state interests.

Economic Development

Most of the proposals considered in this area dealt more with the preservation and maintenance of our economic base, rather than with development and expansion in new fields.

Agriculture typified this shift and was the focus of most of the attention. The effort to extend the life of the sugar industry in Hawaii was a matter of particular concern. Sugar's recent and unprecedented decline and the closing of Puna Sugar portends a bleak future at best for what was once the leading industry in the islands. As mentioned earlier, the glut of canned pineapple in the world market has also had a serious effect on the profitability of pineapple, another former mainstay of Hawaii's economy. Most recently the local dairy industry is being seriously affected by the present milk situation.

Your Committee provided assistance to Hawaii agriculture by acting on a number of proposals, with a combined impact of approximately \$14 million, intended to preserve and maintain various agricultural activities.

Loan programs are established through other bills acted upon by your Committee, to assist both large and small sugar growers (\$3.5 million). Also, \$3 million is provided for sugar research, and taxes on certain agricultural raw materials are to be reduced to lower production costs. The limits on agriculture loans, under Chapter 155, Hawaii Revised Statutes, is raised and the revolving fund is supplemented with an additional \$5 million which could be used, among other uses, to assist local dairy farmers presently experiencing cash flow difficulties as a result of the current milk situation.

Funds are provided in this bill for: the promotion of certain products (pineapple, anthurium, and papaya); jojoba bean research; assistance to guava growers; and a banana processing plant in Waimanalo.

Employment

The slowing economy has already and will continue to have a significant impact on employment in Hawaii. This bill provides the means to deal with an immediate concern, by funding a study to assist displaced sugar workers. The study is to assess the transferable skills and knowledge of displaced sugar workers and will develop options for transition to other employment.

This bill also provides for a long-range approach to dealing with the tightening job market by continuing the career resource centers available to high school students, to assist these eventual job-seekers to make meaningful career decisions.

Transportation

No state has clearer and more definite boundaries than the State of Hawaii. More than two-thousand miles of open ocean separate the islands from the North American continent and as a result, Hawaii is the only state with borders untraversed by interstate railroads or highways.

Ship routes once formed Hawaii's only physical link with other locations. The fact that Hawaii is not self-sufficient magnifies the importance of safe and reliable transportation.

Today much of the cargo we now receive arrives by air and practically all those who travel within and without of the state, travel by air.

Honolulu International Airport (HIA) is the only major air transportation facility in the state and therefore its safe and efficient operation is a matter of compelling state interest.

However, as the only major air facility in the state, HIA has become one of the busiest airports in the nation (10th in passengers served) with a precarious mix of military/civilian, jet/propeller, and large/small aircraft. The problem is compounded by the fact that all of Oahu's flight schools are located at HIA, a dangerous ingredient to an already unsettling situation. (Reportedly non-English speaking student pilots presently practice landing aircraft at HIA.)

Until very recently, HIA was rated a "red star" airport by an international pilots association, ranking it among the four most dangerous airports in the nation.

Attempts have been made to improve the safety at HIA for nearly twenty years as the state has sought to develop a reliever airport on Oahu.

The Legislature, through Act 1, First Special Session Laws of Hawaii 1981, addressed the troublesome issue last session by attempting to obtain Wheeler Field as the site for such a facility. Efforts to implement the intent of Act 1 have not been successful and therefore the problem is one that must again be addressed.

Your Committee finds that since last session, the level of activity at HIA and the traffic problem has somewhat abated. Your Committee also finds however that the problem of the "mixing" at HIA continues to be a problem and that an immediate step that can be taken to further ameliorate the situation at HIA is to effectuate a relocation of flight school activity.

This bill amends Act 1 by appropriating funds to develop Dillingham Field as the site of such activity.

Your Committee recognizes that the mere designation of Dillingham Field as the site of flight school activity is not self-executing and that incentives must be offered to effectuate this intent.

Your Committee finds that the means to encourage such a relocation are:

- (1) Improvements at Dillingham Field;
- (2) Permitting, by rules and regulations of the Department of Transportation, landing and takeoffs at HIA only by certified pilots or by student pilots accompanied by a certified pilot in the cockpit;
- (3) The assessment and collection of reasonable use fees at HIA for general aviation activities;
- (4) Selective improvement at HIA to facilitate the movement of all general aviation activity, other than flight schools, to the Lagoon Drive side of HIA; and
- (5) Better scheduling of activity at HIA.

Your Committee notes that although improving the safety of HIA is the primary interest for the action provided for in this bill, such action will also prove far more cost effective than the expenditure of more than \$20 million to build a completely new airport facility.

Your Committee also notes that the assessing and collection of reasonable general aviation fees at HIA will serve the dual interests of promoting safety and of the efficient operation of the facility:

"Most government programs are designed to benefit the Nation as a whole, or provide special assistance to needy or vulnerable groups. Some activities, however, provide direct economic benefits to a specific and known group of individuals or enterprises... it is clearly inequitable for the general taxpayer to bear the burden of services that provide special benefits for specific users... The actual users of the aviation system-- commercial and general aviation--receive most of its benefits. Not requiring users to bear the full cost of their activities provides an unwarranted subsidy and encourages uneconomic use of the system..."

America's New Beginning: A Program for Economic Recovery, President Ronald Reagan, January 18, 1981.

Health

The continued operation of an efficient Emergency Medical Services System for the City and County of Honolulu is as much a matter of great importance as it is one of great disagreement.

The issues of which governmental entity, the state or the city, should operate and which can best operate the EMS system have been debated for a number of years.

This bill, as introduced, reflected the position of the Department of Health, that the state assume the operation of the EMS system on Oahu.

This bill as amended provides funds for the continued operation of the EMS system by the City and County of Honolulu.

Your Committee also amended this bill to provide funds for research and development of a clinical interferon-biological modifier program for patients in Hawaii, including the acquisition and dispensing of the anti-viral agent, interferon and other biological response modifiers.

Social Services

Your Committee has provided \$78,000 for a feasibility study by the Department of Social Services and Housing on the Nursing Home Without Walls program due to a need for a community based alternative to institutionalization of the functionally disabled and frail elderly.

The Nursing Home Without Walls program is intended to provide home health services, personal care services, homemaker services, chore services, and other appropriate services to eligible recipients for the purpose of maintaining them in noninstitutional residences.

Lower Education

Education is another area in which both the interests of fiscal restraint and of adequate funding of essential programs can be implemented.

This bill provides funds for:

- (1) the expansion of the Hawaiian studies program;
- (2) the installation of an automated library circulation system (to curb the very high losses sustained each year by the library system); and
- (3) additional electrical costs and for energy conservation programs.

Higher Education

Electricity

The request of the University of Hawaii for funds to cover the additional costs of electricity throughout the entire system was the largest item in this area.

Your Committee believes that adequate funds are provided for such purposes by this bill therefore it is the clear intent of the Committee that the university not transfer funds or surpluses between programs and cost categories to cover electricity costs above what is provided herein.

Nursing shortage

The statewide nursing shortage is especially acute on the neighbor islands. This bill provides \$141,425 to alleviate this problem. The funds appropriated are to be used for traveling nursing instructors for ICU/CCU critical care nursing and supervisors for summer student employment in Kona and Hilo hospitals.

Federal Funds

The university has experienced substantial cutbacks in federal aid. This bill provides funds to make-up for a large portion of discontinued federal funds, however your Committee

makes it clear that the university shall seek and find alternative sources of funding, especially for "pure" research.

Your Committee strongly suggests that the university develop and obtain more user requested and funded research projects.

Public Safety

Crime continues to be the number one concern of local residents, according to an Advertiser poll taken early this year. That concern flows from the perception of the failure of the corrections system to effectively deal with problems that threaten public safety. Inadequate planning, overcrowding, prison riots, escapes, and poorly implemented work and rehabilitation programs are the most visible deficiencies of the system. This bill provides funds to deal with these deficiencies by:

- (1) increasing prison security;
- (2) facilitating the proper training of security personnel;
- (3) strengthening planning efforts; and
- (4) expanding work and educational programs to reduce inmate idleness.

Insufficient staffing has been a major problem for correctional facilities, especially Oahu Community Correctional Center (OCCC), because overcrowding has necessitated more staff on each shift. This in turn has led to more overtime, especially on Oahu and Maui, where the Adult Corrections Officers (ACOs) average 16 hours a day and often work for 13 straight days. The staff turnover of new ACOs is high at the OCCC where the atmosphere is extremely stressful and there is inadequate staff time and funds available to train the old and new staff members.

This bill provides OCCC with additional ACOs for perimeter and internal security and has also provided funds to cover overtime costs resulting from training requirements.

Corrections Planning

Your Committee has strengthened the planning office in the Corrections Division of the Department of Social Services and Housing by providing an additional corrections program specialist.

Work and Education Programs

Your Committee is concerned about inmate idleness and the poor implementation of programs to rehabilitate inmates through workline activities and remedial and vocational education. Your Committee has provided funds to expand these programs at OCCC and has also provided funds for the repair and maintenance of closed-circuit televisions at Holomana School. Your Committee has been informed that the department is now making a concerted effort at OCCC to align the vocational education programs in auto repair, plumbing, air conditioning, and building maintenance with the repair and maintenance needs of the facility.

Individual rights

The professional, vocational licensing program within the Department of Regulatory Agencies has long been in need of upgrading and modernization.

This bill provides funds to computerize the files of the licensing section of the department.

Government-wide support

Timeliness and accuracy of state accounting systems are important factors, for attaining and retaining a high state bond rating.

Your Committee amended the bill to provide \$2,711,385 to computerize the state accounting system (Financial Accounting and Management Information System).

Your Committee has also provided funds for salary increases for all presently filled positions for deputies attorney general according to the salary chart submitted by the Office of the Attorney General on March 25, 1982. These increases afford these positions comparable salaries to those of the City and County of Honolulu's Office of the Prosecuting Attorney. It is the intent of your Committee that the salary increases shall be made according

to the March 25 chart and each position shall receive its proposed increase.

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

Capital Improvement Projects

This bill appropriates funds for a number of capital improvement projects. The range of projects is broad and relate to the objectives of the programs in which they fall.

Your Committee does however express a deep concern regarding the agricultural park projects. Your Committee finds that it is highly probable that agricultural land, other than that in state agricultural parks, may soon be opening up to farmers, who would be more effectively served through loan programs and tax incentives, rather than expending funds to develop additional agricultural parks.

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

Signed by all members of the Committee except Senators Ajifu and Yee.

SCRep. 780-82

Ways and Means on H.B. No. 2090-82

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

The bill as received will increase the credits granted between three and four times their present amounts and will provide a credit at the highest income level of \$25,000 and over of \$50. The credits allowed under this bill are based on the amount of the taxpayer's modified adjusted gross income. Modified adjusted gross income includes not only adjusted gross income but also such exempt income as pensions.

Your Committee has amended the bill by deleting the proposed credit schedule based on modified adjusted gross income and instead increasing the present tax credit schedule based on adjusted gross income by twenty per cent for each level of adjusted gross income allowed the credit. Your Committee finds that the net revenue loss to the state under this proposal would amount to only \$2.3 million.

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

Your Committee has further amended the bill by:

(1) Deleting the purpose clause from section 1 of the bill and renumbering the existing sections of the bill.

(2) Deleting the amendment of section 235-55.5(c), Hawaii Revised Statutes, relating to the definition of qualified exemption and the amendment to subsection (c) relating to modified adjusted gross income from the bill.

(3) Allowing double the tax credit for persons 65 and older.

(4) Deleting from the effective date the proviso that the amendment made by the bill shall remain in effect until December 31, 1983 and that the provisions of section 235-55.5,

Hawaii Revised Statutes, in effect prior to the amendments are reenacted.

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

Signed by all members of the Committee except Senators Anderson, Campbell, Ajifu and Yee.

SCRep. 781-82 Ways and Means on H.B. No. 2201-82

The purposes of this bill are (1) to allow the Hawaii Housing Authority to issue \$25,000,000 in tax exempt revenue bonds under the Hula Mae program to finance home improvement loans, and (2) to make a "housekeeping" amendment to section 356-212, Hawaii Revised Statutes, relating to the payment and security of revenue bonds.

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

This "housekeeping" amendment to the Housing Loan and Mortgage Act would relieve the Hawaii Housing Authority of the burdensome obligation of assigning and delivering to the trustee each mortgage note and the related mortgage for each mortgage loan purchased under the Hula Mae program. The proposed new section 356-206(d) would provide adequate assurance to bondholders that the pledge made by the authority on behalf of the bondholders is a perfected and enforceable pledge.

Your Committee has amended the bill by:

1. Changing the aggregate principal amount of revenue bonds which may be issued by the Hawaii Housing Authority pursuant to part III, chapter 39, and part II, chapter 356, Hawaii Revised Statutes, from \$25,000,000 to \$1,000,000.
2. Changing the effective date of the bill as an Act to read "This Act shall take effect on July 1, 1982 and is repealed on July 1, 1983."
3. Making other technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2201-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2201-82, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Anderson, Campbell, Ajifu and Yee.

SCRep. 782-82 (Majority) Ways and Means on H.B. No. 2336-82

The purpose of this bill is to provide funds for various research as identified in the updated sugar industry analysis being conducted by the College of Tropical Agriculture and Human Resources of the University of Hawaii.

This bill provides an appropriation of \$3,000,000 to be expended by the Department of Agriculture; provided that the Hawaiian Sugar Planters' Association contributes \$3,000,000 for the same research purpose.

Your Committee has amended the bill by changing the name "Hawaiian Sugar Producers Association" to the correct name which is "Hawaiian Sugar Planters' Association". Your Committee has also made other technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2336-82, 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. 2336-82, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Yee.
Senators Abercrombie and Kawasaki did not concur.

SCRep. 783-82

(Majority) Ways and Means on H.B. No. 3139-82

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist the processing enterprise Combustion Engineering/Amfac, in providing for the recovery of energy of material resources from municipal solid waste.

Your Committee finds that the Department of Planning and Economic Development, the City and County of Honolulu, and several individuals and community groups support the intent and purpose of this bill. However, your Committee finds that members of the Waipahu community urge that the processing facility should not be established within a residential community. The bill as received would prohibit such a processing facility from being built in any residential area.

Your Committee has amended the bill by:

(1) Deleting the provision that the plant not be built in any residential area and inserting instead the provision that the facility not be constructed on or within two miles of any residential-zoned land.

(2) Making nonsubstantive, technical, and language amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3139-82, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3139-82, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ajifu and Yee.
Senators Anderson and Saiki did not concur.

SCRep. 784-82

Judiciary on H.B. No. 3092-82

The purpose of this bill is to ensure an equitable and fair election system in Hawaii.

The original bill provided for amendments to the election laws of Hawaii relating to petition requirements.

Your Committee amended the bill to address the concerns of an invalidated reapportionment plan. As amended the bill provides that the members of the reapportionment commission shall continue to hold office until such time as a new reapportionment plan of the commission is implemented or accepted by the court when any plan is invalidated by a court.

Your Committee feels that a reapportionment plan for Hawaii is best devised by the reapportionment commission rather than any masters that would be appointed by a court.

The reapportionment commission has held many hearings and is aware of the uniqueness of our island state. This awareness of our state will better ensure the fair and equitable election system that will embody and protect each citizen's fundamental right to vote.

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

Signed by all members of the Committee except Senator O'Connor.

SCRep. 785-82

Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Stand. Com. Rep. Nos. 709-82 to 784-82 on April 2, 1982 at the p.m. (6:30) Session;
and

Gov. Msg. Nos. 236 to 266, S.C.R. No. 58, and S.R. No. 80 on April 5, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 786-82

Agriculture on S.C.R. No. 3

The purpose of this concurrent resolution is to adopt the State Agriculture Functional Plan as part of the Hawaii State Plan and provide for the means of implementing the agriculture plan through the Department of Agriculture.

The resolution requires the Department of Agriculture to submit to the State Plan Policy Council a progress report 60 days before any regular session of the Legislature commences. The Department of Agriculture will revise the State Agriculture Plan to keep consistency within the plan.

Your Committee heard a broad spectrum of testimony and finds that the Agriculture Plan is within the goals of the State of Hawaii and provides an excellent framework of objectives to be pursued.

Your Committee has made the following amendments to the plan, which amendments have been incorporated into the concurrent resolution as Exhibit A:

1. The second paragraph on page I-11 is amended to read as follows:

Siting of Transportation and Other Public Facilities on Agricultural Land. The State Transportation Plan calls for the development of a General Aviation Airport on Oahu. Several of the principal sites under consideration for location of this facility involve agricultural land. [The State Agriculture Plan recognizes that the use of agricultural land for non-agricultural purposes may at times be necessary, particularly where overriding public interest and safety is involved. Hence, Implementing Action B(5)(c) states: "...important agricultural lands shall be classified in the State Agricultural District and shall be zoned for agricultural use, except where substantial injustice or inequity will result, or where overriding public interest exists (emphasis added)." This allows competing public interests for use of agricultural lands to be weighed on a case-by-case basis.] It is the policy of the State Agriculture Plan that such non-agricultural use be kept away from the important agricultural lands of the State (Policies B(4) and B(5)).

The purpose of amendment (24) is to make clear the policy that non-agricultural uses such as airports shall be kept away from the important agricultural lands of the state.

2. The first sentence of item A(1)(a) on page I-16 is amended to read as follows:

"IMPLEMENTING ACTION: Develop alternative strategies to allow export of fruit-fly host commodities[.], while putting top pest control priority on assessing the costs and benefits of the complete eradication of the Med Fly and other prime pests from the State."

The purpose of this amendment is to emphasize the need to eradicate the Med Fly and other threats to the agricultural industry.

3. Item A(2) page I-17 is amended to include a new section A(2)(c) to read as follows:

"IMPLEMENTING ACTION: Encourage the formation and development of a State-wide co-op council with centralized marketing and distribution system."

Implementing Organization (s): Industry, GACC, CTAH.
Assisting Organization: DOA, USDA
Time Frame: Initiate in FY 1982-1983.

Comment: A state-wide council of co-ops would not only allow for advice and assistance to existing co-ops, but would allow for the formation of a centralized marketing, transportation, distribution and storage system for the diversified agricultural industries of the State, in close integration with existing wholesalers."

The amendment is self-explanatory.

4. Item B(5)(b) on page I-23 is deleted and replaced with the following:

"IMPLEMENTING ACTION: Undertake a comprehensive study of agricultural use of Hawaii's land resources, including a statutory definition of "important agriculture lands", and proposed legislation affecting agricultural lands of the State, as well as land-use policy in general."

Implementing Organization: DOA
Assisting Organization: Study Commission
Time Frame: 1982-1984.

Comment: Establish a special study commission administratively placed in the DOA, which would study the broad policies affecting agricultural lands of the State, as referred to in the Constitutional mandate, and then recommend legislation which would help carry out the Constitutional mandate. This Implementing Action would have some effect upon Implementing Action B(4)(a), as well as Policy B(5) generally."

The purpose of this amendment is self-explanatory.

5. Item C(1)(c) on page I-26 is redesignated "C(1)(d) and the following is inserted as C(1)(c):

"C(1)(c). IMPLEMENTING ACTION. Establish a centralized state agency for the conservation of soil and water resources.

Implementing Organization(s): DLNR, SWC, HACD
Assisting Organization(s): SCS, WRRC, DOA
Time Frame: 1982-83.

Comment: Hawaii is one of only two states with no recognized central water and soil conservation entity. The Hawaii Association of Conservation Districts (HACD) is an unofficial association of 15 legally-recognized conservation districts (the SWCD's), but HACD's relationship with the State is ambiguous. A clear support and establishment of a central State agency, within DLNR, is needed to qualify for expected federal block grants for such agencies. Once such central agency is established, it would have an impact upon C(1)(d)."

The purpose of this amendment is self-explanatory.

6. Item G(1) is amended by adding a new section G(1)(b) to read as follows:

"G(1)(b) IMPLEMENTING ACTION: Determine economic feasibility of utilization of sugar resources for ethanol production.

Implementing Organization(s): DOA, DPED, Industry
Assisting Organization(s): HNEI, US Dept. Energy
Time Frame: 1982-83.

Comment: Ethanol appears to be a viable alternative use of available sugar resources. A determination study should be made with recommendations concerning legislation, tax incentives, funding, bonds, or other State-assisted support."

The purpose of this amendment is self-explanatory.

Your Committee is concerned with the relationship between the State Agriculture Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it absolutely clear that the functional plan shall only serve as a guideline for the state and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Agriculture Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 3, as amended herein, and recommends its referral to the Committee on Economic Development in the form attached hereto as S.C.R. No. 3, S.D. 1.

Signed by all members of the Committee except Senator Holt.

SCRep. 787-82

Ecology, Environment and Recreation on S.C.R. No. 7

The purpose of this concurrent resolution is to adopt the State Recreation Plan pursuant to the Hawaii State Planning Act (Act 100, Session Laws of Hawaii 1978), chapter 226, Hawaii Revised Statutes. Adoption of this concurrent resolution would enable the Department of Land and Natural Resources to begin coordinating and monitoring the implementation of this plan.

The State Recreation Plan assesses present and potential availability of outdoor recreation resources. It provides guidance to state and county agencies in the acquisition and preservation of land for adequate recreational facilities and programs and will ensure public access to all recreation areas.

Your Committee received testimony from the Department of Planning and Economic Development, Department of Land and Natural Resources, and other interested individuals supporting the adoption and implementation of the State Recreation Plan.

The State Recreation Plan has been modified during the past year in accordance with the policy council's Guidelines to Agencies in the Revision of State Functional Plans. These guidelines outlined several changes in response to concerns raised by the Legislature in the 1981 session.

These changes will provide for the inclusion of county planning agencies in the formulation and administration of actions concerning the acquisition and utilization of recreational resources. It is essential that the state functional plan and county general and development plans complement one another and work together to implement the Hawaii State Plan. The State Recreation Plan will assure that the problems and issues of statewide importance are addressed, while the county general and development plans would address each county's unique problems and needs.

Your Committee has adopted the recommendations of the policy council to amend the State Recreation Plan as follows:

1. Amend item (D)(2)(a) on page 17 pertaining to the securing of public access to resources with recreational value to read: "Secure public access to recreation resources through 1) renewable lease or by establishing lease or purchase requirements; 2) administration of regulations and requirements at the state and county levels, and 3) provision of tax incentives and liability waivers."

The policy council recommended this amendment to provide the option of utilizing police powers in ensuring adequate public access as a condition of zoning, subdivision and/or development approvals. Your Committee feels that this option must be made available to the counties, to use at their discretion, in instances where public access cannot be otherwise secured.

2. Amend item E(1)(a) on page 18 of the Plan to read: "[Establish assistive relations between recreation agencies,] Promote interagency assistance programs in which skills and services can be shared."

The policy council felt that previous language was ambiguous and amended the language to clarify the intent of this action.

3. Amend item E(1)(b) on page 18 by adding "County Recreation Agencies" as an assisting organization in implementing this objective. This section should read: "Assisting Organizations: State Parks, County Planning Agencies and County Recreation Agencies".

Your Committee concurs with the policy council's recommendation that the efforts to integrate public recreation planning into a comprehensive framework must include the participation of each county's recreation agency.

The aforementioned amendments have been incorporated into the concurrent resolution as Exhibit A. It should be noted that the plan prepared by the Department of Planning and Economic Development dated October, 1981, shall be identified and adopted as the State Recreation Plan.

Your Committee is also concerned with the relationship between the State Recreation Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it absolutely clear that the functional plan shall serve as guidelines only for the state and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Recreation Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both Houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 7, as amended herein, and recommends that it be referred to the

Committee on Economic Development, in the form attached hereto as S.C.R. No. 7, S.D. 1.

Signed by all members of the Committee.

SCRep. 788-82 Ecology, Environment and Recreation on S.C.R. No. 8

The purpose of this concurrent resolution is to adopt the State Conservation Lands Plan pursuant to the Hawaii State Planning Act (Act 100, Session Laws of Hawaii 1978), chapter 226, Hawaii Revised Statutes.

The State Conservation Lands Plan would define further the Hawaii State Plan and establish a rational basis for managing the conservation lands and resources in the state. As the population increases and urbanization pressures grow, the need for prudent and effective utilization of conservation land and resources will become greater. It is believed that this plan will serve to direct the growth of Hawaii toward an environmentally sound future.

Your Committee received testimony from the Department of Land and Natural Resources, the Department of Planning and Economic Development, and the Office of Hawaiian Affairs supporting the adoption of the Conservation Lands Plan.

The Conservation Lands Plan has been modified in the past year in accordance with the policy council's Guidelines to Agencies in the Revision of State Functional Plans. These guidelines outlined several amendments in response to concerns raised by the Legislature during the 1981 session.

Your Committee has adopted the recommendations of the policy council to amend the State Conservation Lands Plan as follows:

1. Item A(1)(a), on page 11, pertaining to the protection, preservation, and conservation of Hawaii's resources is amended to read: "Identify the] Maintain a comprehensive inventory of critical environmental areas in Hawaii to include but not be limited to the following: watershed and recharge areas; wildlife habitats (land and ocean); areas with endangered species of plants and wildlife; natural streams and water bodies; scenic and recreational shoreline resources; open space and natural areas; historic and cultural sites; areas particularly sensitive to reduction in water and air quality; scenic resources, and areas subject to natural hazards."

This amendment was made because a number of the "critical environmental areas" listed above have already been identified. The policy council recommended the revision to clarify this point and to place more emphasis on the need to maintain current information on these areas.

2. Item A(1)(b), on page 11, is amended to read: "Review the State land use districts and Regulation 4 of the DLNR and [establish] if appropriate, amend criteria [to ensure] for the inclusion of critical environmental areas, including hazardous areas, in the State Conservation District."

This amendment clarifies the intent of this action to specifically determine the areas which should be included in the State Conservation District by criteria review.

3. Item A(1)(b), on page 11, is amended by adding "County Planning Agencies" as an assisting organization in implementing this objective. This section will read: "Assisting Organizations: DPED, LUC, County Planning Agencies".

This change was made because your Committee believes that there must be input and participation by county agencies if the plan is to succeed on a statewide basis.

4. Policy C(3), on page 16, pertaining to the protection and management of lands with historic or natural resources value, is amended by adding a new section to read as follows:

"C(3)(c). IMPLEMENTING ACTION. Establish criteria and evaluate areas of public land with historic or natural resource value and establish management practices to ensure the protection of areas from further degradation.
Implementing Organization: DLNR
Time Frame: Ongoing"

The policy committee has requested this inclusion to correct an oversight in the plan.

Your Committee is in agreement with the inclusion of these amendments in the State Conservation Lands Plan. The aforementioned amendments have been incorporated into the concurrent resolution as Exhibit A. It should be noted that the State Conservation Lands Plan shall be identified and adopted as the plan prepared by the Department of Planning and Economic Development dated October 1981.

Furthermore, your Committee is concerned with the relationship between the State Conservation Lands functional plan and Chapter 226, Hawaii Revised Statutes, and desires to clarify the intent that the functional plan shall only serve as a guideline for the state and the counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Conservation Lands plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 8, as amended herein, and recommends that it be referred to the Committee on Economic Development, in the form attached hereto as S.C.R. No. 8, S.D. 1.

Signed by all members of the Committee.

SCRep. 789-82 Ecology, Environment and Recreation on S.C.R. No. 9

The purpose of this concurrent resolution is to adopt the State Historic Preservation Plan pursuant to the Hawaii State Planning Act (Act 100, Session Laws of Hawaii 1978), chapter 226, Hawaii Revised Statutes. Adoption of this concurrent resolution would enable the Department of Land and Natural Resources to commence work upon the implementation of this plan.

Major priorities for such activities as the collection and preservation of oral histories, historic records and artifacts, the perpetuation of traditional arts and skills, the preservation of historic properties, and the education of the public in regard to Hawaii's past would be identified through the implementation of the State Historic Preservation Plan.

The scope of the State Historic Preservation Plan would direct urban development away from areas which include areas of limited land resources, open shoreline areas, and significant historic and cultural sites.

Your Committee received testimony from the Department of Land and Natural Resources, the Department of Planning and Economic Development, the Office of Hawaiian Affairs, and the Historic Hawai'i Foundation in support of this concurrent resolution.

The policy council has offered recommendations for the amendment of the State Historic Preservation Plan in response to concerns voiced by the Legislature during the 1981 session. These amendments better define the terms "preservation" for the purposes of the State Historic Preservation Plan and delete any reference to staffing since these requirements are more properly addressed in departmental programming and budgetary processes.

Your Committee has adopted the recommendations of the policy council to amend the State Historic Preservation Plan as follows:

1. Item A(2)(a), on page 15, is amended to read: "Expand the State Archives' microfilming capabilities [by providing the Archives with four additional staff positions, one photographer and three pretechnicians]."

Your Committee concurs with the policy council's efforts to remove all reference within the State Historical Preservation Plan to staff allocation requirements.

2. Item A(2)(b), on page 15, is amended to read: "Establish the State Archives as a repository for business and church records in the State[,] and provide for the efficient management in [the Archives with sufficient staff to manage] the collection and conservation of these records."
3. Item C(2)(a), on page 21, is amended to read: "Expand DLNR's archaeological [staff so that it can service] services to meet all State agency needs, and encourage County planning offices to [hire archaeologists to their staff.] provide archaeological services."

4. Item C(2)(b), on page 21, is amended to read: "[Establish] Computerize the inventory of historic properties and establish an efficient information retrieval system [with sufficient staff and support services that is] accessible to permitting agencies [by computerizing the inventory of historic properties]."
5. The narrative under Objective D on page 23 is amended to read: "The preservation of historic properties encompasses a variety of activities which include stabilization, rehabilitation, restoration and reconstruction. The preservation of historic buildings has proven itself to be energy efficient and labor intensive. By supporting the restoration/rehabilitation of buildings, the plan [addressed] addresses State Plan Priority Directions by encouraging the stimulation of the economy to provide needed jobs, promoting a consistent and stable level of construction activity, providing incentives to owners of historic hotels to repair and maintain their visitor facilities, encouraging the conservation of energy, encouraging the use of energy conserving technologies, providing alternatives for the growth and development of the State's construction industry, helping meet Hawaii's housing needs, encouraging State and Federal funding for neighbor island projects, and pursuing the rehabilitation of urban areas. The plan also provides for distributing new knowledge on technological advances. Presently, the Federal government and the State Historic Preservation Office, working in conjunction with the private sector and the counties, has provided the lead in this area. The plan recommends no shifts in responsibility for this area, although it does support an increased participation by the State and counties."

The amending sentence defines and clarifies the types of preservation activities which should be undertaken under the guidelines of the State Historic Preservation Plan. Your Committee shares the policy council's belief that this definition, whenever used in the plan, refers to restoration activities as well as protection and maintenance efforts.

6. Item D(2)(b) on page 25 is amended to read: "Coordinate with other agencies to assure up to 1 per cent of their project costs are expended as appropriate for investigation, recording, preservation and salvage of impacted historic properties."

Your Committee concurs with the amendment to provide the Department of Land and Natural Resources with more flexibility in meeting the requirement regarding monies to be expended for preservation purposes.

The aforementioned amendments have been incorporated into the concurrent resolution as exhibit A. It should be noted that the State Historic Preservation Plan shall be identified and adopted as the plan prepared by the Department of Planning and Economic Development, dated October 1981.

Your Committee on Ecology, Environment and Recreation is concerned with the relationship between the State Historic Preservation Functional Plan and chapter 226, Hawaii Revised Statutes, and desires to make it absolutely clear that the functional plan shall only serve as a guideline for the state and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Historic Preservation Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon the signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.C.R. No. 9, as amended herein, and recommends that it be referred to the Committee on Economic Development in the form attached hereto as S.C.R. No. 9, S.D. 1.

Signed by all members of the Committee.

SCRep. 790-82

Higher Education on S.C.R. No. 14

The purpose of this concurrent resolution is to adopt the State Higher Education Plan as a functional plan for the State of Hawaii, in conformance with provisions of Section 226-58, Hawaii Revised Statutes. The concurrent resolution also provides that the University of Hawaii shall have the responsibility for coordinating and monitoring implementation efforts, as well as for conducting review, revision, and updating of the State Higher Education Plan at two-year intervals.

Your Committee has carefully reviewed the State Higher Education Plan as revised during the past year to address concerns raised by the 1981 Legislature.

Your Committee has also reviewed the following related documents: 1) State Higher Education Plan Technical Reference Document, October 31, 1981; 2) Findings and Recommendations of the Policy Council on the State Higher Education Plan, December 14, 1981; 3) Public Informational Meetings: Public Response to State Functional Plan Presentations, Department of Planning and Economic Development, January 1982; and 4) several other progress reports on state and county activities to implement priority directions of the Hawaii State Plan.

Your Committee heard testimony on the State Higher Education Plan from the Department of Planning and Economic Development, the Commission on Manpower and Full Employment, the University of Hawaii, Chaminade University of Honolulu, and the Hawaii Island Chamber of Commerce.

In response to suggestions offered in public testimony, your Committee recommends that the amendments proposed in the attached Exhibit A (to the concurrent resolution) be made to the State Higher Education Plan in order to: 1) clarify that the University of Hawaii at Hilo offers both community college as well as baccalaureate level instruction; and 2) include in the plan appropriate reference to the State Master Plan for Vocational Education and other complementary planning documents and processes.

In general, your Committee finds that the State Higher Education Plan, as amended by Exhibit A, adequately defines the goals, objectives, and policies to be pursued by postsecondary education in the State of Hawaii, in conformance with the Hawaii State Plan. The Committee is satisfied that a high degree of coordination exists between the State Higher Education Plan and the other state functional plans and that there are no significant conflicts or competing interests.

However, your Committee is concerned with the relationship between the State Higher Education functional plan and Chapter 226, Hawaii Revised Statutes, and desires to make it absolutely clear that the functional plan shall serve as guidelines only for the state and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Higher Education Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Higher Education concurs with the intent and purpose of S.C.R. No. 14, as amended herein, and recommends that it be referred to the Committee on Economic Development, in the form attached hereto as S.C.R. No. 14, S.D. 1.

Signed by all members of the Committee.

SCRep. 791-82

Education on S.C.R. No. 4

The purpose of this resolution is to adopt the State Education Plan as a state functional plan, to be coordinated and monitored by the Department of Education. Furthermore, this resolution requires the Department of Education to update the implementation component of the plan at two-year intervals to coincide with the preparation of the state biennial budget.

The State Education Plan is one of twelve functional plans required by the Hawaii State Planning Act. This is the fifth revision of the plan. The plan has been reorganized and has been divided into two documents: the plan, containing objectives, policies, and implementing actions; and the technical reference document, providing supportive and technical information for the plan.

The State Education Plan charts educational directions which will improve educational quality during the eighties. These directions are organized under topics on personal skills and knowledge, employability and the economy, social and natural resources, and educational support services.

Your Committee heard testimony on the concurrent resolution from the Department of Planning Economic Development, the Board of Education, the Department of Education, the Office of Hawaiian Affairs, and the Friends of Waipahu Cultural Garden Park.

Your Committee in consideration of testimony given is recommending the following amendments and justification of the amendments to the plan (with changes noted in the Ramseyer format):

- 1) To clarify the role of the State Education Plan.

On page 2, amend paragraph regarding "Plans as Legislative Expressions" to read:

"The State Education Plan does not mandate County or private sector actions. Rather, it is a [guide] guideline to coordinate the various sectors of government and private industry toward achieving the Statewide Objectives of The Hawaii State Plan. Through its adoption by concurrent resolution, the State Education Plan will be an expression of legislative intent or will and is not to be interpreted as law or statutory mandate.

- 2) To include vocational training within the areas of in-service training to be accomplished.

On page 7, amend paragraph regarding "In-Service Training" to read in part:

"The State Education Plan calls for in-service training for teachers in the areas of career counseling, agriculture and aquaculture instruction, multicultural awareness, [and] language studies[.] and vocational training: [Implementing Actions B.2.3., p. 11; D.2.1., p. 13; G.2.1., p. 17[.]]; D.2.4., p. 14]. . ."

- 3) To point out that a potential conflict exists between the State Education and State Higher Education Plans with respect to the location of Kapiolani Community College, particularly with the approval of the Hawaii Community Development Authority's Plan for Kakaako.

On page 7, amend paragraph regarding "Potentially Competing Interests" to read:

"[No areas of potential conflict exist between the State Education Plan and other State Functional Plans.] With approval of the Hawaii Community Development Authority's (HCDA) Plan for Kakaako, there exists a potential conflict between the State Education Plan and the State Higher Education Plan with respect to the location of Kapiolani Community College. The Kakaako Redevelopment Plan impacts directly on the State Higher Education Plan - Section III. OBJECTIVES, POLICIES AND IMPLEMENTING ACTIONS - Sub-section FINANCING, OBJECTIVE D. Policies D(1)-D(2) and COORDINATION, OBJECTIVE E. Policies E(1)-E(3)(a), pages 20 and 21.

- 4) To expand the areas relating to implementation of a health education curriculum, and
- 5) To expand the offering of language studies programs.

On page 11, amend Implementing Actions B.2.1. and B.2.2. to read:

"B.2.1. Implementing Action: That the Department of Education shall evidence its concern for the health of each student by continuing to pursue the policy of fully implementing a health education curriculum, to include but not be limited to nutrition, fundamentals of biological reproduction, exercise and physiology and by coordinating with the Department of Health in providing essential health services."

"B.2.2. Implementing Action: That the Department of Education [continue to pursue] expand its policy of providing [adequate] language studies programs [to meet student needs]."

- 6) To expand the emphasis on employability skills.

On page 12, amend Implementing Action C.2.3. to read:

"C.2.3. Implementing Action: That the Department of Education pursue the policy of emphasizing employability skills for all students, with particular emphasis to be placed on [the] educationally disadvantaged students."

- 7) To provide for the establishment and direction of the vocational technical education capabilities.

On page 13, amend section regarding "Allocating Resources to High Employment Growth Areas" by adding a new concern to read:

"D.1.4. Coordinate the vocational technical education capabilities of our education system and the manpower needs of our industrial economy with particular emphasis on at least four areas: 1) The redevelopment of Kakaako with its small business/service capacities; and 2) The Harbor and Sand Island areas of central Honolulu; and 3) The West Oahu areas to include but not be limited to federal employment, the Campbell Industrial area and such economic support as may be associated with agricultural activity to include agricultural parks; and 4) Pursue existing and potential areas of employment on the neighbor islands to include but not be limited to astronomy and park service."

- 8) To address the implementing action with respect to the vocational technical education program.

On page 14, amend Implementing Action D.2.3. to read:

"D.2.3. Implementing Action: That the Department of Education's Vocational Technical Education Program be [updated, expanded, and improved] made more responsive in projected high employment growth areas."

- 9) To address the implementing action with respect to vocational technical education in the areas of policy and in-service training.

On page 14, amend section regarding "Allocating Resources to High Employment Growth Areas" by adding a new Implementing Action D.2.4. to read:

"D.2.4. Implementing Action: That the Board of Education pursue an aggressive policy in addressing existing and potential areas of employment to include in-service training for teachers."

Implementing Organization: Board of Education and Department of Education.

Time Frame: 1983-1985 "

- 10) To recognize all aspects of Hawaii's economy, and
 11) To recognized the responsibilities of the visitor industry in Hawaii, and
 12) To recognize all aspects of the agriculture industry in Hawaii.

On page 14, amend items E.1.1., E.1.2., and E.1.4. to read:

"E.1.1. Recognize the importance [and], contributions and costs of the major sources of income to [Hawaii's] Hawaii socially and [economy] economically."

"E.1.2. Foster a recognition of the [contribution] positive and negative role of the visitor industry [to] in Hawaii's economy and the [need to perpetuate] industry's need to foster an atmosphere which enhances what has become known as the aloha spirit."

"E.1.4. [Foster attitudes and activities conducive to] Promote knowledge of the advantages and disadvantages associated with maintaining agriculture as a major sector of Hawaii's economy."

- 13) To recognize all aspects and consequences of Hawaii's economy, and
 14) To recognize newly developing industries and their projected employment potentials.

On page 15, amend Implementing Actions E.2.1., and E.2.4. to read:

"E.2.1. Implementing Action: That the Department of Education continue to inform students of the economic contributions, social costs, and consequences of tourism, Federal military and civilian expenditures, [and] agriculture to Hawaii's economy[.], and other viable industries relating to Hawaii's future."

"E.2.4. Implementing Action: That the Department of Education inform students, parents, teachers, and counselors of [the] newly developing [aquaculture industry] industries in Hawaii and [its] their projected employment potentials."

- 15) To include the Friends of Waipahu Cultural Garden Park as an assisting organization with respect to multi-cultural awareness.

On page 17, amend the Assisting Organizations in Implementing Action G.2.1., to read:

"Assisting Organizations: College of Education, University of Hawaii; Kamehameha Schools; Pacific and Asian Affairs Council; Department of Land and Natural Resources; Friends of Waipahu Cultural Garden Park"

- 16) To address implementation of a Hawaiian Studies Program.

On page 17, amend Implementing Action G.2.2. to read:

"G.2.2. Implementing Action: That the Department of Education commit itself to [full] implementation of [the indigenous] a Hawaiian Studies Program[.] to include but not be limited to a curriculum reflecting history, literature, geography, oceanography and language appropriate to various levels K-12."

- 17) To address the area more fully with respect to understanding Hawaii's population capacities and the need for a continuing low birth rate.

On page 18, amend Implementing Action H.2.1., to read:

"H.2.1. Implementing Action: That the Department of Education continue to provide students with an understanding of Hawaii's capacities to accommodate population growth through the Health program, Family Planning Services through clinics, hospitals and private agencies, Home Economics Program, Social Studies Program, and Environmental Education Program."

- 18) To address the area of energy conservation.

On page 20, amend Implementing Action J.2.4., and Implementing Organization to read:

"J.2.4. Implementing Action: That the Department of Education continue to [recommend] develop and implement innovative methods of energy conservation in school facilities [to the Department of Accounting and General Services]. The Department of Accounting and General Services is directed to cooperate in this endeavor on the basis of Board of Education priorities.

Implementing [Organization] Organizations: Board of Education and Department of Education"

- 19) To address development of a flex-time schedule for school and possible implementation of a year round teaching schedule.

On page 20, amend section regarding "Conserving Energy" by adding a new Implementing Action J.2.6., Implementing Organization and Assisting Organizations to read:

"J.2.6. Implementing Action: That the Board of Education develop a flex-time schedule for school starting hours and examine the possible implementation of a year-round school teaching schedule.

Implementing Organizations: Board of Education and Department of Education

Assisting Organizations: Department of Labor and Industrial Relations, Department of Transportation, Department of Transportation Services, Exclusive collective bargaining agent for all Department of Education personnel.

- 20) To address evaluation of demonstration programs and subsequent recommendation for continuation or non-continuation. Further, to include examination of the "magnet school concept", and

- 21) To clarify the role of the State Education Plan and the State Education Plan Technical Reference Document.

On page 21, amend Implementing Action K.2.1. and K.2.2. to read:

"K.2.1. Implementing Action: That the Department of Education [increase its support of worthy educational] engage in research activities[.] for accountability in program activities; that the Department of Education establish procedures for evaluating demonstration programs on an annual basis with recommendation to be forthcoming on whether to terminate these programs on a biennial basis. Included in this effort will be an examination of the magnet concept."

"K.2.2. Implementing Action: That the Department of Education's program and functional unit managers use the State Objectives, State Policies, State Priority Directions, Board of Education Concerns, and Advisory Committee Concerns contained in the State Education Plan and the State Education Plan Technical Reference Document as [guides] guidelines for developing goals and objectives for their plans."

- 22) To require the Board of Education to implement a job-sharing program on a statewide basis.

On page 21 and 22, amend Implementing Action K.2.5., and the Implementing Organization to read:

"K.2.5. Implementing Action: That the [Department] Board of Education prepare a comprehensive staff development plan for educational officers, teachers, and classified personnel which considers: a) active employee participation in the planning, conduct, and assessment of in-service training; b) program, performance, and individual expectations; c) uniform administration of discrete activities; [and] d) coordination of staff development activities with the existing personnel program, such as staff evaluation, reclassification, promotion, incentives, and appropriate times[.]; and e) development of a job-sharing program on a statewide basis."

Implementing [Organization] Organizations: Board of Education and Department of Education

- 23) To provide that special reference is made to the concept of a School Priority Fund with respect to increased participation by the community in educational affairs.

On page 23, amend Implementing Action L.2.6. and by adding an Assisting Organization to read:

"L.2.6. Implementing Action: That the Department of Education's principals and district superintendents increase participation by their communities in educational affairs of their respective schools and districts[.] with special reference to the School Priority Fund."

"Assisting Organization: Parent Teacher Association"

- 24) To delete an unnecessary section.

On page 23, repeal Implementing Action L.2.7., and related information.

["L.2.7. Implementing Action: That the Department of Education assist principals through such means as surveys and conferences to determine topics of interest to parents and community members and with outreach programs on identified topics of interest such as school-parent-adolescent relationships, parenting, and dating.

Implementing Organization: Department of Education

Assisting Organizations: University of Hawaii; Office of Children and Youth, Office of the Governor

Time Frame: 1982-1989]

- 25) To provide for a negotiated agreement between the Departments of Education and Accounting and General Services with respect to availability of facilities.

On page 24, amend Implementing Action L.2.8. to read:

"L.2.[8]7. Implementing Action; That the Department of Education publicize the availability of facilities through public service announcements [and the distribution of] , distribute brochures on policies, rules, and regulations and revise rules to provide appropriate funds for increasing costs for personnel, repair

and maintenance, and utilities[.] under agreement negotiated with the Department of Accounting and General Services which is directed to cooperate with the Department of Education on the basis of Board of Education priorities."

- 26) To provide that the Board of Education and Department of Education encourage increased use of school facilities, and
- 27) To provide that the Board of Education evaluate the existing and projected utilization of McKinley High School, particularly with respect to the redevelopment of Kakaako, and
- 28) To provide that the Board of Education examine all educational facilities under their control with respect to maintenance and utilization, and
- 29) To provide that the Department of Education consult with the University of Hawaii concerning utilization of school facilities for extended and external degree course offerings, and
- 30) To provide that the Department of Education evaluate and make recommendation with respect to the vitality of the adult education program.

On page 24, amend section on "Ensuring the Provision of Educational Services and Facilities: by adding five new Implementing Actions and related information to read:

"L.2.8. Implementing Action: That the Board of Education and Department of Education encourage increased use of school and library facilities for after school activities to include but not be limited to classes and child care.

Implementing Organization: Board of Education

Assisting Organizations: Friends of the Library; Department of Social Services and Housing; Department of Labor and Industrial Relations; University of Hawaii College of Education

Time Frame: 1983-1985

L.2.9. Implementing Action: That the Board of Education evaluate the existing and projected utilization of McKinley High School, particularly in light of declining student enrollment in the public schools and the redevelopment of Kakaako.

Implementing Organizations: Board of Education; Hawaii Community Development Authority; University of Hawaii

Time Frame: 1983-1985

L.2.10. Implementing Action: That the Board of Education examine whether all educational facilities under their control are properly and efficiently maintained and utilized to the maximum extent practicable.

Implementing Organizations: Board of Education; Department of Accounting and General Services

Time Frame: 1983-1985

L.2.11. Implementing Action: That the Department of Education consult with the University of Hawaii concerning utilization of school facilities for extended and external degree course offerings.

Implementing Organizations: Department of Education; University of Hawaii

Time Frame: 1983-1985

L.2.12. Implementing Action: That the Department of Education evaluate and make such recommendations as deemed necessary with respect to the vitality of the adult education program.

Implementing Organization: Department of Education

Assisting Organization: State Advisory Council for Adult Education

Time Frame: 1983-1985"

The purpose of these amendments is to strengthen the State Education Plan and to meet the concerns of community interest. Your Committee feels that the amendments clarify the intent of the plan. The amendments were made in accordance with testimony presented and in further discussions with concerned parties and are incorporated into the concurrent resolution as hereinafter indicated.

The concurrent resolution has been amended by deleting the State Education Plan as an exhibit and instead identifying the plan being adopted as the plan prepared by the Department of Education dated October 1981. Substituted as Exhibit A is the list of the foregoing amendments to the plan. Your Committee finds that appending the proposed plan to the concurrent resolution unnecessarily increases costs of printing the resolution as copies of the plan have been distributed to all members of the Legislature and are available to the public through the Department of Planning and Economic Development.

Your Committee has also amended the concurrent resolution including reference to S.D. 2 of S.B. No. 2720-82 to insure proper compliance by the Department of Education in its biennial review, revision and update.

The concurrent resolution has been further amended by clarifying the purpose and intended use of the technical reference document. The Education Plan should be considered separately from and should not be modified or interpreted through any reference to the technical reference document.

Your Committee is concerned with the relationship between the State Education Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it absolutely clear that the functional plan shall serve as guidelines only for the state and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Education Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both Houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 4, as amended herein, and recommends that it be referred to the Committee on Economic Development, in the form attached hereto as S.C.R. No. 4, S.D. 1.

Signed by all members of the Committee except Senators O'Connor and Saiki.

SCRep. 792-82

Transportation on S.C.R. No. 13

The purpose of this concurrent resolution is to adopt the State Transportation Plan pursuant to the Hawaii State Planning Act (Act 100, Session Laws of Hawaii 1978), chapter 226, Hawaii Revised Statutes.

Chapter 226 requires the Department of Planning and Economic Development to prepare functional plans in twelve specified areas for submittal to the Legislature for review, modification, and, as appropriate, adoption by concurrent resolution.

The functional plans are intended to implement the broad goals, objectives, policies, and priority directions contained in the Act.

Pursuant to the provisions of chapter 226, the Department of Transportation has prepared the State Transportation Plan designed to implement the Hawaii State Plan and assist in providing direction for the future development of the state.

In developing the State Transportation Plan, the department solicited input from various state and county agencies and community organizations. Through technical studies, surveys, public information workshops, and information provided by the governor's advisory committee, the State Transportation Plan delineates specific objectives, policies, and high priority actions with respect to transportation.

The State Transportation Plan has been modified during the past year in accordance with the policy council's Guidelines to Agencies in the Revision of State Functional Plans. These guidelines issued by the policy council outline a number of measures to be undertaken

to address concerns raised by the legislature in the 1981 session. These include steps to simplify and condense the State Transportation Plan, clarify interrelationships and impacts with respect to other plans, and provide more explicit identification of issues of statewide importance.

Your Committee heard testimony from the Department of Planning and Economic Development, the Department of Transportation, the Hawaii State AFL-CIO, the Sierra Club, the Construction Industry Legislative Organization, the Oahu Metropolitan Planning Organization and Hui Malama Aina O Koolau.

Your Committee has made several amendments to the State Transportation Plan including four of the five recommended changes from the policy council, a number of substantive changes as developed by the Committee and several non-substantive changes of a technical or editorial nature. These amendments are outlined in detail in an attached "Exhibit A" (to the concurrent resolution).

Your Committee did not accept the policy council's recommendation to amend Implementing Action E (4) (a), page 26, to read as follows: "Encourage energy efficient modes of transportation such as car pooling and van pooling and assist Counties where necessary to improve public transportation service." Your Committee believes this responsibility should encompass transportation in general, and not just those modes provided by public transit.

Your Committee has also made several amendments to the concurrent resolution as follows: (1) language to make clear that the Technical Reference Document does not reflect legislative policy; (2) deletion of the plan as "Exhibit A" and substitution of the amendments to the plan as "Exhibit A"; and (3) language to make it clear that adoption of the concurrent resolution is contingent upon passage of S.B. No. 2720-82 in any form.

Your Committee is concerned with the relationship between the State Transportation Functional Plan and chapter 226, Hawaii Revised Statutes, and desires to make it absolutely clear that the functional plan shall only serve as a guideline for the state and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Transportation Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82 in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Transportation concurs with the intent and purpose of S.C.R. No. 13, as amended herein, and recommends that it be referred to the Committee on Economic Development, in the form attached hereto as S.C.R. No. 13, S.D. 1.

Signed by all members of the Committee except Senators Cobb, Kuroda and Toyofuku.

SCRep. 793-82

Health on S.C.R. No. 5

The purpose of this resolution is to adopt the State Health Plan as a state functional plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes. The State Health Plan is one of twelve functional plans required by the Hawaii State Planning Act.

The resolution was amended by deleting references to the intervals at which the plan must be revised and updated. This flexibility will allow the plan to be revised and updated as needed.

Testimony presented to your Committee by the policy council on the State Health Plan recommended adoption of the plan and recommended additional amendments to reflect guidance regarding health benefits and access to health services for the total community. These amendments have been incorporated into the plan by amending Objective BB and by additional policies and implementing actions.

References to ongoing operations of the state Department of Health (DOH) which merely state the obvious function of a branch or division within the department were deleted. A description of these operations such as laboratory services and ongoing planning and research of the DOH do not need to be restated in the plan.

Your Committee has further amended the plan by deleting references to specific private organizations. Your Committee recognizes the importance of private organizations in

health care. However, it is inappropriate to name specific organizations in the State Health Plan.

Policies or implementing actions which would require funding above current levels or which imply a policy not previously authorized by the Legislature such as fluoridation of water were deleted by your Committee.

Your Committee is concerned with the relationship between the Health Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it absolutely clear that the functional plan shall serve only as guidelines for the state and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the Health Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82 in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 5, as amended herein, and recommends that it be referred to the Committee on Economic Development, in the form attached hereto as S.C.R. No. 5, S.D. 1.

Signed by all members of the Committee.

SCRep. 794-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Stand. Com. Rep. Nos. 786-82 to 793-82 on April 5, 1982 at the 6:00 o'clock p.m. Session; and

S.C.R. No. 59 and S.R. Nos. 81 to 84 on April 6, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 795-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Stand. Com. Rep. Nos. 796-82 to 807-82 on April 7, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 796-82 Economic Development on S.C.R. No. 3

The purpose of this concurrent resolution is to adopt the State Agriculture Plan as a state functional plan.

Your Committee heard a broad spectrum of testimony and finds that the State Agriculture Plan is within the goals of the State of Hawaii and provides a framework of objectives to be pursued.

Your Committee has made amendments to the State Agriculture Plan which supercede all amendments made by your Committee on Agriculture. The amendments made by your Committee have been incorporated into Exhibit "A" (to the concurrent resolution).

The thrust of your Committee's amendments is to balance the land use guidelines called for in the State Agriculture Plan. In addition, changes were made which would more equitably distribute water between competing agriculture and non-agriculture uses. Your Committee has also made technical, nonsubstantive changes to the concurrent resolution and the plan.

Your Committee has also amended the narrative section of the plan to conform to S.B. No. 2720-82, S.D. 2.

Your Committee is concerned with the relationship between the State Agriculture Plan and chapter 226, Hawaii Revised Statutes. Your Committee has received an Attorney

General's opinion, dated March 31, 1982, which states that while the functional plans are to be utilized only as guidelines, the existing statutory language of chapter 226 mandates conformance of budgetary and land use decision-making processes to the functional plans. Your Committee finds that the statutory mandatory conformance language of chapter 226 negates your Committee's intent that the functional plans serve only as guidelines, and concludes that amendments to chapter 226 need to be made in order to effectuate your Committee's intent.

Accordingly, your Committee, upon due consideration, recommends adoption of the State Agriculture Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii, or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 3, S.D. 1, as amended herein, and recommends its adoption, in the form attached hereto as S.C.R. No. 3, S.D. 2.

Signed by all members of the Committee except Senators Machida and Uwaine.

SCRep. 797-82 Economic Development on S.C.R. No. 4

The purpose of this resolution is to adopt the State Education Plan as a state functional plan, to be coordinated and monitored by the Department of Education.

The State Education Plan charts educational directions which will improve educational quality during the eighties. These directions are organized under topics on personal skills and knowledge, employability and the economy, social and natural resources, and educational support services.

Your Committee heard testimony on the concurrent resolution from the Department of Planning and Economic Development, the Board of Education, the Department of Education and the Office of Hawaiian Affairs.

Your Committee has amended the narrative section of the plan to conform to S.B. No. 2720-82, S.D. 2. Otherwise your Committee concurs with the amendments made by your Committee on Education.

Your Committee has also made technical, nonsubstantive changes. All amendments to the State Education Plan are listed on the amendment sheet attached to the concurrent resolution as Exhibit "A".

Your Committee is concerned with the relationship between the State Education Plan and chapter 226, Hawaii Revised Statutes. Your Committee has received an Attorney General's opinion, dated March 31, 1982, which states that while the functional plans are to be utilized only as guidelines, the existing statutory language of chapter 226 mandates conformance of budgetary and land use decision-making processes to the functional plans. Your Committee finds that the statutory mandatory conformance language of chapter 226 negates your Committee's intent that the functional plans serve only as guidelines, and concludes that amendments to chapter 226 need to be made in order to effectuate your Committee's intent.

Accordingly, your Committee, upon due consideration, recommends adoption of the State Education Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii, or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 4, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 4, S.D. 2.

Signed by all members of the Committee except Senators Machida and Uwaine.

SCRep. 798-82

Economic Development on S.C.R. No. 5

The purpose of this resolution is to adopt the State Health Plan as a state functional plan.

Testimony presented to your Committee by the policy council on the State Health Plan recommended adoption of the plan with amendments to provide guidance regarding health benefits and access to health services for the total community.

References to ongoing operations of the Department of Health (DOH) which merely state the obvious function of a branch or division within the department were deleted. A description of these operations such as laboratory services and ongoing planning and research of the DOH do not need to be restated in the plan.

Your Committee has amended the plan by deleting references to specific private organizations. Your Committee recognizes the importance of private organizations in health care. However, it is inappropriate to name specific organizations in the State Health Plan.

Policies or implementing actions which would require funding above current levels or which imply a policy not previously authorized by the Legislature were deleted by your Committee.

Your Committee has amended the narrative section of the plan to conform to S.B. No. 2720-82, S.D. 2.

Your Committee has further amended the plan by including additional amendments which have been recommended by your Committee on Health. As such, an addition to Exhibit "A" has been attached to the concurrent resolution. The addition sheet shall incorporate and, where there is duplication, supercede the first Exhibit "A", and shall also be referred to as Exhibit "A".

Your Committee has also made technical, nonsubstantive changes to the plan and current resolution.

Your Committee is concerned with the relationship between the State Health Plan and chapter 226, Hawaii Revised Statutes. Your Committee has received an Attorney General's opinion, dated March 31, 1982, which states that while the functional plans are to be utilized only as guidelines, the existing statutory language of chapter 226 mandates conformance of budgetary and land use decision-making processes to the functional plans. Your Committee finds that the statutory mandatory conformance language of chapter 226 negates your Committee's intent that the functional plans serve only as guidelines, and concludes that amendments to chapter 226 need to be made in order to effectuate your Committee's intent.

Accordingly, your Committee, upon due consideration, recommends adoption of the State Health Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii, or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 5, S.D. 1, as amended herein, and recommends its adoption, in the form attached hereto as S.C.R. No. 5, S.D. 2.

Signed by all members of the Committee except Senators Machida and Uwaine.

SCRep. 799-82

Economic Development on S.C.R. No. 6

The purpose of this concurrent resolution is to adopt the State Water Resources Development Plan as a state functional plan.

The preparation of the State Water Resources Development Plan required the examination of a wide range of water resource problems facing the state, including the effects of water management on the state's economy and environment, the problems of developing new supplies in an atmosphere of competing demands, the ways in which existing water supplies can be augmented or used more efficiently, the acquisition of essential water data, and the financing of future water programs and projects. The plan recognizes and expands upon the water-related priority guidelines defined in the Hawaii State Plan.

Your Committee has amended the narrative section of the plan to conform to S.B. No. 2720-82, S.D. 2, and the amended versions of other functional plans.

Your Committee has amended one of the implementing actions in the plan in an effort to ease a potential conflict with the goal of increasing the housing supply. Your Committee finds that implementing action H(1)(a) unnecessarily favors agricultural interests.

Your Committee has amended the concurrent resolution by deleting the Water Resources Development Plan as an exhibit to the resolution. The Exhibit "A" now attached simply contains the list of foregoing amendments to the plan.

Your Committee has also amended the concurrent resolution by clarifying the purpose and intended use of the Technical Reference Document. The Water Resources Development Plan should not be modified or interpreted through any reference to the Technical Reference Document.

Your Committee has also made technical, nonsubstantive changes to the concurrent resolution.

Your Committee is concerned with the relationship between the State Water Resources Development Plan and Chapter 226, Hawaii Revised Statutes. Your Committee has received an Attorney General's opinion, dated March 31, 1982, which states that while the functional plans are to be utilized only as guidelines, the existing statutory language of Chapter 226 mandates conformance of budgetary and land use decision-making processes to the functional plans. Your Committee finds that the statutory mandatory conformance language of Chapter 226 negates your Committee's intent that the functional plans serve only as guidelines, and concludes that amendments to Chapter 226 need to be made in order to effectuate your Committee's intent.

Accordingly, your Committee upon due consideration, recommends adoption of the Water Resources Development Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Economic Development concurs with the intent of S.C.R. No. 6, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 6, S.D. 1.

Signed by all members of the Committee except Senators Machida and Uwaine.

SCRep. 800-82

Economic Development on S.C.R. No. 7

The purpose of this concurrent resolution is to adopt the State Recreation Plan as a state functional plan.

The State Recreation Plan assesses present and potential availability of outdoor recreation resources. It provides guidance to state and county agencies in the acquisition and preservation of land for adequate recreational facilities and programs and will ensure public access to all recreation areas.

Your Committee received testimony from the Department of Planning and Economic Development, the Department of Land and Natural Resources, and interested individuals supporting the adoption and implementation of the State Recreation Plan.

Your Committee concurs with the amendments made by your Committee on Ecology, Environment, and Recreation.

Your Committee has made amendments to the narrative sections of the plan to conform to S.B. No. 2720-82, S.D. 2. All changes to the plan are listed on the amendment sheet attached to the concurrent resolution as Exhibit "A".

Your Committee has also made several technical, nonsubstantive changes.

Your Committee is concerned with the relationship between the State Recreation Plan and chapter 226, Hawaii Revised Statutes. Your Committee has received an Attorney General's opinion, dated March 31, 1982, which states that while the functional plans are to be utilized only as guidelines, the existing statutory language of chapter 226 mandates

conformance of budgetary and land use decision-making processes to the functional plans. Your Committee finds that the statutory mandatory conformance language of chapter 226 negates your Committee's intent that the functional plans serve only as guidelines, and concludes that amendments to chapter 226 need to be made in order to effectuate your Committee's intent.

Accordingly, your Committee, upon due consideration, recommends adoption of the State Recreation Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii, or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 7, S.D. 1, as amended herein, and recommends its adoption, in the form attached hereto as S.C.R. No. 7, S.D. 2.

Signed by all members of the Committee except Senators Machida and Uwaine.

SCRep. 801-82 Economic Development on S.C.R. No. 8

The purpose of this concurrent resolution is to adopt the State Conservation Lands Plan as a functional plan for the state.

The State Conservation Lands Plan would further define The Hawaii State Plan and recommend a rational basis for the management of conservation lands and resources in the state. As the population increases and urbanization pressures grow, the need for prudent and effective utilization of conservation land and resources becomes greater. This plan will serve to direct the growth of Hawaii toward an environmentally sound future.

Your Committee received testimony from the Department of Land and Natural Resources, the Department of Planning and Economic Development, and the Office of Hawaiian Affairs, in support of the adoption of the State Conservation Lands Plan.

The State Conservation Lands Plan has been modified this past year in accordance with the policy council's Guidelines to Agencies in the Revision of State Functional Plans. These guidelines outlined several amendments in response to concerns raised by the Legislature during the 1981 session.

Your Committee has adopted the amendments made by your Committee on Ecology, Environment and Recreation.

Your Committee has amended the narrative sections of the plan to conform to S.B. No. 2720-82, S.D. 2.

All amendments to the plan are listed on the amendment sheet attached to the concurrent resolution as Exhibit "A".

Your Committee is concerned with the relationship between the State Conservation Lands Plan and chapter 226, Hawaii Revised Statutes. Your Committee has received an Attorney General's opinion, dated March 31, 1982, which states that while the functional plans are to be utilized only as guidelines, the existing statutory language of chapter 226 mandates conformance of budgetary and land use decision-making processes to the functional plans. Your Committee finds that the statutory mandatory conformance language of chapter 226 negates your Committee's intent that the functional plans serve only as guidelines, and concludes that amendments to chapter 226 need to be made in order to effectuate your Committee's intent.

Accordingly, your Committee, upon due consideration, recommends adoption of the State Conservation Lands Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. 8, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 8, S.D. 2.

Signed by all members of the Committee except Senators Machida and Uwaine.

SCRep. 802-82 Economic Development on S.C.R. No. 9

The purpose of this concurrent resolution is to adopt the State Historic Preservation Plan as a state functional plan.

Major priorities for such activities as the collection and preservation of oral histories, historic records and artifacts, the perpetuation of traditional arts and skills, the preservation of historic properties, and the education of the public in regard to Hawaii's past are identified in the State Historic Preservation Plan.

Your Committee received testimony from the Department of Land and Natural Resources, the Department of Planning and Economic Development, the Office of Hawaii Affairs, and the Historic Hawaii Foundation in support of this concurrent resolution.

Your Committee concurs with the amendments to the plan made by by your Committee on Ecology, Environment and Recreation.

Your Committee has amended the narrative section of the plan to conform to S.B. No. 2720-82, S.D. 2.

Your Committee has also made several technical, nonsubstantive changes to the resolution and the plan.

The aforementioned amendments have been incorporated into the concurrent resolution as Exhibit "A". It should be noted that the State Historic Preservation Plan shall be identified and adopted as the plan prepared by the Department of Planning and Economic Development, dated October 1981.

Your Committee is concerned with the relationship between the State Historic Preservation Plan and chapter 226, Hawaii Revised Statutes. Your Committee has received an Attorney General's opinion, dated March 31, 1982, which states that while the functional plans are to be utilized only as guidelines, the existing statutory language of Chapter 226 mandates conformance of budgetary and land use decision-making processes to the functional plans. Your Committee finds that the statutory mandatory conformance language of chapter 226 negates your Committee's intent that the functional plans serve only as guidelines, and concludes that amendments to chapter 226 need to be made in order to effectuate your Committee's intent.

Accordingly, your Committee, upon due consideration, recommends adoption of the State Historic Preservation Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii, or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 9, S.D. 1, as amended herein, and recommends its adoption, in the form attached hereto as S.C.R. No. 9, S.D. 2.

Signed by all members of the Committee except Senators Machida and Uwaine.

SCRep. 803-82 Economic Development on S.C.R. No. 10

The purpose of this concurrent resolution is to adopt the State Tourism Plan as a state functional plan.

In developing the State Tourism Plan, the Department of Planning and Economic Development solicited input from various state and county agencies and community organizations. Through technical studies, surveys, public information workshops, and information provided by the governor's advisory committee, the State Tourism Plan identifies the underlying needs and requirements of the visitor industry.

The State Tourism Plan has been modified during the past year in accordance with the policy council's Guidelines to Agencies in the Revision of State Functional Plans. These guidelines issued by the policy council outlined a number of measures to be undertaken to address concerns raised by the legislature in the 1981 session. These include steps to simplify and condense the State Tourism Plan, clarify interrelationships and impacts

with respect to other plans, and provide more explicit identification of issues of statewide importance.

Your Committee heard testimony from the Department of Planning and Economic Development, the policy council, the Hawaii Resort Developers Conference, and other interested individuals and organizations.

Visitor destination areas will be determined by each county's general plan. This will enable the counties to designate visitor destination areas without the prior authorization of the State Tourism Plan. It is the direction of your Committee, therefore, that the State Tourism Plan's Technical Reference Document be revised to reflect only the visitor destinations desired by the counties. This will enable visitor destination areas which, although listed in a general plan, were excluded as visitor destination areas in the Technical Reference Document. An example of such a site brought to your Committee's attention was North Kohala: Mahukone.

Your Committee has amended the narrative sections of the plan to conform to S.B. No. 2720-82, S.D. 2.

Your Committee concurs with the amendments of your Committee on Tourism and has maintained its amendments. All amendments of the State Tourism Plan are listed in Exhibit "A" (to the concurrent resolution).

Your Committee is concerned with the relationship between the State Tourism Plan and chapter 226, Hawaii Revised Statutes. Your Committee has received an Attorney General's opinion, dated March 31, 1982, which states that while the functional plans are to be utilized only as guidelines, the existing statutory language of chapter 226 mandates conformance of budgetary and land use decision-making processes to the functional plans. Your Committee finds that the statutory mandatory conformance language of chapter 226 negates your Committee's intent that the functional plans serve only as guidelines, and concludes that amendments to chapter 226 need to be made in order to effectuate your Committee's intent.

Accordingly, your Committee, upon due consideration, recommends adoption of the State Tourism Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii, or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No 10, S.D. 1, as amended herein, and recommends its adoption, in the form attached hereto as S.C.R. No. 10, S.D. 2.

Signed by all members of the Committee except Senators Machida and Uwaine.

SCRep. 804-82

Economic Development on S.C.R. No. 11

The purpose of this concurrent resolution is to adopt the State Energy Plan as a functional plan for the state.

Your Committee finds that the state is rich in alternative, renewable energy resources which are becoming available for use under new or improved technologies, including conservation, biomass, wind, geothermal, direct solar, hydropower, and ocean thermal energy.

Recognizing Hawaii's extremely vulnerable energy situation as well as its opportunities, the State Legislature in 1978 included two long-term energy objectives within The Hawaii State Plan. The purpose of the State Energy Plan is to further define these objectives which include the development of:

1. Dependable, efficient, and economical statewide energy systems capable of supporting the needs of the people; and
2. Increased energy self-sufficiency.

Your Committee received favorable testimony on the plans from the Department of Planning and Economic Development and private sector organizations.

Your Committee has amended the narrative sections of the plan to conform to S.B. No. 2720-82, S.D. 2.

Your Committee has amended the concurrent resolution by deleting the energy plan as Exhibit A. Instead the plan is identified by the governor's message number. Substituted as Exhibit A is the list of amendments to the plan.

Your Committee has made several technical, nonsubstantive changes to the plan.

Your Committee has amended the concurrent resolution to clarify the relationship between the adoption of the State Energy Plan and S.B. No. 2720-82, S.D. 2.

Your Committee is concerned with the relationship between the State Energy Plan and chapter 226, Hawaii Revised Statutes. Your Committee has received an Attorney General's opinion, dated March 31, 1982, which states that while the functional plans are to be utilized only as guidelines, the existing statutory language of chapter 226 mandates conformance of budgetary and land use decision-making processes to the functional plans. Your Committee finds that the statutory mandatory conformance language of chapter 226 negates your Committee's intent that the functional plans serve only as guidelines, and concludes that amendments to chapter 226 need to be made in order to effectuate your Committee's intent.

Accordingly, your Committee, upon due consideration, recommends adoption of the State Energy Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii, or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. 11, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. 11, S.D. 1.

Signed by all members of the Committee except Senators Machida and Uwaine.

SCRep. 805-82 Economic Development on S.C.R. No. 12

The purpose of this concurrent resolution is to adopt the State Housing Plan as a functional plan.

The plan focuses on two areas of statewide concern:

1. Assisting in the development and maintenance of housing in the public and private sectors; and
2. Researching additional concerns to make housing-related decisions.

The overall scope of the plan focuses on increasing the supply of affordable housing by assisting in the development of housing, the reduction of housing costs, and the development of information for future decision-making.

With the exception of amendments to the narrative sections of the plan to conform to S.B. No. 2720-82, S.D. 2, your Committee has amended the plan by reverting to the draft of the plan submitted to the 1982 Session of the Legislature.

Your Committee finds that the emphasis on increasing the housing supply is more evident in the original plan. Certain amendments, which appear to increase the housing supply, may have a deleterious effect upon the housing supply.

Your Committee has amended the concurrent resolution by deleting the Housing Plan as Exhibit A. Instead the plan is identified by its governor's message number. Substituted as Exhibit "A" is the list of amendments to the plan.

Your Committee has also made several technical, nonsubstantive changes.

Your Committee is concerned with the relationship between the State Housing Plan and Chapter 226, Hawaii Revised Statutes. Your Committee has received an Attorney General's opinion, dated March 31, 1982, which states that while the functional plans are to be utilized only as guidelines, the existing statutory language of Chapter 226 mandates conformance of budgetary and land use decision-making processes to the functional plans. Your Committee

finds that the statutory mandatory conformance language of Chapter 226 negates your Committee's intent that the functional plans serve only as guidelines, and concludes that amendments to Chapter 226 need to be made in order to effectuate your Committee's intent.

Accordingly, your Committee, upon due consideration, recommends adoption of the State Housing Plan as a state functional plan for the State of Hawaii to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the Governor of the State of Hawaii or upon S.B. No. 2720-82, in any form, becoming law without the signature of the Governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. 12, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. 12, S.D. 2.

Signed by all members of the Committee except Senators Machida and Uwaine.

SCRep. 806-82

Economic Development on S.C.R. No. 13

The purpose of this concurrent resolution is to adopt the State Transportation Plan as a state functional plan.

In developing the State Transportation Plan, the department solicited input from various state and county agencies and community organizations. Through technical studies, surveys, public information workshops, and information provided by the governor's advisory committee, the State Transportation Plan delineates specific objectives, policies, and high priority actions with respect to transportation.

The State Transportation Plan has been modified this past year in accordance with the policy council's Guidelines to Agencies in the Revision of State Functional Plans. These guidelines issued by the policy council outline a number of measures to be undertaken to address concerns raised by the legislature in the 1981 session. These include steps to simplify and condense the State Transportation Plan, clarify interrelationships and impacts with respect to other plans, and provide more explicit identification of issues of statewide importance.

Your Committee heard testimony from the Department of Planning and Economic Development, the Department of Transportation, the Hawaii State AFL-CIO, the Sierra Club, the Construction Industry Legislative Organization, the Oahu Metropolitan Planning Organization and Hui Malama Aina O Koolau.

Your Committee concurs with the amendments made to the plan and resolution by your Committee on Transportation.

Your Committee has amended the narrative section of the plan to conform to S.B. No. 2720-82, S.D. 2. Your Committee has also made technical, nonsubstantive changes to the plan and the resolution.

All amendments to the plan are listed on the amendment sheet attached to the concurrent resolution as Exhibit "A".

Your Committee is concerned with the relationship between the State Transportation Plan and chapter 226, Hawaii Revised Statutes. Your Committee has received an Attorney General's opinion, dated March 31, 1982, which states that while the functional plans are to be utilized only as guidelines, the existing statutory language of chapter 226 mandates conformance of budgetary and land use decision-making processes to the functional plans. Your Committee finds that the statutory mandatory conformance language of chapter 226 negates your Committee's intent that the functional plans serve only as guidelines, and concludes that amendments to chapter 226 need to be made in order to effectuate your Committee's intent.

Accordingly, your Committee, upon due consideration, recommends adoption of the State Transportation Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii, or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 13, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 13, S.D. 2.

Signed by all members of the Committee except Senators Machida and Uwaine.

SCRep. 807-82 Economic Development on S.C.R. No. 14

The purpose of this concurrent resolution is to adopt the State Higher Education Plan as a functional plan for the State of Hawaii.

Your Committee has carefully reviewed the State Higher Education Plan as revised during the past year to address concerns raised by the 1981 Legislature.

Your Committee has also reviewed the following related documents: 1) State Higher Education Plan Technical Reference Document, October 31, 1981; 2) Findings and Recommendations of the Policy Council on the State Higher Education Plan, 3) Public Informational Meetings: Public Response to State Functional Plan Presentations, Department of Planning and Economic Development, January 1982; and 4) several other progress reports on state and county activities to implement priority directions of the Hawaii State Plan.

Your Committee heard testimony on the State Higher Education Plan from the Department of Planning and Economic Development, the Commission on Manpower and Full Employment, the University of Hawaii, Chaminade University of Honolulu, and the Hawaii Island Chamber of Commerce.

Your Committee has amended the narrative section of the plan to conform to S.B. No. 2720-82, S.D. 2.

Your Committee has also made technical, nonsubstantive changes to the plan and the resolution. Otherwise, your Committee concurs with the amendments made by your Committee on Higher Education.

In general, your Committee finds that the State Higher Education Plan, as amended by Exhibit "A", adequately defines the goals, objectives, and policies to be pursued by post-secondary education in the State of Hawaii, in conformance with the Hawaii State Plan.

Your Committee is concerned with the relationship between the State Higher Education Plan and chapter 226, Hawaii Revised Statutes. Your Committee has received an Attorney General's opinion, dated March 31, 1982, which states that while the functional plans are to be utilized only as guidelines, the existing statutory language of chapter 226 mandates conformance of budgetary and land use decision-making processes to the functional plans. Your Committee finds that the statutory mandatory conformance language of chapter 226 negates your Committee's intent that the functional plans serve only as guidelines, and concludes that amendments to chapter 226 need to be made in order to effectuate your Committee's intent.

Accordingly, your Committee, upon due consideration, recommends adoption of the State Higher Education Plan as a state functional plan for the State of Hawaii, to be effective upon passage of S.B. No. 2720-82, in any form, by both houses of the Hawaii State Legislature and upon signature of S.B. No. 2720-82, in any form, into law by the governor of the State of Hawaii, or upon S.B. No. 2720-82, in any form, becoming law without the signature of the governor. Should S.B. No. 2720-82, in any form, not be enacted into law, then this concurrent resolution shall be void.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 14, S.D. 1, as amended herein, and recommends its adoption, in the form attached hereto as S.C.R. No. 14, S.D. 2.

Signed by all members of the Committee except Senators Machida and Uwaine.

SCRep. 808-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 60 to 62, S.R. Nos. 86 to 89 and Stand. Com. Rep. No. 809-82 on April 8, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 809-82 Economic Development on S.R. No. 37

The purpose of this resolution is to request the Department of Planning and Economic Development to study the feasibility of a private sector floating drydock ship repair facility.

Your Committee finds that a need exists for a suitable floating drydock for use by the Hawaii private sector ship repair industry which could meet the current and additional needs of the Naval Surface Forces home-ported in Hawaii. Your Committee additionally finds that there is the long-term potential for even larger ship drydocks as well as the potential for more extensive ship repairing activities in Hawaii and that a suitable floating drydock could provide a base on which to begin a concerted effort to strengthen the economy and provide job opportunities for Hawaii's people by way of an expanded maritime industry.

Your Committee on Economic Development received favorable testimony from the Department of Planning and Economic Development and from private groups such as the Chamber of Commerce of Hawaii, the Alfred A. Yee Division of the Leo A. Daly Company, the Sailors' Union of the Pacific and the Boilermakers Local 204.

Your Committee has amended the resolution to provide that a certified copy of S.R. No. 37, S.D. 1, be forwarded to the Department of Planning and Economic Development. Your Committee encourages the Department of Planning and Economic Development to work with private sector individuals and groups who have demonstrated expertise in this area.

Your Committee on Economic Development concurs with the intent and purpose of S.R. 37 as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 37, S.D. 1.

Signed by all members of the Committee.

SCRep. 810-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 63 and 64, S.R. No. 90 and Stand. Com. Rep. Nos. 811-82 to 816-82 on April 12, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 811-82 Education on S.R. No. 41

The purpose of this resolution is to request the Board of Education to review and make recommendations to correct possible pay differential inequities between 10- and 12-month educational officers.

Your Committee received testimony from the Board of Education concerning this subject and finds that a review should be conducted to assure adherence to the principle of equal pay for equal work.

Your Committee has amended the resolution by adding "now, therefore" before the "be it resolved" section of the resolution, and has made a technical change which has no substantive effect.

Your Committee on Education concurs with the intent and purpose of S.R. No. 41, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 41, S.D. 1.

Signed by all members of the Committee.

SCRep. 812-82 Education on S.C.R. No. 29

The purpose of this concurrent resolution is to request the Board of Education to review and make recommendations to correct possible pay differential inequities between 10- and 12-month educational officers.

Your Committee received testimony from the Board of Education concerning this subject and finds that a review should be conducted to assure adherence to the principle of equal pay for equal work.

Your Committee has amended the resolution by adding "now, therefore" before the "be it resolved" section of the resolution, and has made a technical change which has no substantive effect.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 29, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 29, S.D. 1.

Signed by all members of the Committee.

SCRep. 813-82 Consumer Protection and Commerce on H.B. No. 2197-82

The purpose of this bill is to amend provisions relating to the qualifications and examination of dental hygienists.

Present law requires dental hygienist examinations to be held in February and August of each year. Thus, dental hygienist graduates must wait two months after their graduation to take the examination in August. This bill would incorporate the recommendation made by the Board of Dental Examiners and allow the board to schedule the semiannual examinations in its discretion.

The bill also deletes the phrase in section 447-1, Hawaii Revised Statutes, requiring an applicant to be of good moral character since this provision is unnecessary and difficult to enforce. The phrase requiring the examinations to be conducted in the English language has also been deleted since section 447-1, Hawaii Revised Statutes, requires a candidate to be a graduate of an American training school for dental hygienists where the candidate is trained in an English language environment.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2197-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 814-82 Consumer Protection and Commerce on H.B. No. 2194-82

The purpose of this bill is to repeal the statutory authorization of fees payable to the members of the Board of Cosmetology and the Boxing Commission.

Under present law, members of the Board of Cosmetology and the Boxing Commission are each entitled to a fee of \$10 for each meeting attended. In addition, the secretary of the Board of Cosmetology is allowed a salary of \$150 per year. However, none of the other 28 boards and commissions under the jurisdiction of the Department of Regulatory Agencies is allowed statutory fees or salaries for its members.

Your Committee heard testimony from the Department of Regulatory Agencies in support of the bill which would eliminate these archaic provisions of pre-statehood law which gave nominally preferential treatment to the Board of Cosmetology and the Boxing Commission and would provide consistent treatment of all thirty boards and commissions. All board and commission members will thereafter receive only reimbursement for actual expenses incurred in the discharge of their duties.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2194-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 815-82 Consumer Protection and Commerce on H.B. No. 2026-82

The purpose of this bill is to repeal sections 445-161 through 445-165, Hawaii Revised Statutes, relating to public shows.

Your Committee finds that these sections, which were enacted in 1896, are outdated. Further, your Committee also finds that public shows are more appropriately regulated by county ordinance.

Your Committee has been informed by the Department of Regulatory Agencies, the Office of Consumer Protection and the Attorney General that they have no objections to this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2026-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 816-82 Consumer Protection and Commerce on H.B. No. 2196-82

The purpose of this bill is to ensure that licensed contractors maintain applicable workers' compensation insurance, liability insurance, and required bond, or be subject to an automatic suspension.

Under present law, the Contractors License Board must conduct a formal hearing to prevent a licensee from operating without meeting the insurance and bonding requirements for licensing. Because the formal hearing process is cumbersome and costly, six to twelve months may pass before the board can conduct a hearing. Meanwhile, the licensee continues working without the required insurance or bond thereby exposing workers and the general public to the potential losses because of a licensee's lack of coverage.

This bill will remedy the problem by providing for automatic suspension effective upon the lapse of any of the required coverages and for the further disincentives of higher reinstatement fees and forfeiture of certain fees for delayed reinstatement. On the other hand, the bill provides the licensee with the right to obtain a hearing on the suspension.

Your Committee notes with approval the amendment to the bill made in House Draft 1, i.e., the substitution of "or" for "and" on page 1, line 16, of the draft. This clarifies the intent of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2196-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 817-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 65 to 72, S.R. Nos. 91 to 103, Gov. Msg. Nos. 271 to 298 and Stand. Com. Rep. Nos. 818-82 to 819-82 on April 13, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 818-82 Consumer Protection and Commerce on H.B. No. 2447-82

The purpose of this bill is to allow members of the Board of Dispensing Opticians to be reappointed to successive terms.

Presently a board member cannot be reappointed to succeed himself on the Board of Dispensing Opticians. This bill would allow members of the Board of Dispensing Opticians to be reappointed to successive terms.

Section 458-2, Hawaii Revised Statutes, is inconsistent with the general statute, section 26-34, which allows a member to serve on the same board or commission for two successive terms not to exceed eight consecutive years.

Your Committee finds that the bill will provide for uniformity between these provisions.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2447-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 819-82 Housing and Hawaiian Homes on Gov. Msg. Nos. 166, 167, 168, 219 and 220

Recommending that the Senate advise and consent to the nominations of the following:

WAYNE T. TAKAHASHI AND LAWRENCE N.C.ING to the Hawaii Housing Authority, for terms ending December 31, 1985;

MAURICE H. YAMASATO and JOSE L. ENCARNACION to the Factory-Built Housing Advisory Board, for terms ending December 31, 1985;

GEORGE NITTA to the Hawaii Community Development Authority, for a term ending December 31, 1985;

JOSEPH A. TANEGA and HOWARD H. TASAHA to the Advisory Council for Housing and Construction Industry, for terms ending December 31, 1985; and

DONALD R. GRADLE, HARRY H. KIYOTA and CHRISTINE G.K. DAHLIG to the Factory-Built Housing Advisory Board, for terms ending December 31, 1985.

Signed by all members of the Committee except Senator Anderson.

SCRep. 820-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. No. 73 and S.R. No. 104 on April 13, 1982 at the 11:30 o'clock a.m. Session;

S.C.R. Nos. 74 to 91 and S.R. Nos. 105 to 139 on April 13, 1982 prior to the 4:30 o'clock p.m. Session; and

Gov. Msg. Nos. 299 to 303 and Stand. Com. Rep. Nos. 821-82 to 826-82 on April 14, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 821-82 Consumer Protection and Commerce on H.B. No. 2027-82

The purpose of this bill is to repeal section 445-146, Hawaii Revised Statutes, relating to peddling cake.

Your Committee finds that this provision which was enacted in 1896, is out of date and therefore recommends its repeal. Further, your Committee finds that the counties by ordinance may appropriately regulate cake peddling.

Your Committee is informed that the Department of Regulatory Agencies, the Office of Consumer Protection, and the Attorney General's office have no objections to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2027-82 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. 822-82 Consumer Protection and Commerce on H.B. No. 2031-82

The purpose of this bill is to repeal sections 445-116 through 445-119, Hawaii Revised Statutes, relating to billboards and signs.

Your Committee finds that the counties, by ordinances, regulate billboards and the posting of signs and, therefore, these outdated sections of the Hawaii Revised Statutes should be repealed.

Your Committee is informed that the Department of Regulatory Agencies, the Office of Consumer Protection, and the Department of the Attorney General have no objections to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2031-82 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. 823-82 Consumer Protection and Commerce on H.B. No. 3053-82

The purpose of this bill is to restrict the use of certain words in names of business entities to industrial loan companies licensed under chapter 408, Hawaii Revised Statutes.

Presently, there is no statutory prohibition restricting the use of certain words in business names which imply that the business is a duly licensed industrial loan company. Your Committee heard testimony that there is thus the potential for confusion and misrepresentation.

Your Committee also heard testimony that the public has in the past been misled as to the nature of businesses because of names and has subsequently suffered financial losses.

This bill would restrict the use of words, such as "finance", "financial", or "industrial loan", in names of business entities to those which are licensees under chapter 408, Hawaii Revised Statutes, and thus reduce the problem of confusion for the public.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3053-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Saiki and Yee.

SCRep. 824-82 Public Utilities on S.R. No. 56

The purpose of this resolution is to investigate why "800" Toll Free Enterprise Telephone numbers, which are advertised in Hawaii, are not in fact available for use by Hawaii's residents.

Representatives from the Public Utilities Commission and Hawaiian Telephone Company testified that it is the decision of the subscriber of the "800" number whether or not that service is made available to Hawaii residents. Obviously, your Committee cannot demand that subscribers include Hawaii in their "800" network, but it can investigate why media is finding its way to Hawaii, advertising "800" service without a disclaimer. Accordingly, your Committee has amended the resolution to direct the consumer protection agency of the Department of Regulatory Agencies to investigate this advertising.

Your Committee also heard testimony relevant to firms subscribing to the "800" service in the continental United States having a choice of six calling bands from which to choose. These bands spread across the United States similar to time zone bands; Hawaii is in band six. A company may subscribe to whatever band or bands match its potential market or service areas. The more bands a subscriber includes, the higher the charge to it for the "800" service.

As stated, Hawaii is presently in band six, along with Alaska. The western states are in band five. A mainland firm must decide whether it is cost effective to include Alaska and Hawaii in its "800" service offering. Accordingly, your Committee has further amended the resolution directing the chairman of the Committee on Public Utilities of the State Senate to send a letter to the Federal Communications Commission in Washington, D.C. requesting information why Hawaii cannot be located in band five with the other western states. This way, subscribers will not have the opportunity to opt Hawaii out of its subscription, but Hawaii will be bootstrapped into band five with the other western states.

Your Committee has amended the title of this resolution to more completely describe the scope of this resolution. The amended title reads as follows: "Urging An Investigation Concerning the Reasons Why "800" Toll-Free Enterprise Telephone Numbers Cannot Be Used By Hawaii Residents And Why Advertising Appearing In The State Of Hawaii Contains Reference To "800" Toll-Free Numbers When In Reality These Numbers Are Not Available To Users In This State".

Your Committee on Public Utilities concurs with the intent and purpose of S.R. No. 56, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 56, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 825-82 Judiciary on H.B. No. 2071-82

The purpose of this bill is to correct technical errors appearing in various portions of the Hawaii Revised Statutes (hereafter "H.R.S.") which have resulted in inconsistencies,

redundancies, unnecessary repetition, and lack of clarity.

This bill, as received by your Committee, proposes amendment or repeal of twenty-seven separate and unrelated sections of the H.R.S. The proposals originate from the legislative directive contained in section 23G-20, H.R.S., which mandates the revisor of statutes to conduct a continual review of the laws of the state for the purpose of removing inconsistencies, redundancies, unnecessary repetition, and to improve their clarity.

Section 1 amends section 26-16, H.R.S., by changing reference to the number of members of the board of agriculture from seven to eight. The board does, in fact, consist of eight members. This section clarifies that the chairperson of the board of land and natural resources is one of the eight members on the board, and not an additional ninth member.

Section 2 amends section 26-17, H.R.S., pertaining to the Department of Hawaiian Home Lands by changing the stated number of commission members from seven to eight. Act 124 of the 1977 Session Laws of Hawaii (hereafter referred to as "Session Laws"), amended section 202(a) of the Hawaiian Homes Commission Act of 1920 to change the composition of the commission to eight members, but did not similarly amend section 26-17.

Section 3 amends section 39A-116, H.R.S., relating to special purpose revenue bonds to assist processing enterprises. The last paragraph of that section refers to a legislative determination that powers exercised by the Department of Budget and Finance pursuant to part IV of chapter 39A constitutes assistance to a "manufacturing enterprise". Section 3 changes the term to "processing" enterprise, thereby making the paragraph consistent with the rest of part IV.

Section 4 amends section 39A-208(b), H.R.S., pertaining to special purpose revenue bonds for utilities, by inserting the word "revenue" into the existing term "special purpose bonds". The context of the subsection indicates that the Legislature clearly intended to refer to "special purpose revenue bonds", and this bill corrects the omission.

Section 5 amends section 42-6(a), H.R.S., by deleting brackets placed around the reference to section 42-5(c) by the revisor of statutes. Section 42-6(a), as enacted in Act 207 of the 1981 Session Laws, required that requests for funds, grants, subsidies, or purchase of service agreements be "reviewed in accordance with section 42-5(d)", a non-existent subsection. Section 42-5(c) contains review procedures for requests. The revisor, by statutory authority, corrected the reference and indicated the correction by use of brackets.

Section 6 amends section 88-122 by deleting brackets placed around the word "year" in the last sentence of this section. Act 201 of the 1981 Session Laws (which becomes effective on July 1, 1982), had amended this section but omitted the word "year". The revisor, under statutory authority, added the word and indicated the change by use of brackets. This section of the bill does not take effect until July 1, 1982, the date upon which the Act omitting the word also takes effect.

Section 7 amends section 134-7(c)(1), H.R.S., by adding a reference to section 712-1240. Act 239 of the 1981 Session Laws amended section 134-7 relating to firearms. In so doing, Act 239 included the words "intoxicating compound as defined in section 712...". The H.R.S. does not contain a section 712, but the term "intoxicating compounds" is defined in section 712-1240.

Section 8 amends section 150-41, H.R.S., by deleting the reference to the \$35,000 appropriated out of general revenues to the seed distribution revolving fund. This provision is contrary to Article VII, section 11, of the state constitution, which provides that all appropriations from general obligation bond funds and general funds be for specified periods not to exceed three years. The section also updates the reference to the "college of tropical agriculture" by referring to the "college of tropical agriculture and human resources".

Section 9 amends section 188-23(b), H.R.S., by deleting brackets placed around the words "Piscidia", "purpurea", and "Wikstroemia". The words are the names or parts of names of plant substances which cannot be used for purposes of taking fish, and were misspelled in Act 85, section 23, of the 1981 Session Laws, which enacted them. The revisor, by statutory authority, corrected the misspellings and indicated the correction by use of brackets.

Section 10 amends section 199-4, H.R.S., by deleting brackets placed around the word "may" in the first sentence of the second paragraph. In amending that sentence, Act 226 of the 1981 Session Laws substituted the word "any" for the word "may" so that the sentence read: "An enforcement officer, upon arresting any person...any immediately

take the person..." (emphasis added). The revisor corrected the reference to read "may" and indicated the correction using brackets.

Sections 11 and 12 amend sections 206J-3 and 206J-12, H.R.S., respectively, relating to the Aloha Tower Development Corporation. Section 206J-3 was amended by deleting brackets placed around "25'" in course 23 at the end of the property description. Act 236 of the 1981 Session Laws, substituted the designation for inches (") in place of the designation for feet ('). Section 206J-12(a) was amended by deleting brackets placed around the words "board members". Act 236 had referred to the board members as "commissioners" in that subsection only. All other references to the members of the corporation's board of directors were to "board members". In both sections, the revisor, by statutory authority, corrected the references and indicated the corrections using brackets.

Section 13 amends section 286-5, H.R.S., by deleting reference to the director of transportation as a member of the highway safety council, Act 214 of the 1967 Session Laws, provided that membership on the council include the state highway safety coordinator and the director of transportation. Act 20, section 12, of the 1977 First Special Session Laws, changed all references to the "state highway safety coordinator" to read "state director of transportation". As a result, membership on the council now contains two references to the director of transportation.

Section 14 amends section 298-5, H.R.S., by amending the title of the section to fully reflect its contents, and by deleting brackets placed around the word "section" in the last sentence of subsection (d). Section 298-5 concerns subjects in two areas (1) special fees and charges for students in public schools; and (2) standards for public schools and groupings of students. The provisions relating to standards and groupings have been placed in a new subsection and reflected in the title of the section.

Act 84 of the 1978 Session Laws, amended section 298-5 to provide for the collection of moneys from students who lose, destroy, break, or damage school books. The revisor, by statutory authority, changed the word "act" to read "section", in part because section 298-5 was the only section amended by Act 84. The revisor indicated the correction using brackets.

Sections 15 and 16 amend sections 326-25 and 326-26, H.R.S., respectively, to change references to "leprosy" to "Hansen's disease". Act 185 of the 1981 Session Laws, amended chapter 326 by changing most of the references to "leprosy" contained therein to "Hansen's disease". The changes were not made in sections 326-25 and 326-26. Section 16 deletes the brackets placed around the words "Hansen's disease" by the revisor, who corrected the reference, and indicated the change using brackets.

Section 17 amends section 346-37(a), H.R.S., by substituting "financial assistance" for "money payments" in the first sentence. Act 52, section 5, of the 1979 Session Laws, substituted "financial assistance" for "money payments" throughout the chapter. Act 206 of the 1980 Session Laws, subsequently amended section 346-37, but in so doing, inserted the word "money payments" in subsection (a).

Section 18 amends section 353-17, H.R.S., by deleting an obsolete reference to section 326-8, which was repealed by Act 152, section 11, of the 1969 Session Laws, and by substituting the terms "Hansen's disease" and "Hansen's disease sufferer" in place of "leprosy" and "leprosy patient". Act 185 of the 1981 Session Laws, intended to change the references to "leprosy" and "leprosy patient" throughout the H.R.S. Most of the appropriate changes were made in chapter 326, but were not made in section 353-17.

Section 19 amends section 383-170, H.R.S., by deleting the brackets around "383-168(12)" which contains the definition of the term "exhaustee". The language had earlier referred to section 383-168(11) and thus did not reflect the effect of Act 148 of the 1977 Session Laws, which renumbered the paragraphs in section 383-168. The revisor, by statutory authority, corrected the reference and indicated the change using brackets. This section has also been substantially reorganized. By dividing the lengthy section into a series of subsections, future amendment will be facilitated.

Section 20 amends section 406-1 by substituting "406-1.5" in place of "406-2". Act 48 of the 1981 Session Laws, transferred the functions in section 406-2 (referred to in section 406-1), into a newly created section 406-1.5.

Sections 21 and 22 amend sections 408-8 and 408-14, H.R.S., respectively, by dividing them into subsections. Neither section is divided into subsections, but have numbered paragraphs in two separate places within the same section. This can lead to ambiguous or erroneous references--for example, a reference to section "408-14(1)" could mean

either one of two identically numbered paragraphs.

Section 23 amends section 417-3, H.R.S., by deleting the reference to affidavits referred to in section 416-15. Section 416-15 (which required that certain affidavits be sworn to by officers of the corporations) was repealed by Act 259, section 3, of the 1980 Session Laws, but the reference to that section in section 417-3 was not.

Section 24 amends section 453-11, H.R.S., by substituting "section 710-1077" in place of "chapter 729". The section refers to punishment of witnesses who refused to testify in proceedings of the board of medical examiners, and provides that they be punished for contempt under "chapter 729". Chapter 729 was repealed in 1972 by the adoption of the Hawaii Penal Code. Punishment for criminal contempt is now prescribed by section 710-1077.

Section 25 amends section 577-26(c), H.R.S., adding the word "abuse" after the word "drug". Act 179 of the 1978 Session Laws, enacted section 577-26, relating to the counseling of minors on alcohol and drug abuse matters. However, the word "abuse" was not included after the words "alcohol" or "drug" in subsection (c).

Section 26 amends section 712-1211(1), H.R.S., by deleting brackets placed around the word "he", and by adding the word "a" in paragraph (b). In amending section 712-1211(1), Act 106 of 1981 Session Laws, omitted the word "he" before "knowingly or recklessly" in the first sentence. The revisor, by statutory authority, corrected the sentence by reinserting the word "he" and indicated the change in brackets. Act 106 also omitted the word "a" from paragraph (b), thereby changing the phrase "in such a manner" to read "in such manner".

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2071-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Anderson and Yee.

SCRep. 826-82 Judiciary on H.B. No. 1944-82

The purpose of this bill is to update the statutes relating to military courts-martial with a comprehensive statutory code which will apply to all members of the state's military forces while they are on duty status with the state.

The present law relating to military courts-martial is embodied in Chapter 124, Hawaii Revised Statutes, initially enacted in 1894-1895. Although it has occasionally been amended since then, it is outdated and fails to meet the present day needs of the state's militia. For example, Brigadier General Arthur U. Ishimoto, Adjutant General of the Department of Defense testified that there is currently no legal authority for commanders to administer non-judicial punishment to an undisciplined soldier. The only sanction available to commanders is verbal or written reprimand.

The code is based on the Uniform Code of Military Justice of the National Conference of Commissioners on Uniform State Laws which in turn generally follows the United States Uniform Code of Military Justice, except for provisions not suitable for state military forces on duty status with the state and other amendments made pursuant to a 1981 interim review conducted by the House Judiciary Committee.

This bill includes provisions dealing with apprehension, restraint, confinement of suspects, punishable offenses, non-judicial punishment, state court-martial jurisdiction, composition of trial procedures, sentencing, confinement and appellate procedure.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1944-82 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 Yee.

SCRep. 827-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Gov. Msg. Nos. 304 and 305, S.R. No. 140 and Stand. Com. Rep. Nos. 828-82 to 836-82 on April 15, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee except Senators George and Cobb.

SCRep. 828-82 Transportation on S.R. No. 14

The purpose of this resolution is to request the Director of Transportation Services of the City and County of Honolulu to purchase and use special hill climbing buses to serve the Mariner's Ridge community of Hawaii Kai and expand the bus service into Kuliouou Valley.

Your Committee heard supporting testimony from Al Kirchner and a number of other Mariner's Ridge residents to the effect that this rapidly expanding residential area is large enough to support bus service, thus relieving the much congested Kalaniana'ole Highway during the peak traffic hours.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 14 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 829-82 Transportation on S.R. No. 81

The purpose of this resolution is to request that the federal government exempt Hawaii, American Samoa, Guam, and the Northern Marianas from any legislation proposing to change federal policy relating to the financing of construction and maintenance work on deep-draft harbors and channels.

Your Committee heard supporting testimony from the Department of Transportation and the Propeller Club of the United States, Port of Honolulu. The federal government's proposal to shift financial responsibility for construction and maintenance of harbors and channels to non-federal interests could be devastating to the economies of Hawaii and the American Pacific Islands. The relatively small population and user base of Hawaii and the other islands cannot bear the cost of harbor maintenance and development without federal assistance. Any form of recovery of federal costs by the imposition of fees or the requirement of non-federal interests financing new construction will be discriminatory to the American Pacific Islands which are almost solely dependent upon ocean transportation.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 81 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 830-82 Transportation on S.C.R. No. 59

The purpose of this concurrent resolution is to request that the federal government exempt Hawaii, American Samoa, Guam, and the Northern Marianas from any legislation proposing to change federal policy relating to the financing of construction and maintenance work on deep-draft harbors and channels.

Your Committee heard supporting testimony from the Department of Transportation and the Propeller Club of the United States, Port of Honolulu. The federal government's proposal to shift financial responsibility for construction and maintenance of harbors and channels to non-federal interests could be devastating to the economies of Hawaii and the American Pacific Islands. The relatively small population and user base of Hawaii and the other islands cannot bear the cost of harbor maintenance and development without federal assistance. Any form of recovery of federal costs by the imposition of fees or the requirement of non-federal interests financing new construction will be discriminatory to the American Pacific Islands which are almost solely dependent upon ocean transportation.

Your Committee on Transportation concurs with the intent and purpose of S.C.R. No. 59 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 831-82 Housing and Hawaiian Homes on H.B. No. 2971-82

The purpose of this bill is to include the Office of Hawaiian Affairs (OHA) as a state agency subject to the provisions of state policy in the use of volunteer services.

Your Committee finds that because OHA is not included in the definition of "agency" in section 90-1, Hawaii Revised Statutes, its volunteers are not treated in the same manner

as volunteers of other state agencies. This bill would correct this inequity and provide the volunteers of the Office of Hawaiian Affairs with the benefits, rights, and responsibilities provided under chapter 90.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2971-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 832-82 Government Operations and Intergovernmental Relations on
S.C.R. No. 55

The purpose of this concurrent resolution is to request the Hawaii Congressional delegation to join in a concerted effort to urge the United States and the Soviet Union to negotiate an agreement to reduce nuclear weapons.

Presently, nuclear weapons are about one thousand times as powerful as the first atomic bomb. A mere fraction of the world's strategic warheads could bring about irreversible ecological damage and annihilate masses of innocent populations.

Your Committee finds a growing concern in the community that the nuclear arms race be terminated in order to provide a secure and safe environment for Hawaii and the world.

Your Committee on Government Operations and Intergovernmental Relations concurs with the intent and purpose of S.C.R. No. 55 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 833-82 Government Operations and Intergovernmental Relations on
S.R. No. 75

The purpose of this resolution is to request the Hawaii Congressional delegation to join in a concerted effort to urge the United States and the Soviet Union to negotiate an agreement to reduce nuclear weapons.

Presently, nuclear weapons are about one thousand times as powerful as the first atomic bomb. A mere fraction of the world's strategic warheads could bring about irreversible ecological damage and annihilate masses of innocent populations.

Your Committee finds a growing concern in the community that the nuclear arms race be terminated in order to provide a secure and safe environment for Hawaii and the world.

Your Committee on Government Operations and Intergovernmental Relations concurs with the intent and purpose of S.R. No. 75 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 834-82 Government Operations and Intergovernmental Relations on
S.R. No. 70

The purpose of this resolution is to request that an interim study be conducted by the Committee on Government Operations and Intergovernmental Relations on the retainage practices between general and subcontractors in transactions involving public contracts.

Your Committee finds that the issue of retainage has plagued the construction industry for many years without resolution, and is exacerbated by current high interest rates, tight money, and a depressed construction climate. Your Committee further finds that an interim study is needed to obtain relevant data and determine what legislative action, if any, is needed to resolve the problem.

Your Committee on Government Operations and Intergovernmental Relations concurs with the intent and purpose of S.R. No. 70 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 835-82 Government Operations and Intergovernmental Relations on
Gov. Msg. No. 211

Recommending that the Senate advise and consent to the nominations of LES S. IHARA, SR., and ROY M. SEKI to the Civil Defense Advisory Council, for terms ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 836-82 Consumer Protection and Commerce on H.B. No. 1521

The purpose of this bill is to limit the applicability of chapter 417E, Hawaii Revised Statutes, to take-over bids of certain offeree companies.

Under present law, all corporations incorporated under the laws of this jurisdiction and doing business in this state are covered by the chapter, unless exempted for having fewer than one hundred shareholders or less than one million dollars in assets. Your Committee heard testimony that several federal court decisions have held that similar take-over bid statutes are preempted by the Williams Act (15 U.S.C. §78n) due, in part, to the unreasonable burden which those statutes impose on interstate commerce in relation to the local benefit to be achieved.

This bill would limit the offeree companies covered by the chapter to those which are regulated by the Public Utilities Commission or inspected by the bank examiner, which are large landowners, or which are large shareholders of any of the foregoing. This bill would also delay the effectiveness of registration of take-over bids until the Public Utilities Commission, Land Use Commission, or bank examiner, as applicable, makes a determination that the public interest would not be adversely affected by the take-over. The bill further provides criteria upon which the applicable agency or official must base the determination required of it.

Your Committee finds that this bill will limit applicability of chapter 417E to take-over bids of only those offeree companies in which the state has a manifestly clear public interest.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1521, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 837-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Stand. Com. Rep. Nos. 838-82 to 849-82 on April 16, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 838-82 Human Resources on S.R. No. 68

The purpose of this resolution is to conduct a study of the impact of amending the definition of "adequate reserve fund" and the impact of the proposed definition on the adequacy of the unemployment compensation trust fund.

Presently the reserve fund is calculated by looking at the highest annual benefit cost rate in the prior ten-year period and comparing it to the total remuneration paid by all employers in the past year and then multiplying that by a factor of one and one-half. This was placed in the law in 1978 and the fund has been calculated on this basis since that time up to the present.

In 1981 the trust fund balance had a surplus of \$112 million, with a projected surplus of \$148 million in the coming years if the unemployment rate remained at 3 per cent. Your Committee finds that the actuarial determination of the fund adequacy is a complex matter which should be thoroughly assessed to preserve an adequate reserve in the trust fund to carry on the unemployment insurance program.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 68 and recommends that it be referred to your Committee on Legislative Management.

Signed by all members of the Committee except Senators Saiki, Yamasaki and Yee.

SCRep. 839-82

Human Resources on S.C.R. No. 51

The purpose of this concurrent resolution is to conduct a study of the impact of amending the definition of "adequate reserve fund" and the impact of the proposed definition on the adequacy of the unemployment compensation trust fund.

Presently the reserve fund is calculated by looking at the highest annual benefit cost rate in the prior ten-year period and comparing it to the total remuneration paid by all employers in the past year and then multiplying that by a factor of one and one-half. This was placed in the law in 1978 and the fund has been calculated on this basis since that time up to the present.

In 1981 the trust fund balance had a surplus of \$112 million, with a projected surplus of \$148 million in the coming years if the unemployment rate remained at 3 per cent. Your Committee finds that the actuarial determination of the fund adequacy is a complex matter which should be thoroughly assessed to preserve an adequate reserve in the trust fund to carry on the unemployment insurance program.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 51 (S.R. No. 68) and recommends its adoption.

Signed by all members of the Committee except Senators Henderson, Saiki, Yamasaki and Yee.

SCRep. 840-82

Human Resources on S.R. No. 79

The purpose of this resolution is to review different alternatives of preserving, to the greatest extent possible, the major provisions of the Hawaii Prepaid Health Care Act (Chapter 393, Hawaii Revised Statutes), which has been preempted by the federal Employee Retirement Income Security Act (ERISA Public Law 93-406).

Since January 1, 1975, the Hawaii Prepaid Health Care Act mandated employers to provide affordable comprehensive medical care to their employees because of the spiraling cost of comprehensive medical care. However, on October 5, 1981, the U.S. Supreme Court ruled that ERISA preempted the Hawaii Act.

This study will provide the means to develop methods or alternatives to withstand and overcome the legal challenge of federal preemption and yet provide adequate comprehensive medical benefits at reasonable cost.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 79 and recommends that it be referred to your Committee on Legislative Management.

Signed by all members of the Committee except Senators Saiki, Yamasaki and Yee.

SCRep. 841-82

Human Resources on S.C.R. No. 57

The purpose of this concurrent resolution is to review different alternatives of preserving, to the greatest extent possible, the major provisions of the Hawaii Prepaid Health Care Act (Chapter 393, Hawaii Revised Statutes), which has been preempted by the federal Employee Retirement Income Security Act (ERISA Public Law 93-406).

Since January 1, 1975, the Hawaii Prepaid Health Care Act mandated employers to provide affordable comprehensive medical care to their employees because of the spiraling cost of comprehensive medical care. However, on October 5, 1981, the U.S. Supreme Court ruled that ERISA preempted the Hawaii Act.

This study will provide the means to develop methods or alternatives to withstand and overcome the legal challenge of federal preemption and yet provide adequate comprehensive medical benefits at reasonable cost.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 57 (S.R. No. 79) and recommends its adoption.

Signed by all members of the Committee except Senators Henderson, Saiki, Yamasaki and Yee.

SCRep. 842-82

Human Resources on S.R. No. 53

The purpose of this resolution is to request the legislative auditor to conduct a comprehensive review of the public employees' retirement system. Your Committee believes that a review is warranted because there has not been a comprehensive review of the public employees' retirement system with regard to its funding and benefit levels since its establishment in 1926.

The review is to take into consideration a number of policy issues including, but not limited to, whether the public employees' retirement system should be restructured to take into account social security benefits and contributions, whether the provision of the automatic adjustment of the post-retirement allowance should be redesigned, whether the disability benefit provisions should be redesigned, whether the provisions for the determination of early retirement allowance should be placed into law, and whether the optional benefit form provisions should be amended.

Your Committee has amended this resolution to also review whether state employees should be allowed to establish an Individual Retirement Account (IRA) with contributions from the state in lieu of participation in the state Employees' Retirement System (ERS). There are potential advantages of giving state employees the option to establish an IRA in lieu of membership in the ERS, however, because the impact of this option on the ERS is unknown, further study on this matter is warranted.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 53, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 53, S.D. 1.

Signed by all members of the Committee except Senators Saiki, Yamasaki and Yee.

SCRep. 843-82

Human Resources on S.C.R. No. 38

The purpose of this concurrent resolution is to request the legislative auditor to conduct a comprehensive review of the public employees' retirement system. Your Committee believes that a review is warranted because there has not been a comprehensive review of the public employees' retirement system with regard to its funding and benefit levels since its establishment in 1926.

The review is to take into consideration a number of policy issues including, but not limited to, whether the public employees' retirement system should be restructured to take into account social security benefits and contributions, whether the provision of the automatic adjustment of the post-retirement allowance should be redesigned, whether the disability benefit provisions should be redesigned, whether the provisions for the determination of early retirement allowance should be placed into law, and whether the optional benefit form provisions should be amended.

Your Committee has amended this concurrent resolution to also review whether state employees should be allowed to establish an Individual Retirement Account (IRA) with contributions from the state in lieu of participation in the state Employees' Retirement System (ERS). There are potential advantages of giving state employees the option to establish an IRA in lieu of membership in the ERS, however, because the impact of this option on the ERS is unknown, further study on this matter is warranted.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 38 (S.R. No. 53), as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 38, S.D. 1 (S.R. No. 53, S.D. 1).

Signed by all members of the Committee except Senators Henderson, Saiki, Yamasaki and Yee.

SCRep. 844-82

Human Resources on S.R. No. 55

The purpose of this resolution is to request the Commission on the Handicapped to establish an interim committee to study and submit a policy proposal for a model state law providing interpreter services for the hearing impaired.

Many hearing impaired persons are denied full participation from activities of the courts, legislative bodies, administrative agencies, state departments, boards and commissions unless qualified interpreters are available to assist them.

Section 504 of the 1974 Rehabilitation Act states that agencies receiving federal funds must be accessible to the handicapped population including the hearing impaired. However,

many agencies do not budget for interpreters, and presently no such state law exists which applies to state or local agencies.

Your Committee has received favorable testimony from the Department of Social Services and Housing, the Department of Health, the Commission on the Handicapped, the Hawaii Services on Deafness, and the Aloha State Association of the Deaf stating the need for an interim committee to research and develop legislation on interpreter services which are applicable to the hearing impaired population in Hawaii.

Your Committee has made a technical nonsubstantial amendment to this resolution.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 55, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 55, S.D. 1.

Signed by all members of the Committee except Senators Saiki, Yamasaki and Yee.

SCRep. 845-82

Human Resources on S.C.R. No. 40

The purpose of this concurrent resolution is to request the Commission on the Handicapped to establish an interim committee to study and submit a policy proposal for a model state law providing interpreter services for the hearing impaired.

Many hearing impaired persons are denied full participation from activities of the courts, legislative bodies, administrative agencies, state departments, boards and commissions unless qualified interpreters are available to assist them.

Section 504 of the 1974 Rehabilitation Act states that agencies receiving federal funds must be accessible to the handicapped population including the hearing impaired. However, many agencies do not budget for interpreters, and presently no such state law exists which applies to state or local agencies.

Your Committee has received favorable testimony from the Department of Social Services and Housing, the Department of Health, the Commission on the Handicapped, the Hawaii Services on Deafness, and the Aloha State Association of the Deaf stating the need for an interim committee to research and develop legislation on interpreter services which are applicable to the hearing impaired population in Hawaii.

Your Committee has made a technical nonsubstantial amendment to this concurrent resolution.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 40 (S.R. No. 55), as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 40, S.D. 1 (S.R. No. 55, S.D. 1).

Signed by all members of the Committee except Senators Henderson, Saiki, Yamasaki and Yee.

SCRep. 846-82

Human Resources on S.R. No. 78

The purpose of this resolution is to request the Department of Social Services and Housing to develop and plan for a "nursing home without walls demonstration project" by examining the feasibility and the effectiveness of maximum utilization of home care services.

H.B. No. 2391, H.D. 1 and S.B. No. 2594 included the basic goal of promoting home care services through a "nursing home without walls program" which would serve as an alternative to institutionalization in skilled nursing and intermediate care facilities. Your Committee feels it is not necessary at this time to enact a law relating to a program such as the "nursing home without walls demonstration project" which still requires in-depth planning and research.

The amount of \$78,000 has been appropriated to the Department of Social Services and Housing in the 1982-1983 Senate Supplemental Budget for the planning of the demonstration project. Although the concurrent resolution specified the parameters under which the department is requested to plan for, they are not limited to these basic guidelines.

Nontraditional forms of care must be carefully explored as a viable alternative to costly and often inappropriate institutionalization. The Department of Social Services and Housing has been provided the funding and personnel for one year to develop the plans

and any recommendations for necessary legislation to implement cost-effective and efficient community-based services.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 78 and recommends its adoption.

Signed by all members of the Committee except Senators Saiki, Yamasaki and Yee.

SCRep. 847-82 Human Resources on S.C.R. No. 56

The purpose of this concurrent resolution is to request the Department of Social Services and Housing to develop and plan for a "nursing home without walls demonstration project" by examining the feasibility and the effectiveness of maximum utilization of home care services.

H.B. No. 2391, H.D. 1 and S.B. No. 2594 included the basic goal of promoting home care services through a "nursing home without walls program" which would serve as an alternative to institutionalization in skilled nursing and intermediate care facilities. Your Committee feels it is not necessary at this time to enact a law relating to a program such as the "nursing home without walls demonstration project" which still requires in-depth planning and research.

The amount of \$78,000 has been appropriated to the Department of Social Services and Housing in the 1982-1983 Senate Supplemental Budget for the planning of the demonstration project. Although the concurrent resolution specified the parameters under which the department is requested to plan for, they are not limited to these basic guidelines.

Nontraditional forms of care must be carefully explored as a viable alternative to costly and often inappropriate institutionalization. The Department of Social Services and Housing has been provided the funding and personnel for one year to develop the plans and any recommendations for necessary legislation to implement cost-effective and efficient community-based services.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 56 (S.R. No. 78) and recommends its adoption.

Signed by all members of the Committee except Senators Henderson, Saiki, Yamasaki and Yee.

SCRep. 848-82 Human Resources on S.R. No. 54

The purpose of this resolution is to request employers to develop policies to hire, retain, and promote older workers.

Your Committee finds that the population of older persons is the fastest growing segment of the general population at this time and they are included as one of the hardest groups to find employment. Fixed incomes, coupled with inflation and the high cost-of-living, has made working an economic necessity among the elderly population.

This resolution seeks to make every effort possible to encourage the support and assistance of employers to promote older workers.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 54 and recommends its adoption.

Signed by all members of the Committee except Senators Saiki, Yamasaki and Yee.

SCRep. 849-82 Human Resources on S.C.R. No. 39

The purpose of this concurrent resolution is to request employers to develop policies to hire, retain, and promote older workers.

Your Committee finds that the population of older persons is the fastest growing segment of the general population at this time and they are included as one of the hardest groups to find employment. Fixed incomes, coupled with inflation and the high cost-of-living, has made working an economic necessity among the elderly population.

This concurrent resolution seeks to make every effort possible to encourage the support and assistance of employers to promote older workers.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 39 (S.R. No. 54) and recommends its adoption.

Signed by all members of the Committee except Senators Henderson, Saiki, Yamasaki and Yee.

SCRep. 850-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Gov. Msg. Nos. 307 to 309 and Stand. Com. Rep. Nos. 851-82 to 868-82 on April 19, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 851-82 Ways and Means on H.B. No. 2096-82

The purpose of this bill is to authorize the counties to charge an administrative fee for registration of vehicles with out-of-state license plates and to permit the counties' legislative bodies to effect subsequent changes to the fee. The bill also corrects an inconsistency concerning the placement requirement of the certificate of registration.

All motor vehicles entering the state and having an out-of-state license plate must be registered within ten days of arrival. Such registration entails administrative expenses for issuance of a permit and the processing and maintenance of information in a computer and manual files for all the vehicles to provide easy reference for identification by law enforcement agencies. Approximately 12,000 out-of-state vehicle permits are issued annually. Yet there is currently no provision for a fee charge.

With the increasing number of nonresident vehicles and the cost to register these vehicles, your Committee feels that an administrative fee is long overdue.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2096-82, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 852-82 Ways and Means on H.B. No. 2149-82

The purpose of this bill is to amend section 142-41, Hawaii Revised Statutes, by deleting reference to the \$1 fee for application for registration of a livestock brand, and to allow the Department of Agriculture to establish the fee rate by rule adopted pursuant to chapter 91.

This bill allows the Department of Agriculture to set the fee for registering for livestock brands by rules adopted under the Administrative Procedure Act rather than being fixed by a statute which would have to be amended from time to time through the lengthy and expensive legislative process. Your Committee heard testimony on the companion bill, S.B. No. 2187-82, and agrees that the setting of such fees by rule rather than statute is more appropriate.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2149-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 853-82 (Majority) Ways and Means on H.B. No. 2158-82

The purpose of this bill is to establish a temporary ceiling on the interest rate which general obligation bonds issued by the state may bear. The bill allows the state to issue general obligation bonds which bear a rate of interest not exceeding fourteen per cent a year from the bill's effective date to June 30, 1983.

Act 245, Session Laws of Hawaii 1980, set the maximum interest rate which may be paid on any coupon of general obligation bonds of the state at nine and one-half per cent. This rate was temporarily increased to twelve per cent on July 1, 1981 by Act 18, First Special Session Laws of Hawaii 1981. This action was taken to enable the state to continue

the financing of capital improvement projects high prevailing interest rates. However, the increase expires on March 31, 1982, and the interest will revert to nine and one-half per cent.

Since World War II, the Bond Buyer's 20-Bond Index of general obligation bonds has ranged from a low of 1.29 per cent on February 14, 1946 to a record high of 13.44 per cent on January 15, 1982. Municipal bond interest rates have not dipped below twelve per cent since December 3, 1981.

As a practical matter, prevailing market conditions rather than statutory ceilings govern the rate of interest which state and local governments must pay on their bonds. A survey published by The Weekly Bond Buyer on January 18, 1982 shows that twenty-nine of the forty-six states which have authority to issue general obligation debt, have no statutory interest rate ceiling on their bonds.

Thus, your Committee concurs with the House of Representatives that a temporary increase to fourteen per cent until June 30, 1983 is sufficient. Your Committee heard the companion bill, S.B. No. 2196-82.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2158-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Abercrombie and Kawasaki did not concur.

SCRep. 854-82 Ways and Means on H.B. No. 2163-82

The purpose of this bill is to correct an inconsistency between the Hawaiian Homes Commission Act, 1920, as amended, and section 26-17, Hawaii Revised Statutes.

Presently, section 202(a) of the Hawaiian Homes Commission Act, 1920, as amended, provides that the Hawaiian Homes Commission shall be composed of eight members. Section 26-17, Hawaii Revised Statutes, however, provides that the commission shall consist of seven members.

Your Committee finds that section 26-17, Hawaii Revised Statutes, should be amended to conform to section 202(a) of the Hawaiian Homes Commission Act, 1920, as amended.

Your Committee heard the Senate companion bill S.B. No. 2202-82.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2163-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 855-82 Ways and Means on H.B. No. 2166-82

The purpose of this bill is to allow county/state hospitals to deposit patients' funds outside the state treasury.

Patients' funds maintained outside the state treasury (such as in private financial institutions) will benefit the patients and reduce the county/state hospitals' recordkeeping requirements imposed by federal regulations.

Your Committee heard the Senate companion bill, S.B. No. 2205-82.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2166-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 856-82 Ways and Means on H.B. No. 2271-82

The purpose of this bill is to permit those eleemosynary organizations which have been chartered by the United States Congress for fraternal, patriotic, historical, and educational purposes to lease public lands without recourse to public auction.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2271-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 857-82 Ways and Means on H.B. No. 2445-82

The purpose of this bill is to allow an applicant applying for the registration of securities or exemption of securities under the Uniform Securities Act (Modified) to request that the review be made by a private consultant. The bill also allows the commissioner of securities to honor the request and, if the request is honored, requires the applicant to bear the cost of the review but be reimbursed one-half of the respective filing fee.

Testimony on this bill indicates that the Department of Regulatory Agencies has a constant backlog of applications for review of securities. This bill authorizes an arrangement by which the backlog may be reduced while maintaining the protection of the public welfare and without excessive public expenditures. For this reason, your Committee is in favor of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2445-82 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. 858-82 Ways and Means on H.B. No. 2564-82

The purpose of this bill is to create special handling fees for the review of corporation documents by the Department of Regulatory Agencies. A special handling fees fund will be created to house the fees collected.

Currently the expediting of documents can be done only on a limited basis due to work overload. Your Committee finds that this bill was proposed by the business registration division of the Department of Regulatory Agencies in order to facilitate a necessary service to those persons requiring expeditious processing of documents filed with the division. The fees created by this bill will allow staff flexibility. The fund will have a limited life of two years at which time its effectiveness will be evaluated.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2564-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 859-82 Ways and Means on H.B. No. 2684-82

The purpose of this bill is to raise the ceiling on Hawaii Housing Authority bonds from eight to ten per cent a year.

Presently, the Hawaii Housing Authority is allowed to issue bonds at annual interest rates not exceeding eight per cent. Because of high interest rates on the open market, however, the Hawaii Housing Authority has recently found it extremely difficult, if not impossible, to market its bonds.

Your Committee notes that the governor and the Hawaii Housing Authority strongly support this bill.

Your Committee heard the Senate companion bill S.B. No. 2644-82.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2684-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 860-82 Ways and Means on H.B. No. 3121-82

The purpose of this bill is to comply with requirements of the federal Mortgage Subsidy Bond Tax Act of 1980, P.L. 96-499, which governs the issuance of mortgage subsidy bonds by states and municipalities.

The City and County of Honolulu Department of Housing and Community Development testified that under the federal act, the total amount of mortgage subsidy bonds which can be issued within the state cannot exceed \$200 million. The Act further specifies that one-half of this amount is reserved to the state housing finance agency and the remainder is to be allocated among the municipal jurisdictions.

This bill provides for a \$100 million allocation for the Hawaii Housing Authority, as the state agency, \$58 million for the City and County of Honolulu, \$20 million for the County of Hawaii, \$8 million for the County of Kauai, and \$14 million for the County of Maui.

Your Committee has heard the companion to this bill, S.B. No. 2807-82.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3121-82, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 861-82 Ways and Means on H.B. No. 3133-82

The purpose of this bill, also contained and heard in companion Senate Bill No. 2649-82, is to provide an appropriation for ambulance service contracts for Maui County, Kauai County, Hawaii County, and the City and County of Honolulu, for fiscal year 1982 shortfalls.

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

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3133-82, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 862-82 Ways and Means on H.B. No. 2010-82

The purpose of this bill is to provide funds to compensate victims, dependents, attorneys, and others for medical services as the result of criminal acts.

The sum of \$432,512.55 is approved by your Committee to be appropriated out of the general revenues of the state to cover the payments of claims approved by the Criminal Injuries Compensation Commission in 1981. Your Committee finds these claims in order.

Your Committee also approves an additional sum of \$1,000 to permit the commission to make payment on an award made in 1979, but not yet paid.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2010-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 863-82 Ecology, Environment and Recreation on H.B. No. 3109-82

The purpose of this bill is to create the Hawaii Environmental Disclosure Law. It is intended to serve as an early warning system, through the filing of a disclosure statement with the Office of Environmental Quality Control, alerting the state and the public to substantial changes in corporate control or asset ownership which could affect Hawaii's environmental resources.

Public awareness of proposed actions of large stockholders of corporations with large land holdings which might affect the quality of Hawaii's environment is the primary objective of the environmental impact assessment process. The decisions of these stockholders regarding the use of these lands would have a direct impact upon the quality of the state's environment. Public knowledge of activities involving these land holdings, such as stock transfers, is important in protecting the unique environment of the state.

This bill requires that an entity owning 10 per cent or more of stock of a non-exempt, publicly-held Hawaii corporation, which acquires an additional five per cent or more of stock in that same corporation in any 12-month period file a disclosure statement with the Office of Environmental Quality Control. The disclosure statement must include a description of the entity, its business activities, financial statements, history of involvement

in past environmental proceedings, and a detailed explanation of its intentions which would affect environment.

This procedure would also hold true for any entity in possession of 10 per cent or more of stock in a non-exempt, publicly-held Hawaii corporation which seeks to purchase an additional five per cent or more of assets in this corporation during and 12-month period.

Should the entity refuse to file a statement or participate according to the law, the Attorney General may be requested to take action which will prohibit the purchase of the stock. The Office of Environmental Quality Control will work in cooperation with the state Attorney General for the implementation and administration of this law.

Your Committee concurs with the amendments contained in House Draft 1 as recommended by the House Committee on Energy, Ecology and Environmental Protection.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 3109-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 864-82 Ways and Means on Gov. Msg. Nos. 175 and 176

Recommending that the Senate advise and consent to the nominations of the following:

CHARLES J. LELAND to the Board of Taxation Review, First Taxation District, for a term ending December 31, 1985; and

HUGO COUTANDIN to the Board of Taxation Review, Third Taxation District, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 865-82 Human Resources on H.B. No. 2017-82

The purpose of this bill is to amend section 373-11, Hawaii Revised Statutes, additionally assuring ethical practices by employment agencies in performance of its business practices and responsibilities to prospective clientele and employers.

These assurances include, but are not limited to, accurate representations of pertinent information known to the agency about its applicants to prospective employers, accurate representations of pertinent information known to the agency about relevant terms and conditions of employment to its applicants, written disclosure of any fees or charges by the agency to its applicant upon request by said applicant and withholding billing of fees or charges to its applicant only until employment is secured by its applicant as a result of the agency's efforts.

Your Committee received testimonies from the Department of Regulatory Agencies, Hawaii Association of Personnel Consultants and Hawaii Business League favoring further assurances of ethical business practices by employment agencies.

Your Committee believes that by requiring employment agencies to abide by additional standards of ethical business practices, prospective employers and clientele who utilize and rely on accurate services provided by employment agencies will be additionally protected.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2017-82, H.D. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 866-82 Human Resources on H.B. No. 2220-82

The purpose of this bill is to strengthen the regulation and professionalism of the commercial employment agencies law, Chapter 376, Hawaii Revised Statutes, by providing guidelines on testing procedures before a license can be issued.

Your Committee finds that at present, any individual or agency seeking to operate an employment agency shall apply for a license with the Department of Regulatory Agencies. This bill will provide for inclusion of specific subject matter in the employment consultant

examination to protect and assure the consumer that those agencies which have received a license have a basic knowledge in the operations of an employment agency.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2220-82, H.D. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 867-82 Human Resources on H.B. No. 2451-82

The purpose of this bill is to amend Section 346-29, Hawaii Revised Statutes, to conform the amount of liquid assets to be disregarded for the state's General Assistance (GA) Program with the amount to be disregarded under the federal's Aid to Families with Dependent Children (AFDC) Program.

Your Committee heard testimony from the Department of Social Services and Housing stating that presently, inconsistencies exist between the federal and state eligibility requirements in the amount of liquid assets to be disregarded under financial assistance programs. This bill will provide equitable treatment to AFDC and GA families and prevent AFDC families whose liquid assets exceed \$1,000 from being transferred to the GA program.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2451-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 868-82 Human Resources on H.B. No. 2811-82

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

Presently there are four categories in the Employees' Retirement System: general employees of the state; teachers; general employees of the counties; and police officers and firefighters. Of the seven members that comprise the Board of Trustees, three are members of the system, two of whom shall be general employees and one of whom shall be a teacher. The statute by definition excludes police officers and firefighters from becoming members of the Board of Trustees.

The enactment of this bill will give police officers and firefighters an equitable opportunity to become members of the Board of Trustees. It will also rectify a long-standing discrepancy of this aspect within the system.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2811-82 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. 869-82 Housing and Hawaiian Homes on Gov. Msg. No. 292

Recommending that the Senate advise and consent to the nomination of MELVIN D. KALAHIKI to the Hawaiian Homes Commission, for a term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 870-82 Housing and Hawaiian Homes on H.B. No. 725

The purposes of this bill are to reduce the Hawaiian blood requirements for a spouse or offspring of a Hawaiian homestead lessee to qualify as a successor to a homestead lease, to eliminate the requirement that a homestead lessee designate a successor at the time of a homestead award, and to allow the Department of Hawaiian Home Lands to select a successor to a lease when the lessee fails to designate a successor.

Under present law, the designated successor of a homestead lessee must be of at least fifty per cent Hawaiian blood to qualify as a successor to a homestead lease. This bill would reduce the blood requirement for a spouse or offspring of a lessee to one-quarter Hawaiian blood quantum.

The present law also requires a lessee of a homestead to designate a successor to the lease at the time the homestead award is granted. This bill would eliminate this requirement and provide for statutory flexibility with respect to when a successor to a lease may be named.

Further, the present law authorizes the Department of Hawaiian Home Lands to select a successor to a lessee upon the death of a lessee who has not designated a successor. This bill will limit the departmental selection to the qualified surviving spouse, or to a qualified offspring, if there is no qualified surviving spouse.

Testimony was received from the Department of Hawaiian Home Lands and several native Hawaiian groups and individuals who spoke in favor of this bill. The Department of Hawaiian Home Lands testified that in many instances, neither the spouse nor offspring of a homesteader have the minimum blood requirement to qualify as successors and thus, are forced to leave the homestead upon the death of the lessee. Since 1975, a total of eight leases have been so cancelled (a 1976 study carried out by the department identified 329 families which could be affected by this section). Germaine Keliikoa testified that the Waianae Valley Homestead Community Association identified fifteen families (in a community of one hundred fifty-three units) which were in jeopardy of being dislocated through the death of the lessee.

Your Committee is concerned that these situations threaten family security and stability and frustrates the intent of the Hawaiian Homes Commission Act, which is to assist the Hawaiian people by returning them to the land. Ms. Keliikoa testified that "every family on homestead lands should have the security of continuity".

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 725 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 871-82 Housing and Hawaiian Homes on S.R. No. 23

The purpose of this resolution is to urge the counties to develop cost write-down programs to encourage development, construction, and provision of low- and moderate-income rental housing.

This resolution was generated from a proposal put forth by the rental housing task force of the 1981 Housing Consensus Legislative Workshop. Write-down programs and interest rate subsidy programs could reduce the costs of financing, land acquisition, construction, and infrastructure, or a combination of these.

Your Committee heard testimony in favor of this resolution from the Consumers' Housing Task Force and the Lieutenant Governor. Your Committee also heard testimony from the department of housing and community development of the City and County of Honolulu which indicated that the City and County of Honolulu has provided cost write-down assistance to private developers in the development of low- and moderate-income housing wherein the city helped finance land acquisition, construction of site improvements, and planning and engineering costs. The department indicated it is continuing its efforts to find funding sources for write-down programs.

Your Committee on Housing and Hawaiian Homes concurs with the intent and purpose of S.R. No. 23 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 872-82 Housing and Hawaiian Homes on S.R. No. 51

The purpose of this resolution is to request the Legislature to review the exchange of properties between the Hawaii Housing Authority and the Waimalu Grace Brethren Church.

The Hawaii Housing Authority is required to exchange state land in accordance with section 171-50, Hawaii Revised Statutes, which requires the authority to submit a resolution for review of action on any land exchanges by the authority twenty days prior to the start of any regular or special session and provides land exchanges are subject to disapproval by the Legislature by a two-thirds vote of either the Senate or House of Representatives or by majority vote of both in any regular or special session next following the date of exchange.

Your Committee has received testimony in favor of this resolution from the Department of Social Services and Housing which has no objection to the land exchanges in this resolution.

Your Committee on Housing and Hawaiian Homes concurs with the intent and purpose of S.R. No. 51 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 873-82 Housing and Hawaiian Homes on S.R. No. 120

The purpose of this resolution is to establish a statewide policy requiring housing projects on public lands to include a significant number of affordable units.

Your Committee has received testimony in favor of this resolution from the Department of Social Services and Housing.

Your Committee on Housing and Hawaiian Homes concurs with the intent and purpose of S.R. No. 120 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 874-82 Housing and Hawaiian Homes on S.R. No. 91

The purpose of this resolution is to urge the various counties of the State of Hawaii to adopt ordinances which require developers to construct housing that is affordable to the majority of state residents in conjunction with new housing project approvals.

The counties have housing powers to develop and construct dwelling units, alone or in partnership with developers, as well as to provide assistance and aid to persons in developing and constructing new housing for persons of low- and moderate-income. These powers are to be liberally construed so as to most fully effectuate the purpose of facilitating the development, construction, and provision of low- and moderate-, and gap group income housing by the various counties.

Meeting all of the housing needs of Hawaii's residents cannot be accomplished by the public sector alone. Government agencies and the private sector must share the responsibility of providing affordable housing in Hawaii.

Your Committee heard testimony from the Department of Housing and Community Development in support of this resolution.

Your Committee on Housing and Hawaiian Homes concurs with the intent and purpose of S.R. No. 91 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 875-82 Housing and Hawaiian Homes on S.C.R. No. 65

The purpose of this resolution is to urge the various counties of the State of Hawaii to adopt ordinances which require developers to construct housing that is affordable to the majority of state residents in conjunction with new housing project approvals.

The counties have housing powers to develop and construct dwelling units, alone or in partnership with developers, as well as to provide assistance and aid to persons in developing and constructing new housing for persons of low- and moderate-income. These powers are to be liberally construed so as to most fully effectuate the purpose of facilitating the development, construction, and provision of low- and moderate-, and gap group income housing by the various counties.

Meeting all of the housing needs of Hawaii's residents cannot be accomplished by the public sector alone. Government agencies and the private sector must share the responsibility of providing affordable housing in Hawaii.

Your Committee heard testimony from the Department of Housing and Community Development in support of this resolution.

Your Committee on Housing and Hawaiian Homes concurs with the intent and purpose of S.C.R. No. 65 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 876-82 Health on Gov. Msg. Nos. 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 212, 213, 214, 215, 216, 217, 252, 253, 254, 255, 256, 257, 258, 284, 285, 287, 288, 289, and 301

Recommending that the Senate advise and consent to the nominations of the following:

ANDREW P. SACKETT, M.D., to the Board of Health, for a term ending December 31, 1985;

KATHLEEN CAMPBELL to the State Planning Council on Developmental Disabilities, for a term ending December 31, 1985;

CHESTER SEGAWA and RUSSELL D. HICKS, M.D., to the Advisory Commission on Drug Abuse and Controlled Substances, for terms ending December 31, 1985;

MERLE D. CROW and SHIRLEY K. TAKAHASHI to the State Emergency Medical Services Advisory Committee, for terms ending December 31, 1985;

CHRISTIAN PETER LARSEN to the Commission on the Handicapped, for a term ending December 31, 1985;

VERNA M.K. KEYES and BARBARA DART to the Statewide Health Coordinating Council, for terms ending December 31, 1984;

REIKO IGA to the Statewide Health Coordinating Council, for a term ending December 31, 1985;

RONALD NAGANO to the East Honolulu Subarea Health Planning Council, for a term ending December 31, 1983;

CLAUDIA ANN SHAY and LEONARD P. PARESA, SR., to the East Honolulu Subarea Health Planning Council, for terms ending December 31, 1985;

REGINALD S. LEE and DONNA KISHI to the Central Oahu Subarea Health Planning Council, for terms ending December 31, 1985;

TOMMY TOMIMBANG and JAMES E. ROSCHER to the Waianae Coast Subarea Health Planning Council, for terms ending December 31, 1985;

CARL T. HAMADA and KAPUA K. SPROAT to the Windward Oahu Subarea Health Planning Council, for terms ending December 31, 1985;

HANNAH K. SPRINGER to the Hawaii County Subarea Health Planning Council, for a term ending December 31, 1985;

VIRGINIA A. RAPOZO to the Kauai County Subarea Health Planning Council, for a term ending December 31, 1985;

ALLEN B. OBLOW to the County Hospital Management Advisory Committee, City and County of Honolulu Hospital System, for a term ending December 31, 1985;

RENEE M. BITLE to the County Hospital Management Advisory Committee, Hawaii County Hospital System, for a term ending December 31, 1985;

RUTH I. JOHNSON to the County Hospital Management Advisory Committee, Maui County Hospital System, for a term ending December 31, 1985;

NORMAN AKITA to the County Hospital Management Advisory Committee, Kauai County Hospital System, for a term ending December 31, 1985;

DUK HEE MURABAYASHI and DORIS SEGAL MATSUNAGA to the Board of Health, for terms ending December 31, 1985;

ROBERT SING JUNG HU to the Advisory Commission on Drug Abuse and Controlled Substances, for a term ending December 31, 1983;

JOSEPH LEONARD MANCINELLI to the Advisory Commission on Drug Abuse and Controlled Substances, for a term ending December 31, 1984;

- PAULA C. PURINGTON, JOSEPHINE G. BUCANEG and AHMAD SAIDIN to the Commission on the Handicapped, for terms ending December 31, 1985;
- JUNE K. MOTOKAWA to the Commission on the Handicapped, for a term ending December 31, 1984;
- JEAN L.J. LUM, Ph.D., to the County Hospital Management Advisory Committee, City and County of Honolulu Hospital System, for a term ending December 31, 1985;
- ERNEST MATSUMURA and PATRICIA AKUNA to the County Hospital Management Advisory Committee, Hawaii County Hospital System, for terms ending December 31, 1985;
- JOSE S.L. VALENCIA, M.D., and YOLANDA LIANE to the County Hospital Management Advisory Committee, Kauai County Hospital System, for terms ending December 31, 1985;
- HILDA W. ORNITZ to the East Honolulu Subarea Health Planning Council, for a term ending December 31, 1985;
- JUDITH ANN NANIOLE and FRANCIS OKITA to the West Honolulu Subarea Health Planning Council, for terms ending December 31, 1985;
- ALAN K. YOSHIDA, D.D.S., to the Central Oahu Subarea Health Planning Council, for a term ending December 31, 1985;
- LEONARD F.K. KWAN, JR., and DENISE M. JONES to the Waianae Coast Subarea Health Planning Council, for terms ending December 31, 1985;
- CLAUDETTE G. MULDER to the Windward Oahu Subarea Health Planning Council, for a term ending December 31, 1985;
- MICHELE A. KATSUTANI, MAMORU TOFUKUGI, M.D., and RICHARD HIGASHI to the Maui County Subarea Health Planning Council, for terms ending December 31, 1985;
- HERBERT MORRIS, JR., to the Kauai County Subarea Health Planning Council, for a term ending December 31, 1985;
- DIRK WASANO, THOMAS CULBERTSON, ROBERT E. LAURIE, M.D., and JO-ALYCE K. PETERSON to the State Planning Council on Developmental Disabilities, for terms ending December 31, 1985;
- EUGENE K. KAWAGUCHI, M.D., to the State Emergency Medical Services Advisory Committee, for a term ending December 31, 1985;
- KARL T. PREGITZER, M.D., to the State Emergency Medical Services Advisory Committee, for a term ending December 31, 1983;
- CYNTHIA C. NAKASATO, M.D., and JOHN R. MUEH, M.D., to the State Emergency Medical Services Advisory Committee, for terms ending December 31, 1985;
- AUSTIN DIAS and JUSTO DELA CRUZ to the Statewide Health Coordinating Council, for terms ending December 31, 1985;
- SHAINA V. CAPOROZ to the Statewide Health Coordinating Council, for a term ending December 31, 1983;
- CARL T. HAMADA, CAROL ZINGER KOTSUBO, DEAN TAJIMA, CHARLES R. LYDEN and KENNETH A. HALING, M.D., to the Statewide Health Coordinating Council, for terms ending December 31, 1985;
- JOSEPH W. LAPILIO III to the Waianae Coast Subarea Health Planning Council, for a term ending December 31, 1985;
- BERT KEN AKITAKE, M.D., and JUDITH S. MIKAMI to the Maui County Subarea Health Planning Council, for terms ending December 31, 1985;
- HERBERT H. SAKAKIHARA and JOHN SCHAUMBERG to the Maui County Hospital Management Advisory Committee, for terms ending December 31, 1985; and
- LYMAN M. MORIKAWA to the Maui County Hospital Management Advisory Committee, for a term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 877-82 Health on Gov. Msg. No. 283

Recommending that the Senate advise and consent to the nomination of CHARLES G. CLARK, Director of Health, for term ending December 6, 1982.

Signed by all members of the Committee.

SCRep. 878-82 Health on Gov. Msg. No. 286

Recommending that the Senate advise and consent to the nomination of CHARLES G. CLARK to the Statewide Health Coordinating Council, for a term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 879-82 Public Utilities on S.C.R. No. 71

The purpose of this concurrent resolution is to formally request that a certain ad hoc committee which was formed by the Public Utilities Committee of the Senate during this session continue with their study and research of necessary amendments to chapter 269, Hawaii Revised Statutes.

Your Committee finds that the members of this committee desire to continue their meetings during the interim in order to present a package of amendments to the Twelfth Legislature.

Your Committee finds that the ad hoc committee has set its objectives for amending chapter 269, and that said committee should be given an opportunity to continue meeting in order to develop the appropriate amendments.

Your Committee has made nonsubstantive corrections to the concurrent resolution.

Your Committee on Public Utilities concurs with the intent and purpose of S.C.R. 71 as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 71, S.D. 1.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 880-82 Agriculture on Gov. Msg. No. 104

Recommending that the Senate advise and consent to the nomination of HOWARD Y. TAKISHITA to the Advisory Committee on Flowers and Foliage, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 881-82 Agriculture on Gov. Msg. No. 186

Recommending that the Senate advise and consent to the nominations of FEDERICO GALDONES and SHOICHI NAGAMINE to the Board of Agriculture, for terms ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 882-82 Agriculture on Gov. Msg. No. 187

Recommending that the Senate advise and consent to the nomination of DAVID K. OSHIRO to the Board of Agriculture, for a term ending December 31, 1984.

Signed by all members of the Committee.

SCRep. 883-82 Agriculture on Gov. Msg. No. 188

Recommending that the Senate advise and consent to the nomination of WAYNE K. OGASAWARA to the Advisory Committee on Pesticides, for a term ending December 31, 1984.

Signed by all members of the Committee.

SCRep. 884-82

Judiciary on H.C.R. No. 117

The purpose of this concurrent resolution is to commemorate the tenth anniversary of the ratification by the State of Hawaii of the Equal Rights Amendment to the Constitution of the State of Hawaii and the Constitution of the United States.

Your Committee finds that equality under the law for all persons without regard to sex continues to be an issue of paramount importance and that Hawaii has had a long-standing commitment to promoting and guaranteeing such equality. Your Committee agrees that the members of the Sixth Legislature and the Eleventh Legislature of the State of Hawaii should be congratulated for their efforts in achieving the passage of and in reaffirming the commitment to this landmark equal rights legislation in Hawaii.

Your Committee has amended this concurrent resolution by deleting the provision which requests and encourages ratification of the federal Equal Rights Amendment by the legislative bodies of the states which have not yet joined in ratification.

Your Committee has further amended the bill by providing that certified copies of this concurrent resolution be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Eleventh Legislature instead of to the legislative bodies of the states which have not ratified the Equal Rights Amendment.

Your Committee on Judiciary concurs with the intent and purpose of H.C.R. 117, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. 117, S.D. 1.

Signed by all members of the Committee.

SCRep. 885-82

Judiciary on S.R. No. 65

The purpose of this resolution is to reaffirm the ratification by the State of Hawaii of the Equal Rights Amendment to the Constitution of the State of Hawaii and the Constitution of the United States.

Your Committee acknowledges Hawaii's long-standing commitment to promoting and guaranteeing equal rights under the law without regard to sex.

Ten years ago, on March 22, 1972, the State of Hawaii was the first state to ratify the proposed Equal Rights Amendment to the United States Constitution. And, on November 7, 1972, the people of the State of Hawaii voted to amend our own State Constitution to ensure equal protection between the sexes by prohibiting the denial or abridgement of equal rights under the law because of sex.

Although the movement toward removing discrimination against women has been addressed by many states throughout the nation, including Hawaii, your Committee recognizes that many women continue to experience very real social and economic barriers which fail to accord them full and equal opportunity for the protection and advancement of their individual well-being.

Your Committee believes that, in order for the goals of equal treatment and opportunity which are implicit in the Equal Rights Amendments to be fully met and realized, the continued support of an conscious articulation by community leaders and policymakers are required.

Therefore, your Committee finds it appropriate and deserving that the members of the Senate of the Eleventh Legislature confirm its commitment to sexual equality by reaffirming the adoption of the Equal Rights Amendment to the Constitution of the State of Hawaii and the ratification of the proposed amendment to the Constitution of the United States.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 65, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 65, S.D. 1.

Signed by all members of the Committee.

SCRep. 886-82

Transportation on Gov. Msg. Nos. 173 and 266

Recommending that the Senate advise and consent to the nominations of BETTY MAE CHING, JOSEPH DART, III, KEITH THOMAS BURLEY and HOWARD H. TAGOMORI to the State Highway Safety Council, for terms ending December 31, 1985.

Signed by all members of the Committee except Senators Kuroda and Toyofuku.

SCRep. 887-82 Transportation on Gov. Msg. Nos. 174, 230 and 298

Recommending that the Senate advise and consent to the nominations of JAMES F. PIERCE, M.D., DANALO R. CANETE, M.D., and ARTHUR T. KOBAYASHI, O.D., to the Medical Advisory Board, for terms ending December 31, 1985.

Signed by all members of the Committee except Senators Kuroda and Toyofuku.

SCRep. 888-82 Transportation on Gov. Msg. No. 297

Recommending that the Senate advise and consent to the nominations of JACK RICHARDSON, NORRIE THOMPSON, DAVID HASEGAWA and A. DUANE BLACK to the Commission on Transportation, for terms ending December 31, 1985.

Signed by all members of the Committee except Senators Kuroda and Toyofuku.

SCRep. 889-82 Agriculture on Gov. Msg. No. 307

Recommending that the Senate advise and consent to the nominations of the following:

JACK K. SUWA to the Board of Agriculture, for a term ending December 31, 1982; and

ALEXANDER NAPIER, JR., to the Board of Agriculture, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 890-82 Agriculture on Gov. Msg. No. 271

Recommending that the Senate advise and consent to the nomination of SUSAN MATSUSHIMA to the Governor's Agriculture Coordinating Council, for a term ending December 31, 1985.

Signed by all members of the Committee except Senator Kobayashi.

SCRep. 891-82 Agriculture on Gov. Msg. No. 272

Recommending that the Senate advise and consent to the nominations of PATRICK A. T. TAKAHASHI and LELAND C. NISHEK to the Advisory Committee on Flowers and Foliage, for terms ending December 31, 1985.

Signed by all members of the Committee except Senator Kobayashi.

SCRep. 892-82 Higher Education on Gov. Msg. No. 159

Recommending that the Senate advise and consent to the nomination of ROBERT M. FUJIMOTO to the Board of Regents of the University of Hawaii, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 893-82 Higher Education on Gov. Msg. No. 218

Recommending that the Senate advise and consent to the nomination of LETICIA TESORO GAOING to the Postsecondary Education Commission, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 894-82 Higher Education on Gov. Msg. No. 290

Recommending that the Senate advise and consent to the nomination of WALTER R. STEIGER to the Board of Regents of the University of Hawaii, for a term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 895-82 Higher Education on Gov. Msg. No. 290

Recommending that the Senate advise and consent to the nomination of JAMES F. GARY to the Board of Regents of the University of Hawaii, for a term ending December 31, 1984.

Signed by all members of the Committee.

SCRep. 896-82 Higher Education on Gov. Msg. No. 290

Recommending that the Senate advise and consent to the nomination of KENNETH N. KATO to the Board of Regents of the University of Hawaii, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 897-82 Higher Education on Gov. Msg. No. 291

Recommending that the Senate advise and consent to the nominations of ROBERT M. OTA, SIMON SCHNEIDERMAN and BRIAN K. MINAAI to the Board of Directors, Research Corporation, University of Hawaii, for terms ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 898-82 Higher Education on S.R. No. 39

The purpose of this resolution is to request the University of Hawaii to monitor federal reductions in student financial aid programs and to assess the impact of these cuts on our state-funded student aid programs, including student loan funds, scholarships, tuition waivers and on-campus student employment,

Your Committee has found that the federal government has already cut funding for a wide variety of student financial aid programs, including the Pell Grants, Supplemental Educational Opportunity Grants, Guaranteed Student Loans, Student Incentive Grants and College Work-Study. Further cuts and stiffening of eligibility requirements are currently under consideration by Congress. Your Committee is seriously concerned about the impact of such actions on the ability of Hawaii's many financially needy students to begin or to continue their higher education.

Your Committee heard testimony from the University of Hawaii which indicated that the University is also gravely concerned about the effects of federal aid cutbacks. The Office of the Vice-President for Academic Affairs, in consultation with campus financial aid officers, has already begun to monitor federal intentions in the financial aid area and to plan for contingencies. However, their efforts have been hampered by difficulties in second-guessing the intentions of the administration and Congress, which are being implemented through a series of budget reconciliation acts and short-term continuing resolutions. Also, it was pointed out that the effect of many of the federal changes will not be fully felt until the late summer of 1982 as the campuses begin to complete their financial aid awarding process for the 1982-83 academic year.

In order to allow the University of Hawaii as much time as possible to complete a comprehensive analysis and report of the impact of the federal cuts on state aid programs, your Committee has amended the resolution to delay the reporting date to the Legislature until no later than two weeks after the convening of the 1983 legislative session.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 39, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 39, S.D. 1.

Signed by all members of the Committee.

SCRep. 899-82 Higher Education on S.R. No. 40

The purpose of this resolution is to direct the University Board of Regents to conduct a comprehensive examination of the current tuition structure for all categories of students, particularly nonresident and professional school students.

Your Committee finds that Hawaii's current tuition structure is out of line with regional and national trends, as documented by a 1981 tuition study by the Western Interstate Commission on Higher Education (WICHE). For instance, UH tuition fees have not been increased at all since 1975, while the thirteen western states have increased their undergraduate nonresident tuition fees by an average of 57 per cent and their undergraduate resident tuition fees by 44.5 per cent over the past four years. Rankings of the fifty states on the basis of tuition revenues collected per public college student reveal that Hawaii is among the three states that collect the lowest of tuition revenues in the nation.

The University of Hawaii stated in its testimony before the Committee that it has already begun a preliminary tuition study and so far, its findings are identical to those summarized in S.R. No. 40. The University suggested that any adjustments in the tuition rates for residents await clarification of the financial aids picture, but said that an increase in

nonresident tuition is in order. The University also stated that increases in tuition could provide additional tax relief for the general taxpayers by shifting more of the fair cost of their education to the nonresident students.

Your Committee on Higher Education is in accord with the intent and purpose of S.R. No. 40 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 900-82 Higher Education on S.C.R. No. 64

The purpose of this concurrent resolution is to direct the University Board of Regents to conduct a comprehensive examination of the current tuition structure for all categories of students, particularly nonresident and professional school students.

Your Committee finds that Hawaii's current tuition structure is out of line with regional and national trends, as documented by a 1981 tuition study by the Western Interstate Commission on Higher Education (WICHE). For instance, UH tuition fees have not been increased at all since 1975, while the thirteen western states have increased their undergraduate nonresident tuition fees by an average of 57 per cent and their undergraduate resident tuition fees by 44.5 per cent over the past four years. Rankings of the fifty states on the basis of tuition revenues collected per public college student reveal that Hawaii is among the three states that collect the lowest of tuition revenues in the nation.

The University of Hawaii stated in its testimony before the Committee that it has already begun a preliminary tuition study and so far, its findings are identical to those summarized in S.C.R. No. 64. The University suggested that any adjustments in the tuition rates for residents await clarification of the financial aids picture, but said that an increase in nonresident tuition is in order. The University also stated that increases in tuition could provide additional tax relief for the general taxpayers by shifting more of the fair cost of their education to the nonresident students.

Your Committee on Higher Education is in accord with the intent and purpose of S.C.R. No. 64 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 901-82 Higher Education on S.R. No. 64

The purpose of this resolution is to request the University of Hawaii Board of Regents and administration, in cooperation with the faculty union, to explore alternative methods of assuring the continuance of summer session offerings at the community colleges.

Your Committee finds that summer sessions at the community colleges are currently threatened by the high energy costs associated with year-round operation of the facilities and by increasing faculty salary rates which make it difficult to finance summer session courses on the required self-supporting basis.

Your Committee heard testimony in support of the resolution from the University of Hawaii administration and the University of Hawaii Professional Assembly. In addition, the Chancellor for the Community Colleges, the Associate Dean of the Manoa Summer Session, the Provost of Windward Community College, and faculty and student representatives of various community colleges participated in a "round-table" discussion of summer session problems and possible solutions.

In the University's testimony, it was pointed out that the same factors threatening summer sessions at the community colleges are also impacting other campuses of the University system, including the University of Hawaii at Hilo and at Manoa. It was therefore requested that the resolution be broadened to include a study of system-wide scope.

Your Committee is in accord with the University's recommendation and therefore has amended the resolution to expand its coverage to all campuses of the University of Hawaii system. The resolution has also been amended to emphasize two of the most realistic alternatives proposed at the public hearing: consolidation of summer session offerings among the Oahu community colleges, under the coordination of the Office of the Chancellor for Community Colleges; and partial general fund subsidies for selected high priority summer session offerings.

Your Committee concurs with the intent and purpose of S.R. No. 64 as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 64, S.D. 1.

Signed by all members of the Committee.

SCRep. 902-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Gov. Msg. Nos. 313 and 314, Conf. Com. Rep. Nos. 1-82 to 5-82 and Stand. Com. Rep. Nos. 869-82 to 901-82 on April 19, 1982 at 7:00 o'clock p.m.

Conf. Com. Rep. Nos. 6-82 and 7-82 and Stand. Com. Rep. Nos. 903-82 to 918-82 on April 20, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 903-82 Consumer Protection and Commerce on S.C.R. No. 90

The purpose of this concurrent resolution is to request the Department of Regulatory Agencies (DRA) to assist the Chamber of Commerce of Hawaii in studying the feasibility and effects of enacting legislation in the state based on the Model Business Corporation Act, the Model Nonprofit Corporation Act, and the general corporation law of Delaware.

These model acts were studied by the Legislature for the past three years and have also been studied by the Chamber of Commerce during the last legislative interim.

Your Committee finds that further study of the model acts in addition to the general corporation law of Delaware is warranted. Collectively, these references represent a sound basis for study by the Chamber of Commerce, with the DRA assisting, to propose appropriate legislation.

The concurrent resolution would also request an analysis of sections affected in the Hawaii Revised Statutes.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 90 and recommends its adoption.

Signed by all members of the Committee except Senator Machida.

SCRep. 904-82 Consumer Protection and Commerce on S.R. No. 137

The purpose of this resolution is to request the Department of Regulatory Agencies (DRA) to assist the Chamber of Commerce of Hawaii in studying the feasibility and effects of enacting legislation in the state based on the Model Business Corporation Act, the Model Nonprofit Corporation Act, and the general corporation law of Delaware.

These model acts were studied by the Legislature for the past three years and have also been studied by the Chamber of Commerce during the last legislative interim.

Your Committee finds that further study of the model acts in addition to the general corporation law of Delaware is warranted. Collectively, these references represent a sound basis for study by the Chamber of Commerce, with the DRA assisting, to propose appropriate legislation.

The resolution would also request an analysis of sections affected in the Hawaii Revised Statutes.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 137 and recommends its adoption.

Signed by all members of the Committee except Senator Machida.

SCRep. 905-82 Consumer Protection and Commerce on S.C.R. No. 60

The purpose of this concurrent resolution is to request the insurance commissioner, in conjunction with representatives of the automobile insurance industry, to study alternatives to modify the Hawaii no-fault law with respect to optional additional coverages.

Currently, insurers are required to offer each insured person optional additional coverage beyond the minimum required and while the quality of a risk may change over time, insurers are not allowed to cancel or make adjustments in the level of coverage.

Your Committee is aware that the insurance industry maintains they should have the right to decide whom to offer optional coverage and to make adjustments, while the Department of Regulatory Agencies feels this would be contrary to the intent and policy of the "take all comers" requirement and open competitive rating provisions of the no-fault law.

The study proposed by this concurrent resolution is to reconcile the opposing views of the insurance industry and the Department of Regulatory Agencies and to consider alternatives which protect consumers and provide insurers with reasonable flexibility in offering optional coverage.

Your Committee has amended the concurrent resolution to include members of the Hawaii Bar Association as participants in the study.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 60, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 60, S.D. 1.

Signed by all members of the Committee except Senator Machida.

SCRep. 906-82 Consumer Protection and Commerce on S.R. No. 87

The purpose of this resolution is to request the insurance commissioner, in conjunction with representatives of the automobile insurance industry, to study alternatives to modify the Hawaii no-fault law with respect to optional additional coverages.

Currently, insurers are required to offer each insured person optional additional coverage beyond the minimum required and while the quality of a risk may change over time, insurers are not allowed to cancel or make adjustments in the level of coverage.

Your Committee is aware that the insurance industry maintains they should have the right to decide whom to offer optional coverage and to make adjustments, while the Department of Regulatory Agencies feels this would be contrary to the intent and policy of the "take all comers" requirement and open competitive rating provisions of the no-fault law.

The study proposed by this resolution is to reconcile the opposing views of the insurance industry and the Department of Regulatory Agencies and to consider alternatives which protect consumers and provide insurers with reasonable flexibility in offering optional coverage.

Your Committee has amended the resolution to include members of the Hawaii Bar Association as participants in the study.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 87, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 87, S.D. 1.

Signed by all members of the Committee except Senator Machida.

SCRep. 907-82 Ecology, Environment and Recreation on S.C.R. No. 19

The purpose of this concurrent resolution is to request that the Board of Land and Natural Resources initiate an exchange of state land for land in Upper Aina Haina. This property could then be considered for preservation as a conservation district.

Your Committee received testimony from Representative Barbara Marumoto and the Aina Haina Community Association in support of this concurrent resolution. The Department of Land Natural Resources advised your Committee in its testimony that a land exchange involving the Wailupe Valley area would not be in the state's best interest at this time. The department also advised your Committee that a land exchange was not necessary for the purpose of this resolution because privately-owned land may be rezoned from urban to conservation by the state Land Use Commission.

Your Committee has amended this concurrent resolution to request that the state Land Use Commission address the matter of rezoning the land in question from urban to conservation.

Accordingly, the title of this resolution has been amended by your Committee to read: "Requesting that the State Land Use Commission Initiate a Petition For a Boundary Amendment

To Reclassify Land in Wailupe Valley, Aina Haina." Your Committee has also made nonsubstantive language changes in order to clarify the intent of the resolution.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 19, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 19, S.D. 1.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 908-82 Ecology, Environment and Recreation on S.R. No. 92

The purpose of this resolution is to request the Department of Land and Natural Resources and the City and County of Honolulu Department of Parks and Recreation to evaluate a proposal concerning the Waikiki War Memorial Natatorium submitted by N. Warren Waterhouse. Mr. Waterhouse's proposal recommends the preservation of the Memorial Arch, the demolition of the Natatorium, and the restoration of the beach and park areas.

The resolution further requests that should both agencies find the Waterhouse proposal to be satisfactory and feasible, they will develop preliminary estimates of the implementation costs and will recommend to the Legislature an equitable method for allocating the costs between the state and the City and County of Honolulu.

Your Committee held hearings on the Waikiki War Memorial Natatorium issue and is aware of the public sentiment regarding this facility. Your Committee is also cognizant of the need for action by the government to resolve the problems surrounding the Natatorium and believes that the adoption of this resolution is the initial action necessary to achieve this objective.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 92 and recommends its adoption.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 909-82 Ecology, Environment and Recreation on S.R. No. 72

The purpose of this resolution is to request that the University of Hawaii/Hawaii Natural Energy Institute Electric Vehicle Project report on the feasibility of converting gasoline-powered state and County vehicles into electric-powered vehicles.

Your Committee received testimony from the Hawaiian Telephone Company and the Hawaii Natural Energy Institute at the University of Hawaii, both of which use electric-powered vehicles, regarding the experiences of the drivers of such vehicles, the implementation of an electric vehicle project in their organizations, and the maintenance required for the electric fleet.

While your Committee was advised by the Hawaii Natural Energy Institute that retrofitting existing gasoline-powered state and county vehicles may be premature at this time, serious consideration should be directed toward the gradual conversion to a fleet of electric vehicles through the replacement of obsolete gasoline-powered vehicles with the most advanced models of electric cars. Both Hawaiian Telephone and the Natural Energy Institute conveyed strong optimism and expectation in the advancement of technology in the art of batteries, propulsion system, charging equipment, and the development of the electric car.

Your Committee has amended this resolution to request the University of Hawaii/Hawaii Natural Energy Institute to include in its report to the Legislature recommendations on possible alternatives and timing for the conversion of state and county vehicles from gasoline to electric.

Your Committee believes that this report, to be prepared for the Legislature during these final days of the 1982 Session, would not best serve the intentions of this resolution nor, the purpose of utilizing electric vehicles in the state. Therefore, your Committee has further amended this resolution by requiring the submission of this report to the Legislature twenty (20) days prior to the convening of the Twelfth Legislature, Regular Session of 1983.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 72, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 72, S.D. 1.

Signed by all members of the Committee except Senator Mizuguchi,

SCRep. 910-82 Agriculture on S.R. No. 6

The purpose of this resolution is to request the President of the Senate to appoint appropriate Senate committees and members for the purpose of conducting a study of possible alternative actions with respect to the operations of the Puna Sugar Company, and that the study relate to certain criteria as specified in the resolution.

Amfac, Inc., the owner of Puna Sugar Company, testified that it was willing to investigate and assist the various alternatives referred to in the resolution.

As such, your Committee has amended the resolution by including this material made available by Amfac, Inc. Your Committee also made non-substantive corrections to the resolution.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 6, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 6, S.D. 1.

Signed by all members of the Committee.

SCRep. 911-82 Agriculture on S.C.R. No. 2

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct a study of possible alternative actions with respect to the operations of the Puna Sugar Company, and that the study relate to certain criteria as specified in the concurrent resolution.

Amfac, Inc., the owner of Puna Sugar Company, testified that it was willing to investigate and assist the various alternatives referred to in the concurrent resolution.

As such, your Committee has amended the concurrent resolution by including this material made available by Amfac, Inc. Your Committee also made non-substantive corrections to the concurrent resolution.

Your Committee on Agriculture 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.

SCRep. 912-82 Agriculture on S.R. No. 42

The purpose of this resolution is to express support for the establishment of an Agricultural Cooperative Service Branch Office in Hawaii, and to urge the release of federal funds for the office. Furthermore, this resolution requests that the Secretary of Agriculture (1) seek a special exemption from the hiring freeze in order to properly staff the office with sufficient federal personnel, (2) establish the office in Honolulu since the market for produce is on Oahu, and (3) ensure that the branch office has sufficient travel funds so as to provide necessary services to agriculturists on the other islands of the state.

Your Committee received favorable testimony on the resolution.

At the request of the University of Hawaii's College of Tropical Agriculture, your Committee has amended the purpose of the resolution by adding a new paragraph to the resolution, to read as follows:

"BE IT FURTHER RESOLVED that the Secretary of Agriculture, the President and the Congress of the United States assure the funding of the branch office for a period of at least five years;".

The purpose for this amendment is that the current authorization for the branch office (\$139,000) will lapse at the end of this federal fiscal year: September 30, 1982. For the branch office to continue beyond that date, a new allocation must be made by the Congress.

At the request of the Agriculture Cooperative Service itself, your Committee has further amended the resolution by deleting the reference to requesting the branch office to be located in Honolulu.

While your Committee received testimony which supported the Honolulu site, your Committee felt that the Agriculture Cooperative Service should be granted broad discretion with respect to the office's location.

Your Committee also made minor technical amendments to the resolution.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 42, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 42, S.D. 1.

Signed by all members of the Committee.

SCRep. 913-82 Agriculture on S.C.R. No. 25

The purpose of this concurrent resolution is to express support for the establishment of an Agricultural Cooperative Service Branch Office in Hawaii, and to urge the release of federal funds for the office. Furthermore, this resolution requests that the Secretary of Agriculture (1) seek a special exemption from the hiring freeze in order to properly staff the office with sufficient federal personnel, (2) establish the office in Honolulu since the market for produce is on Oahu, and (3) ensure that the branch office has sufficient travel funds so as to provide necessary services to agriculturists on the other islands of the state.

Your Committee received favorable testimony on the concurrent resolution.

At the request of the University of Hawaii's College of Tropical Agriculture, your Committee has amended the purpose of the concurrent resolution by adding a new paragraph to the concurrent resolution, to read as follows:

"BE IT FURTHER RESOLVED that the Secretary of Agriculture, the President and the Congress of the United States assure the funding of the branch office for a period of at least five years; " .

The purpose for this amendment is that the current authorization for the branch office (\$139,000) will lapse at the end of this federal fiscal year: September 30, 1982. For the branch office to continue beyond that date, a new allocation must be made by the Congress.

At the request of the Agriculture Cooperative Service itself, your Committee has further amended the concurrent resolution by deleting the reference to requesting the branch office to be located in Honolulu.

While your Committee received testimony which supported the Honolulu site, your Committee felt that the Agriculture Cooperative Service should be granted broad discretion with respect to the office's location.

Your Committee also made minor technical amendments to the concurrent resolution.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 25, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 25, S.D. 1.

Signed by all members of the Committee.

SCRep. 914-82 Agriculture on S.R. No. 44

The purpose of this resolution is to express support for and encourage the development of agricultural parks by private landowners, and to request that the Department of Agriculture and the Department of Land and Natural Resources study the feasibility of agricultural park development by private landowners, including but not limited to the concept of state co-sponsorship with private developers and the concept of ownership by agricultural cooperatives.

Your Committee received positive testimony on this resolution. Your Committee has amended the resolution to designate the Governor's Agriculture Coordinating Committee as the study agency, since the GACC has already embarked upon the development of the Agriculture Park Action Plan which should encompass the study proposed in this resolution.

Your Committee has also made technical, nonsubstantive amendments.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 44, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 44, S.D. 1.

Signed by all members of the Committee.

SCRep. 915-82

Agriculture on S.C.R. No. 27

The purpose of this concurrent resolution is to express support for and encourage the development of agricultural parks by private landowners, and to request that the Department of Agriculture and the Department of Land and Natural Resources study the feasibility of agricultural park development by private landowners, including but not limited to the concept of state co-sponsorship with private developers and the concept of ownership by agricultural cooperatives.

Your Committee received positive testimony on this concurrent resolution. Your Committee has amended the concurrent resolution to designate the Governor's Agriculture Coordinating Committee as the study agency, since the GACC has already embarked upon the development of the Agriculture Park Action Plan which should encompass the study proposed in this concurrent resolution.

Your Committee has also made technical, nonsubstantive amendments.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 27, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 27, S.D. 1.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 916-82

Agriculture on S.R. No. 45

The purpose of this resolution is to request the state land use commission and the planning commissions of the four counties to (1) review the current land use laws and rules that affect agricultural developments, and (2) recommend changes in the law to the appropriate legislative body or amend rules to correct current practices that impede the development of agriculture.

Your Committee received positive testimony on this resolution.

On the recommendation of the City and County of Honolulu, your Committee has amended the resolution by adding two new paragraphs to read as follows:

"BE IT FURTHER RESOLVED that the studies review and recommend ways to ensure that the benefits of a relaxation in requirements accrue only to the bona fide farmer, and not to those promoting residential development of agricultural land; and

BE IT FURTHER RESOLVED that as a parallel approach to the problem, the Department of Agriculture explore innovative land use and development practices within designated state agricultural park developments, to serve as a useful guide to existing and potential small farm operations; and"

The purpose of this amendment is to clarify and broaden the intent of the resolution.

Your Committee, upon further research, also notes that a concern has been raised by the City and County of Honolulu that upon the basis of recent surveys, only 13 per cent or less of existing agricultural subdivision lots are actually being used for agriculture, with the bulk of the remainder being used as "gentlemen estates". The use of agricultural district subdivisions for residential use tends to divert agricultural lands from agricultural use, as well as driving up the cost of agricultural lands to farmers. Since this is a concern meant to be addressed by the resolution, an amendment has been prepared to the resolution noting this fact, as well as noting that under chapter 205, Hawaii Revised Statutes, the construction of non-agricultural residences in agricultural district subdivisions is prohibited, and that while the state statute provides penalties, it also provides for the counties to enforce the prohibition. The amendment also directs the state land use commission and the four county planning commissions to review the laws and rules on the prohibition of non-agricultural housing in agricultural district subdivisions, and to report their findings and recommendations.

Your Committee has also made technical amendments to the resolution.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 45, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 45, S.D. 1.

Signed by all members of the Committee.

SCRep. 917-82

Agriculture on S.C.R. No. 28

The purpose of this concurrent resolution is to request the state land use commission and the planning commissions of the four counties to (1) review the current land use laws and rules that affect agricultural developments, and (2) recommend changes in the law to the appropriate legislative body or amend rules to correct current practices that impede the development of agriculture.

Your Committee received positive testimony on this concurrent resolution.

On the recommendation of the City and County of Honolulu, your Committee has amended the concurrent resolution by adding two new paragraphs to read as follows:

"BE IT FURTHER RESOLVED that the studies review and recommend ways to ensure that the benefits of a relaxation in requirements accrue only to the bona fide farmer, and not to those promoting residential development of agricultural land; and

BE IT FURTHER RESOLVED that as a parallel approach to the problem, the Department of Agriculture explore innovative land use and development practices within designated state agricultural park developments, to be used as a useful guide to existing and potential small farm operations; and".

The purpose of this amendment is to clarify and broaden the intent of the concurrent resolution.

Your Committee, upon further research, also notes that a concern has been raised by the City and County of Honolulu that upon the basis of recent surveys, only 13 per cent or less of existing agricultural subdivision lots are actually being used for agriculture, with the bulk of the remainder being used as "gentlemen estates". The use of agricultural district subdivisions for residential use tends to divert agricultural lands from agricultural use, as well as driving up the cost of agricultural lands to farmers. Since this was a concern meant to be addressed by the concurrent resolution, an amendment has been prepared to the concurrent resolution noting this fact, as well as noting that under chapter 205, Hawaii Revised Statutes, the construction of non-agricultural residences in agricultural district subdivisions is prohibited, and that while the state statute provides penalties, it also provides for the counties to enforce the prohibition. The amendment also directs the state land use commission and the four county planning commissions to review the laws and rules on the prohibition of non-agricultural housing in agricultural district subdivisions, and to report their findings and recommendations.

Your Committee has also made technical amendments to the concurrent resolution.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 28, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 28, S.D. 1.

Signed by all members of the Committee.

SCRep. 918-82

Agriculture on S.C.R. No. 26

The purpose of this concurrent resolution is to urge the governor, the governor's office and cabinet, and the mayors and their cabinets and councils of each county, to join in a concerted statewide effort to promote and develop public gardening projects, especially for senior citizens; and to recommend that the Department of Agriculture and the Cooperative Extension Service of the University of Hawaii provide technical assistance of a relevant nature to the public agencies helping these garden projects, and to the participant-gardeners as well.

Your Committee received positive testimony on this concurrent resolution, as well as expressed concern from the Department of Agriculture and the Cooperative Extension Service of the University of Hawaii regarding their lack of resources to provide the support requested by the concurrent resolution.

At the request of the Cooperative Extension Service of the University of Hawaii, the concurrent resolution and its purpose have been amended by deleting one paragraph and replacing it in the following manner:

- (1) Paragraph to be deleted: "BE IT FURTHER RESOLVED that the Department of Agriculture and the Cooperative Extension Service of the University of Hawaii provide technical assistance of a relevant nature to assist the public agencies helping these gardens, and to also provide relevant assistance to the participant-gardeners as well; and".

- (2) Paragraph to be substituted: "BE IT FURTHER RESOLVED that a study be made by the Department of Agriculture and the Cooperative Extension Service of the University of Hawaii, of the resources required to provide services to home gardeners, gardeners in public projects, and farming activities which all currently compete for such services, while at the same time continuing positive efforts to assist gardeners through projects such as the Master Gardener's Program with the City and County of Honolulu, which provides an effective outreach program for the Cooperative Extension Service and the Department of Agriculture through the training of volunteers as resource persons to urban gardeners and others in need of information on gardening; and".

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 26, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 26, S.D. 1.

Signed by all members of the Committee.

SCRep. 919-92 Consumer Protection and Commerce on S.R. No. 74

The purpose of this resolution is to request a study, to be conducted by the Legislative Reference Bureau, of the feasibility of amending health insurance policies to include doctors of chiropractic.

Your Committee heard testimony from chiropractors and satisfied patients on the benefits of chiropractic services and its growing acceptance as an alternative health care system. Both chiropractors and patients bemoaned the lack of health insurance coverage for chiropractic services.

Your Committee finds that a comprehensive and thorough investigation of the facts and effects of including doctors of chiropractic in health insurance policies is needed to aid the Legislature in making a decision on this question.

Your Committee has amended the first "be it resolved" paragraph of this resolution by inserting the following words after the word "chiropractic": "and to invite participation of Health Maintenance Organizations, employers, and unions who have opted to self-insure their health coverage". The purpose of this amendment is to solicit relevant input from parties whose self-insurance experience could prove beneficial to the study.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 74, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 74, S.D. 1.

Signed by all members of the Committee except Senators Henderson and Yee.

SCRep. 920-82 Consumer Protection and Commerce on S.C.R. No. 53

The purpose of this concurrent resolution is to request a study, to be conducted by the Legislative Reference Bureau, of the feasibility of amending health insurance policies to include doctors of chiropractic.

Your Committee heard testimony from chiropractors and satisfied patients on the benefits of chiropractic services and its growing acceptance as an alternative health care system. Both chiropractors and patients bemoaned the lack of health insurance coverage for chiropractic services.

Your Committee finds that a comprehensive and thorough investigation of the facts and effects of including doctors of chiropractic in health insurance policies is needed to aid the Legislature in making a decision on this question.

Your Committee has amended the first "be it resolved" paragraph of this concurrent resolution by inserting the following words after the word "chiropractic": "and to invite participation of Health Maintenance Organizations, employers, and unions who have opted to self-insure their health coverage". The purpose of this amendment is to solicit relevant input from parties whose self-insurance experience could prove beneficial to the study.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 53, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 53, S.D. 1.

Signed by all members of the Committee except Senators Henderson and Yee.

SCRep. 921-82

Consumer Protection and Commerce on S.R. No. 102

The purpose of this resolution is to request the attorney general to seek a declaratory judgment on the constitutionality of a total prohibition of time sharing.

In recent years the sale of time sharing plans has generated numerous complaints by residents and visitors. In response to the public concern regarding time sharing, legislation regulating the time sharing industry was enacted by both the 1980 and 1981 Legislatures. Despite these attempts at regulation, complaints continued and led to the introduction of Senate Bill No. 2556-82, during the 1982 regular session. The bill, which passed the Senate by unanimous vote, would have banned the future creation and sale of time share interests in the state.

Your Committee is aware that the constitutionality of such a ban has been questioned and finds that a declaratory judgment on the constitutionality of a total ban of time sharing would benefit the public by resolving an area of dispute in regulating time sharing.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 102 and recommends its adoption.

Signed by all members of the Committee except Senators Henderson and Yee.

SCRep. 922-82

Consumer Protection and Commerce on S.C.R. No. 72

The purpose of this concurrent resolution is to request the attorney general to seek a declaratory judgment on the constitutionality of a total prohibition of time sharing.

In recent years the sale of time sharing plans has generated numerous complaints by residents and visitors. In response to the public concern regarding time sharing, legislation regulating the time sharing industry was enacted by both the 1980 and 1981 Legislatures. Despite these attempts at regulation, complaints continued and led to the introduction of Senate Bill No. 2556-82, during the 1982 regular session. The bill, which passed the Senate by unanimous vote, would have banned the future creation and sale of time share interests in the state.

Your Committee is aware that the constitutionality of such a ban has been questioned and finds that a declaratory judgment on the constitutionality of a total ban of time sharing would benefit the public by resolving an area of dispute in regulating time sharing.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 72 and recommends its adoption.

Signed by all members of the Committee except Senators Henderson and Yee.

SCRep. 923-82

Consumer Protection and Commerce on Gov. Msg. Nos. 105, 108, 189, 190, 194 and 195

Recommending that the Senate advise and consent to the nominations of the following:

JOHN K. CHAR, D.D.S., to the Board of Acupuncture, for a term ending December 31, 1985;

WARREN J. MAKALII to the Board of Cosmetology, for a term ending December 31, 1985;

PAUL R. HOFFMEISTER to the Board of Acupuncture, for a term ending December 31, 1985;

DONALD F. KAYE and OTTO M. AH CHING to the Board of Barbers, for terms ending December 31, 1985;

ESTHER C. IZU to the Board of Cosmetology, for a term ending December 31, 1985;

GEORGE D. CURTIS and ELLA KUULEI TAKENOUCI to the Board of Massage, for terms ending December 31, 1985; and

JOHN R. WHEAT, JR., to the Board of Massage, for a term ending December 31, 1982.

Signed by all members of the Committee except Senators Henderson and Yee.

SCRep. 924-82 Consumer Protection and Commerce on Gov. Msg. Nos. 110, 111, 113, 193, 238, 239 and 240

Recommending that the Senate advise and consent to the nominations of the following:

EDWARD TURNER and FRANCIS Y. YAMASHIRO to the Elevator Mechanics Licensing Board, for terms ending December 31, 1985;

WILLIAM B.C. HEE and KENNETH C.W. KWOCK to the Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects, for terms ending December 31, 1985;

RANDALL D. SOUZA to the Motor Vehicle Repair Industry Board, for a term ending December 31, 1985;

S. R. SCHNECK, MALCOLM T. KOGA and MARVIN SAGUM to the Contractors License Board, for terms ending December 31, 1985;

JOHN H. SAKAMOTO to the Board of Electricians and Plumbers, for a term ending December 31, 1985;

ARMANDO Q. ROLLLOLAZO and JERRY MICHAEL HIATT to the Board of Registration of Professional Engineers, Architects, and Land Surveyors and Landscape Architects, for terms ending December 31, 1985; and

TORU SUZUKI to the Motor Vehicle Repair Industry Board, for a term ending December 31, 1985.

Signed by all members of the Committee except Senators Henderson and Yee.

SCRep. 925-82 Consumer Protection and Commerce on Gov. Msg. No. 277

Recommending that the Senate advise and consent to the nomination of RONALD OKAMURA to the Board of Dispensing Opticians, for a term ending December 31, 1985.

Signed by all members of the Committee except Senators Henderson and Yee.

SCRep. 926-82 (Joint) Ecology, Environment and Recreation and Economic Development on S.C.R. No. 45

The purpose of this concurrent resolution is to authorize the Department of Land and Natural Resources to develop camping and cabin rental facilities in certain state parks through concession agreements with private developers.

The Department of Land and Natural Resources testified before your Committees in support of this concurrent resolution. Your Committees support the intent of this resolution but are concerned with the administration and management of such a project on a state-wide basis.

It is believed that rather than scattering development throughout the islands, this effort should be more contained in its implementation. Your Committees have therefore amended this resolution to restrict camping and cabin rental facility sites in state parks to those on Oahu. The Oahu sites, which will be chosen by the department and presented to the Legislature for authorization, will serve as an experimental model on which similar efforts may be based for the neighbor islands.

In making this amendment, it is not the intention of your Committees to hinder or restrict the efforts of the department to develop camping and cabin facilities in state parks. Your Committees believe that there is a need for such facilities so that our parks may be more fully utilized and enjoyed.

Your Committees on Ecology, Environment and Recreation and Economic Development concur with the intent and propose of S.C.R. No. 45, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 45, S.D. 1.

Signed by all members of the Committees except Senators Carpenter and Yamasaki.

SCRep. 927-82 Government Operations and Intergovernmental Relations on S.R. No. 95

The purpose of this resolution is to urge the United States and the Soviet Union (a)

to declare an immediate and mutual freeze on the development, testing, production, and deployment of nuclear weapons and their delivery systems, (b) to firmly renounce any possible first use of nuclear weapons, and (c) to immediately begin serious negotiations with the goal of implementing major, mutual, and verifiable reductions in the existing stockpiles of nuclear warheads, missiles, and other delivery systems.

Your Committee heard ample testimony about the futility of the nuclear arms race, the critical importance of deterring nuclear war, and the no-win consequence of any type of nuclear conflict.

Your Committee heard further testimony regarding the commonly accepted sequential effects of detonating a one-megaton bomb, the average payload of a contemporary strategic nuclear weapon, in a populated area:

- 1) The initial nuclear radiation will kill unprotected human beings in a six square mile area immediately surrounding ground zero.
- 2) The ensuing electromagnetic pulse generated by the intense gamma radiation can knock out electrical equipment over a wide area thereby effectively shutting down nearly all operations.
- 3) A thermal pulse would follow, consisting of a wave of blinding light and intense heat.
- 4) As the thermal fireball expands, a blast wave that can level all but the strongest buildings within a four-and-a-half mile radius would be initiated.
- 5) Finally, there would be local fallout, which would be lethal when exposure is sufficiently intense.

Your Committee finds that there is no rationale to pursue a course guaranteeing mutual destruction and that it is therefore imperative that the nuclear arms race be discontinued.

Your Committee on Government Operations and Intergovernmental Relations concurs with the intent and purpose of S.R. No. 95 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 928-82 Government Operations and Intergovernmental Relations on
S.R. No. 105

The purpose of this resolution is to request that the Director of Finance of the City and County of Honolulu, review and modify policies and procedures relating to the regulation of taxi cab drivers.

Your Committee notes that there have been complaints that there are taxi cab drivers who are unable to effectively communicate in the English language and provide efficient service to customers. Further, your Committee also notes that there have been reports of unscrupulous taxi cab drivers who have consistently overcharged and misled tourists as well as local patrons.

Your Committee finds that there is evidence that the laws regulating taxi cab drivers need to be reassessed in the areas of licensing requirements, standards of conduct, and stricter enforcement policies regarding misconduct so as to improve this ancillary visitor industry service.

Your Committee amended this resolution by making non-substantive language changes.

Your Committee on Government Operations and Intergovernmental Relations concurs with the intent and purpose of S.R. No. 105, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 105, S.D. 1.

Signed by all members of the Committee.

SCRep. 929-82 Government Operations and Intergovernmental Relations on
S.R. No. 125

The purpose of this resolution is to request that a special task force be formed for the purpose of evaluating the feasibility of purchase by the state of the Armed Services YMCA site and recommending suitable uses of the site by the state.

Your Committee finds that this building has considerable potential to provide sorely needed space for various state agencies and other public service agencies. Your Committee further finds that it is important to preserve the YMCA building which represents an architectural period in Hawaii's history and for it to remain on the National Register of Historic Places.

The resolution requests that members of the task force shall include the Director of Social Services, Director of State Intake Service Center, Director of Budget and Finance, the Administrative Director of the Courts, and a representative from the Chamber of Commerce of Hawaii.

Your Committee on Government Operations and Intergovernmental Relations concurs with the intent and purpose of S.R. No. 125 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 930-82 Government Operations and Intergovernmental Relations on
S.R. No. 138

The purpose of this resolution is to urge the City Council of the City and County of Honolulu to adopt an ordinance to require the installation of an emergency warning system in all taxicabs licensed to operate in the City and County of Honolulu.

Your Committee finds that the present lack of an emergency warning system in taxicabs being operated in the City and County of Honolulu, places taxicab drivers in a vulnerable situation when threatened by a passenger or confronted with other danger while operating the taxicab.

Your Committee on Government Operations and Intergovernmental Relations concurs with the intent and purpose of S.R. No. 138 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 931-82 (Joint) Human Resources and Health on S.R. No. 66

The purpose of this resolution is to request the Department of Social Services and Housing and the Department of Health to develop a plan for amending the state's Medicaid plan to include waivers for home and community-based services.

Your Committee finds that health care costs continue to increase upwards as Hawaii's elderly population, representing 7.9 per cent of the total state population today, is projected to grow to over 11 per cent by the year 2000. There is a need to develop innovative and quality long-term care alternatives for the state.

Assessment procedures required under Medicaid, often leading to institutionalization, focus primarily on medical conditions and not on social and emotional needs that are often more critical in determining the most suitable placement.

Many individuals are forced into institutions because they cannot pay for the services they require. An institutional setting provides a whole array of services which is then affordable when covered by Medicaid. Long-term care services under the state Medicaid program represents a significant part of the budget although providing little coverage for long-term care in non-institutional settings.

Your Committee heard testimony from the Department of Health and the Department of Social Services and Housing endorsing this resolution. It was felt a joint planning effort is essential to assure the optimal planning and allocation of long-term care resources.

Your Committees on Human Resources and Health concurs with the intent and purpose of S.R. No. 66 and recommends its adoption.

Signed by all members of the Committees.

SCRep. 932-82 Health on S.R. No. 15

The purpose of this resolution is to request the Department of Health to urge the United States Veterans Administration to conduct a study of the feasibility of establishing veterans' homes on the islands of Hawaii, Maui and Kauai.

Your Committee heard testimony from the Department of Health in support of intermediate and domiciliary care homes for veterans. The department concurred with the intent

and this resolution, and also testified that the request for the study will bear no direct cost to the state.

Your Committee on Health concurs with the intent and purpose of S.R. No. 15 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 933-82 Human Resources on Gov. Msg. No. 160

Recommending that the Senate advise and consent to the nomination of WALTER NUNOKAWA to the Advisory Council for Children and Youth, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 934-82 Human Resources on Gov. Msg. No. 161

Recommending that the Senate advise and consent to the nomination of CONRAD HOKAMA to the Advisory Council for Children and Youth, for a term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 935-82 Human Resources on Gov. Msg. No. 162

Recommending that the Senate advise and consent to the nominations of JULIE-ELLEN K. SIMMONS and TAKUMI AKAMA to the Civil Service Commission, for terms ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 936-82 Human Resources on Gov. Msg. No. 163

Recommending that the Senate advise and consent to the nominations to the Board of Trustees of the Deferred Compensation Plan of the following:

HERBERT M. DIAS and RONALD N. HIRANO, for terms ending October 27, 1985;

VALRI LEI KUNIMOTO, for a term ending October 27, 1982;

MITSUYOSHI FUKUDA, for a term ending October 27, 1984; and

ROBERT E. COOLING, for a term ending October 27, 1983.

Signed by all members of the Committee.

SCRep. 937-82 Human Resources on Gov. Msg. No. 164

Recommending that the Senate advise and consent to the nominations of VIRGIE CHATTERGY, Ed.D., GERRI WATANABE, SANDRA L. HAMMOND and HENRY V. ROSARIO to the Advisory Commission on Manpower and Full Employment, for terms ending June 30, 1985.

Signed by all members of the Committee.

SCRep. 938-82 Human Resources on Gov. Msg. No. 165

Recommending that the Senate advise and consent to the nomination of DAISY MAE SLAGLE to the Board of Vocational Rehabilitation, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 939-82 Human Resources on Gov. Msg. No. 221

Recommending that the Senate advise and consent to the nominations to the Advisory Council for Children and Youth of the following:

GLEN MAKAKAUALII KILA and RODNEY VEARY, for terms ending December 31, 1984; and

MILDRED MACUGAY and JERRY SUSUMU HASHIMOTO, for terms ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 940-82 Human Resources on Gov. Msg. No. 223

Recommending that the Senate advise and consent to the nominations to the Board of Vocational Rehabilitation of the following:

FRANK E. WHERLEY, for a term ending December 31, 1983; and

LAURA T. CHOCK, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 941-82 Human Resources on Gov. Msg. No. 262

Recommending that the Senate advise and consent to the nominations of ALICE H. KIM and ROY R. YONAHARA to the Advisory Commission on Manpower and Full Employment, for terms ending June 30, 1985.

Signed by all members of the Committee.

SCRep. 942-82 Human Resources on Gov. Msg. No. 263

Recommending that the Senate advise and consent to the nomination of MARILYN WONG to the Board of Social Services and Housing, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 943-82 Human Resources on Gov. Msg. No. 293

Recommending that the Senate advise and consent to the nomination of BEPPIE SHAPIRO to the Board of Social Services and Housing, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 944-82 Human Resources on Gov. Msg. No. 294

Recommending that the Senate advise and consent to the nomination of DEAN EDWARD HUTTER to the Hawaii Employment Relations Board, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 945-82 Consumer Protection and Commerce on Gov. Msg. No. 236

Recommending that the Senate advise and consent to the nomination of GEORGE KAAHANUI, JR., to the Boxing Commission, for a term ending December 31, 1984.

Signed by all members of the Committee.

SCRep. 946-82 Housing and Hawaiian Homes on Gov. Msg. Nos. 259, 260 and 261

Recommending that the Senate advise and consent to the nominations to the Hawaii Housing Authority of the following:

VANCE CANNON, for a term ending December 31, 1983;

MASANORI EMOTO, for a term ending December 31, 1984; and

ROY NAKAMOTO, for a term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 947-82 Higher Education on Gov. Msg. No. 302

Recommending that the Senate advise and consent to the nomination of TIM SCOTT FARR to the Board of Regents of the University of Hawaii, for a term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 948-82 Ecology, Environment and Recreation on S.R. No. 93

The purpose of this resolution is to urge the Environmental Protection Agency and the Hawaii State Department of Health to consider reducing the effluent quality standards

for the Hilo Coast sugar industry in view of the minimal impairment to the environment caused by soil discharges and of the financial hardship in requiring the industry to meet such standards.

Testimony was received from the Department of Health and Mr. James Ednie, planning director for Hilo Coast Processing Company on this resolution. Mr. Ednie pointed out that approval of this request would relieve the sugar industry, along with the Hilo Coast, of a costly, non-beneficial expenditure which threatens the survival of this industry in the near future.

While the Department of Health, in written testimony, believes that adoption of this resolution would not provide the sugar industry with the immediate relief which is vital, Mr. Shinji Soneda, Division Chief of the Environmental Protection and Health Services Division, advised your Committee that the EPA action urged in the resolution could provide the assistance that the Hilo Coast sugar industry is seeking.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 93 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 949-82 Ecology, Environment and Recreation on S.R. No. 96

The purpose of this resolution is to request that the Department of Land and Natural Resources conduct a study of and define the concept of cultural live-in parks.

This subject area has been addressed in the past by several legislators and has generated interest among members of the native Hawaiian community. It has been suggested that the establishment of a cultural live-in park within the state would contribute to the preservation of traditional Hawaiian culture and would provide an educational resource for all citizens. Your Committee believes that these ideas should be further explored to ascertain their viability.

The Department of Land and Natural Resources has testified in favor of the concept of cultural live-in parks, but has raised several questions in regard to the implementation of such design of cultural live-in parks.

Your Committee is aware of such concern and feels that the proposed study will assist the Legislature in deciding the viability of this type of park.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 96 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 950-82 Ecology, Environment and Recreation on S.R. No. 103

The purpose of this resolution is to request that the United States Congress amend the Clean Water Act to eliminate the requirement of a National Pollutant Discharge Elimination System (NPDES) permit for water releases from reservoirs.

Testimony supporting this resolution was received from the Department of Land and Natural Resources. The agency testified that the rigorous regulatory requirements for obtaining approval for a NPDES permit would cause economic hardships to the operators of dams in Hawaii. The department also stated that Hawaii State public health regulations already prohibit any pollution of state waters and such action, as ruled necessary by federal court under the Clean Water Act, is necessary.

The Hawaii Sugar Planters' Association also testified in favor of this resolution, noting that the Environmental Protection Agency had determined that discharges from dams should not be covered by the NPDES permit system but was overruled in federal court. It is HSPA's feeling that the court ruling creates more paperwork but does not create any benefit for the public.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 103 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 951-82 Ecology, Environment and Recreation on S.R. No. 94

The purpose of this resolution is to request that the Federal Government give the State of Hawaii the first right to purchase any federal property in the Fort DeRussy area should such lands be offered for sale.

Testimony supporting the adoption of this resolution was received from the State Department of Planning and Economic Development (DPED) and the City and County of Honolulu Department of General Planning. It is the city's intention to keep Fort DeRussy as a recreational and open space area for use by the community and military population here in Hawaii. DPED agrees with the city's plan to keep the Fort DeRussy area open and free of resort development.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. 94 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 952-82 Ecology, Environment and Recreation on S.C.R. No. 66

The purpose of this concurrent resolution is to request that the Federal Government give the State of Hawaii the first right to purchase any federal property in the Fort DeRussy area should the property be offered for sale.

Testimony was received from the State Department of Planning and Economic Development (DPED) and the City and County Department of General Planning in support of this concurrent resolution. It is the city's intention to keep Fort DeRussy as a recreational and open space area for use by the community and military population here in Hawaii. DPED agrees with the city's plan to keep Fort DeRussy open and free of resort development.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 66 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 953-82 Ecology, Environment and Recreation on S.R. No. 127

The purpose of this resolution is to authorize the Department of Land and Natural Resources to exchange park and recreation lands and related personnel, equipment and other resources on Oahu with the City and County of Honolulu.

Both the state and the city studied the issue of park exchanges and prepared a report entitled "State/City and County of Honolulu Jurisdictional Evaluation of Recreation Sites and Exchange Plan" which details the park exchange. This exchange is designed to assist both the state and the city in fulfilling their differing park responsibilities.

Your Committee heard testimony from the Department of Land and Natural Resources which described the exchange as "promoting efficiency in management of public parks and recreation programs" and "clarifying State and County recreation jurisdictions." The City and County of Honolulu Department of Parks and Recreation also testified before your Committee and expressed its support of this resolution.

Your Committee finds this exchange to be beneficial for both the state and the city and county. It is a commendable effort on the part of both agencies in clarifying the different roles of the state and the city in the operation of parks.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 127 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 954-82 Ecology, Environment and Recreation on S.C.R. No. 80

The purpose of this concurrent resolution is to authorize the Department of Land and Natural Resources to exchange park and recreation lands and related personnel, equipment and other resources on Oahu with the City and County of Honolulu.

Both the state and the city studied the issue of park exchanges and prepared a report entitled "State/City and County of Honolulu Jurisdictional Evaluation of Recreational Sites and Exchange Plan" which details the park exchange. This exchange is designed to assist both the state and the city in fulfilling their differing park responsibilities.

Your Committee heard testimony from the Department of Land and Natural Resources which described the exchange as "promoting efficiency in management of public parks and recreation programs" and "clarifying State and County recreation jurisdictions." The City and County of Honolulu Department of Parks and Recreation also testified before your Committee and expressed its support of this resolution.

Your Committee finds this exchange to be beneficial for both the state and city and county. It is a commendable effort on the state and the city in the operation of parks.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 80 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 955-82 Ecology, Environment and Recreation on S.R. No. 129

The purpose of this resolution is to advise the President of the United States, members of the U.S. Congress, and members of Hawaii's delegation to Congress of the Senate's opposition to the federal government's proposal to sell Fort DeRussy. This resolution also urges that appropriate action be taken by the President, Congress and Hawaii's congressional delegation to prevent the sale of Fort DeRussy in Hawaii.

The State Department of Planning and Economic Development and the City and County of Honolulu Department of General Planning both submitted testimony supporting the adoption of this resolution.

The city administration has advised your Committee of its position that the recreational and open space value of Fort DeRussy to the local community and military population "outweighs the relatively small contribution its sale would make to reducing the national debt." The retaining of Fort DeRussy's open and green space is critical to the city's current effort to upgrade Waikiki.

The city's development policies for the Fort DeRussy area call for public use and a 100-foot shoreline set-back in the beachfront area, as well as a maximum building height of 25 feet throughout the property. These policies would definitely deter any effort by a private developer in developing the Fort DeRussy area for commercial and resort use.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 129 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 956-82 Ecology, Environment and Recreation on S.C.R. No. 82

The purpose of this concurrent resolution is to advise the President of the United States, members of the U.S. Congress, and members of Hawaii's delegation to Congress of the Legislature's opposition to the federal government's proposal to sell Fort DeRussy. This concurrent resolution also urges that appropriate action be taken by the President, Congress and Hawaii's congressional delegation to prevent the sale of Fort DeRussy in Hawaii.

The State Department of Planning and Economic Development (DPED) and the City and County of Honolulu Department of General Planning both submitted testimony supporting the adoption of this concurrent resolution. It is the city administration's position that recreational and open space value of Fort DeRussy to the local community and the military population "outweighs the relatively small contribution its sale would make to reducing the national debt." The retaining of Fort DeRussy's open and green space is critical to the city's current effort to upgrade Waikiki.

The city also advised your Committee that its development policies for the Fort DeRussy area call for public use and a 100-foot shoreline setback in the beachfront area as well as a maximum building height of 25 feet throughout the property. These policies would definitely deter any efforts by a private developer in developing the Fort DeRussy area for commercial and resort use.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 82 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 957-82

Consumer Protection and Commerce on S.R. No. 106

The purposes of this resolution are to request the Department of Regulatory Agencies and the Real Estate Commission to update their report entitled, "An Examination of the Administration of Real Estate Regulatory Functions in Hawaii" and to explore the feasibility of establishing a separate real estate division within the department.

The report, which was prepared in response to Senate Resolution No. 166, S.D. 1, adopted by the Senate of the 1980 Regular Session, recommended that a separate real estate division be established. However, because of administrative problems the commission in 1981 supported retaining the present organizational set-up.

Your Committee believes that because of the economic importance of real estate in the state, an agency in the state must have the ability to govern the industry properly with adequate funding and manpower.

This resolution would provide for the review of the commission's workload and responsibilities with the goal of making recommendations in manpower and organizational structure including the feasibility of establishing a real estate division within the Department of Regulatory Agencies.

Your Committee made technical amendments to the resolution which have no substantive effect.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 106, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 106, S.D. 1.

Signed by all members of the Committee except Senators Machida and Yee.

SCRep. 958-82

Consumer Protection and Commerce on S.C.R. No. 74

The purposes of this concurrent resolution are to request the Department of Regulatory Agencies and the Real Estate Commission to update their report entitled, "An Examination of the Administration of Real Estate Regulatory Functions in Hawaii", and to explore the feasibility of establishing a separate real estate division within the department.

The report, which was prepared in response to Senate Resolution No. 166, S.D. 1, adopted by the Senate of the 1980 Regular Session, recommended that a separate real estate division be established. However, because of administrative problems the commission in 1981 supported retaining the present organizational set-up.

Your Committee believes that because of the economic importance of real estate in the state, an agency in the state must have the ability to govern the industry properly with adequate funding and manpower.

This concurrent resolution would provide for the review of the commission's workload and responsibilities with the goal of making recommendations in manpower and organizational structure including the feasibility of establishing a real estate division within the Department of Regulatory Agencies.

Your Committee made technical amendments to the concurrent resolution which have no substantive effect.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 74, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 74, S.D. 1.

Signed by all members of the Committee except Senators Machida and Yee.

SCRep. 959-82

Ecology, Environment and Recreation on Gov. Msg. Nos. 124 and 279

Recommending that the Senate advise and consent to the nominations to the Environmental Quality Commission of the following:

JAMES W. MORROW, for a term ending December 31, 1984; and

MILES A. KINLEY, RICHARD SANTIAGO, JESSIE HOOMALU and JAKE MANEGDEG, for terms ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 960-82 Ecology, Environment and Recreation on Gov. Msg. Nos. 125 and 202

Recommending that the Senate advise and consent to the nominations of SPENCER R. MALECHA, Ph.D., and VINCENT CHUEN-SUN CHANG to the Animal Species Advisory Commission, for terms ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 961-82 Ecology, Environment and Recreation on Gov. Msg. Nos. 127, 128, 203, 204 and 205

Recommending that the Senate advise and consent to the nominations of the following:

BRUCE HEIDENFELDT to the Aquatic Life and Wildlife Advisory Committee, County of Hawaii, for a term ending December 31, 1985;

WALLACE H. FUJII to the Aquatic Life and Wildlife Advisory Committee, County of Maui, for a term ending December 31, 1985;

GERALD H. KANG to the Aquatic Life and Wildlife Advisory Committee, County of Hawaii, for a term ending December 31, 1985;

EDWIN K. YOKOUCHI and MARVIN ROMME to the Aquatic Life and Wildlife Advisory Committee, County of Maui, for terms ending December 31, 1985; and

GLENN Y. IKEMOTO and HERBERT H. HONJO to the Aquatic Life and Wildlife Advisory Committee, County of Kauai, for terms ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 962-82 Ecology, Environment and Recreation on Gov. Msg. No. 131

Recommending that the Senate advise and consent to the nomination of JOHN J.N. SPRINGER to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 963-82 Ecology, Environment and Recreation on Gov. Msg. No. 206

Recommending that the Senate advise and consent to the nomination of WILLIAM L. THEOBALD, Ph.D., to the Natural Area Reserves System Commission, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 964-82 Ecology, Environment and Recreation on Gov. Msg. Nos. 245 and 280

Recommending that the Senate advise and consent to the nominations to the Stadium Authority of the following:

ALFRED P. FERNANDEZ, for a term ending December 31, 1985; and

WALLACE FUJIYAMA and R.J. PFEIFFER, for terms ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 965-82 Ecology, Environment and Recreation on Gov. Msg. No. 278

Recommending that the Senate advise and consent to the nominations to the Environmental Council of the following:

ARTHUR JACK DARVILL and GEORGE KRASNICK, for terms ending December 31, 1985; and

ROYCE S. FUKUNAGA, for a term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 966-82

(Majority) Ecology, Environment and Recreation on S.R. No. 89

The purpose of this resolution is to request the City and County of Honolulu to (1) terminate its plans to acquire the residential lots in the block bounded by Monsarrat Avenue, Leahi Avenue, Noela Avenue and Paki Avenue for use as part of Kapiolani Park, and (2) submit a report responding to this resolution prior to the convening of the Regular Session of 1983.

Councilman Tom Nekota and Mr. David Motooka, a life-time resident of the area in question, testified before your Committee in support of this resolution. Both parties expressed their concern that over 20 years have elapsed since the original plans to acquire the residential lots were first made. It is felt that this length of time is excessive and is the source of inconvenience and emotional stress to the residents who have lived a significant part of their lives in uncertainty regarding the future of their homes.

The City and County of Honolulu's Department of Parks and Recreation testified in opposition to this resolution, citing the jurisdiction of the city in attending to this matter. Your Committee does not wish to infringe upon the jurisdiction of the City and County of Honolulu; however, it does wish to express its concern over the handling of the acquisition procedure and would like to see a resolution to this situation which would allow the residents to effectively plan for the future of their homes and property.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 89 and recommends its adoption.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 967-82

(Majority) Ecology, Environment and Recreation on S.C.R. No. 62

The purpose of this concurrent resolution is to request the City and County of Honolulu to (1) terminate its plans to acquire the residential lots in the block bounded by Monsarrat Avenue, Leahi Avenue, Noela Avenue and Paki Avenue for use as part of Kapiolani Park, and (2) submit a report responding to this concurrent resolution prior to the convening of the Regular Session of 1983.

Councilman Tom Nekota and Mr. David Motooka, a life-time resident of the area in question, testified before your Committee in support of this concurrent resolution. Both parties expressed their concern that over 20 years have elapsed since the original plans to acquire the residential lots were first made. It is felt that this length of time is excessive and is the source of inconvenience and emotional stress to the residents who have lived a significant part of their lives in uncertainty regarding the future of their homes.

The City and County Department of Parks and Recreation testified in opposition of this concurrent resolution, citing that it is the jurisdiction of the city in attending to this matter. Your Committee does not wish to infringe upon the jurisdiction of the City and County of Honolulu; however, it does wish to express its concern over the handling of the acquisition procedure and would like to see a resolution to this situation which would allow the residents to effectively plan for the future of their homes and property.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 62 and recommends its adoption.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 968-82

Ecology, Environment and Recreation on S.R. No. 113

The purpose of this resolution is to urge the Department of Parks and Recreation of the City and County of Honolulu to resolve the issue of access to Hoomaluhia Park in Kaneohe, Hawaii.

Presently, access roads to Hoomaluhia Park are Luluku Road in the Keapuka subdivision off of Likelike Highway and Kiōnaole Road from the Pali Highway. Strong opposition and protest have developed among the residents of the Keapuka subdivision regarding the use of Luluku Road as an access road to the Park. Residents have expressed their fear of excessive traffic, noise, litter and increased crime which may result from the use of Luluku Road as the park's main entranceway.

Your Committee heard testimony from the State Department of Transportation and the City and County of Honolulu Department of Parks and Recreation. The Department of Transportation advised your Committee of its willingness to work with the city and county

to resolve the problem of access to Hoomaluhia Park. The city testified in opposition to the resolution.

Your Committee has amended this resolution by urging the City and County Department of Parks and Recreation and the State Department of Transportation to work together to further examine other entry/exit alternatives and their feasibility to serve as access roads to Hoomaluhia Park.

Accordingly, your Committee has amended the title of this resolution to read: "URGING THE CITY AND COUNTY DEPARTMENT OF PARKS AND RECREATION AND THE STATE DEPARTMENT OF TRANSPORTATION TO WORK TOGETHER IN RESOLVING THE ISSUE OF ACCESS TO HOOMALUHIA PARK."

Your Committee on Ecology, Environment and Recreation 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 Senator Mizuguchi.

SCRep. 969-82 Ecology, Environment and Recreation on S.C.R. No. 77

The purpose of this concurrent resolution is to urge the Department of Parks and Recreation of the City and County of Honolulu to resolve the issue of access to Hoomaluhia Park in Kaneohe, Hawaii.

Presently, access roads to Hoomaluhia Park are Luluku Road in the Keapuka subdivision off of Likelike Highway and Kionaole Road from the Pali Highway. Strong opposition and protest have developed among the residents of the Keapuka subdivision regarding the use of Luluku Road as an access road to the park. Residents have expressed their fear of excessive traffic, noise, litter and increased crime which may result from the use of Luluku Road as the park's main entranceway.

Your Committee heard testimony from the State Department of Transportation and the City and County of Honolulu Department of Parks and Recreation. The Department of Transportation advised your Committee of its willingness to work with the city and county to resolve the problem of access to Hoomaluhia Park. The city testified in opposition to the resolution.

Your Committee has amended this concurrent resolution by urging the City and County Department of Parks and Recreation and the State Department of Transportation to work together to further examine other entry/exit alternatives and their feasibility to serve as access roads to Hoomaluhia Park.

Accordingly, your Committee has amended the title of this resolution to read: "URGING THE CITY AND COUNTY DEPARTMENT OF PARKS AND RECREATION AND THE STATE DEPARTMENT OF TRANSPORTATION TO WORK TOGETHER IN RESOLVING THE ISSUE OF ACCESS TO HOOMALUHIA PARK."

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 77, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 77, S.D. 1.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 970-82 Consumer Protection and Commerce on Gov. Msg. Nos. 107, 112, 114, 115, 116, 117, 118, 121, 192, 196, 197, 198, 199, 200, 201, 241, 242, 275, 276 and 300

Recommending that the Senate advise and consent to the nominations of the following:

FRANCISCO V. MARIANO to the Board of Chiropractic Examiners, for a term ending December 31, 1985;

GEORGE GOTO, M.D., and KENNETH N. SUMIMOTO to the Board of Medical Examiners, for terms ending December 31, 1985;

DOROTHY HOE to the Board of Examiners of Nursing Home Administrators, for a term ending December 31, 1984;

ELROY CHONG to the Board of Examiners of Nursing Home Administrators, for a term ending December 31, 1983;

EARL H. BAXENDALE to the Board of Examiners of Nursing Home Administrators, for a term ending December 31, 1985;

CAROLEE STAMPER to the Board of Examiners in Optometry, for a term ending December 31, 1985;

DOUGLAS H. KAYA, JR., to the Board of Osteopathic Examiners, for a term ending December 31, 1985;

WILLIAM G. JOOR, JR., to the Board of Pharmacy, for a term ending December 31, 1985;

JAYNE G. GARSIDE, Ph.D., and LEIGHTON OSHIMA to the Board of Certification for Practicing Psychologists, for terms ending December 31, 1985;

JOHN T. RATHJEN, D.C., to the Board of Chiropractic Examiners, for a term ending December 31, 1985;

CAROLE ANN ISHIMARU to the Board of Nursing, for a term ending December 31, 1984;

DENNIS KUWABARA to the Board of Examiners in Optometry, for a term ending December 31, 1985;

GARTH T. HANSEN to the Board of Pharmacy, for a term ending December 31, 1985;

HERBERT B. WEAVER to the Board of Certification for Practicing Psychologists, for a term ending December 31, 1983;

CRAIG H. ROBINSON to the Board of Certification for Practicing Psychologists, for a term ending December 31, 1982;

BELLA AYAKO NAGATOSHI and AKIRA TANAKA to the Board of Radiologic Technologists, for terms ending December 31, 1985;

GARY TOSHIO OTA, D.V.M., and ZACARIAS BARICUATRO to the Board of Veterinary Examiners, for terms ending December 31, 1985;

RODNEY C.Y. CHUN, N.D., and ARTHUR K. KUSUMOTO to the Board of Examiners in Naturopathy, for terms ending December 31, 1985;

PHILIP R. BALTCH to the Board of Examiners of Nursing Home Administrators, for a term ending December 31, 1983;

JANET M. HIRATA to the Board of Examiners of Nursing Home Administrators, for a term ending December 31, 1985;

HOWARD K. MIYAMOTO, D.D.S., WALTER A. LICHOTA, D.D.S., and SHIRLEY A. BATAD to the Board of Dental Examiners, for terms ending December 31, 1985;

BEN K. AZMAN, M.D., to the Board of Medical Examiners, for a term ending December 31, 1985;

THOMAS G. CAHILL, M.D., to the Board of Medical Examiners, for a term ending December 31, 1983;

RALPH UEMAE to the Board of Speech Pathology and Audiology, for a term ending December 31, 1985; and

ROLAND TAM, M.D., to the Board of Speech Pathology and Audiology, for a term ending December 31, 1983.

Signed by all members of the Committee except Senators Henderson and Yee.

SCRep. 971-82

Ways and Means on H.B. No. 2571-82

The purpose of this bill is to allow the Department of Regulatory Agencies to hire attorneys to prosecute consumer complaints.

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

Your Committee has found that an increase in the number of consumer complaints filed with the Department of Regulatory Agencies has caused a backlog in the prosecution of complaints. The department is unable to adequately prosecute these complaints due to the limited amount of deputy attorneys general assigned to the department.

This bill provides that the attorneys hired by the department may be utilized for the purpose of processing consumer complaints and that they need not be deputy attorneys general. Your Committee agrees that the department needs this flexibility in order to handle consumer complaints properly.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2571-82, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Anderson and Yee.

SCRep. 972-82 Health on S.R. No. 132

The purpose of this resolution is to establish a task force to conduct a comprehensive review and analysis of the nursing shortage problem. Recent studies completed by the Hawaii Board of Nursing and the Hospital Association of Hawaii have produced conflicting data and recommendations, and a more cooperative effort is necessary to find definitive solutions to this serious problem.

Your Committee amended this resolution by including the United Public Workers and the Hawaii Government Employees Association in the task force.

Your Committee on Health concurs with the intent and purpose of S.R. No. 132, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 132, S.D. 1.

Signed by all members of the Committee except Senator Toyofuku.

SCRep. 973-82 Consumer Protection and Commerce on Gov. Msg. Nos. 106,
119, 120, 122, 191, 237, 273 and 274

Recommending that the Senate advise and consent to the nominations of the following:

MILTON HIRONAKA to the CATV Advisory Committee, for a term ending December 31, 1985;

FINN ANONSEN and KENT H. BOWMAN to the Board of Pilot Commissioners, for terms ending December 31, 1985;

JOSEPH CRAVALHO to the Board of Private Detectives and Guards, for a term ending December 31, 1985;

TORU KAWAKAMI and GREGG T. YAMANAKA to the Real Estate Commission, for terms ending December 31, 1985;

CECILIO "TIO" ALCONCEL to the CATV Advisory Committee, for a term ending December 31, 1985;

PATRICK PETTI to the Credit Union Review Board, for a term ending December 31, 1985;

WALTER T.Y. LAU and MANUEL R. SYLVESTER to the Board of Public Accountancy, for terms ending December 31, 1985; and

CLIFFORD TAMURA to the Boxing Commission, for a term ending December 31, 1985.

Signed by all members of the Committee except Senator Yee.

SCRep. 974-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Conf. Com. Rep. Nos. 8-82 to 67-82 and Stand. Com. Rep. Nos. 919-82 to 973-82 on April 20, 1982; and

Gov. Msg. No. 321 and Stand. Com. Rep. Nos. 975-82 to 977-82 on April 21, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 975-82 Transportation on S.R. No. 99

The purpose of this resolution is to provide for a study of the feasibility of implementing education programs and mandatory safety restraints for children in motor vehicles.

Your Committee received supporting testimony from members of the Hawaii Medical Association, Keiki Auto Restraint Project, and the American Academy of Pediatrics, Hawaii Chapter. The Department of Transportation, named as the lead agency, opposed the resolution citing the department's lack of personnel and funding to do the proposed study. The Department of Health although supporting the intent of the resolution indicated a similar concern.

The Department of Transportation did indicate a willingness to continue to review program experience in other jurisdictions. In addition, the Department of Health, the Hawaii Medical Association, the University of Hawaii School of Public Health, and the American Academy of Pediatrics, Hawaii Chapter, in supporting the use of child restraints expressed a willingness to assist in the effort to increase usage through research, education programs, and/or mandatory legislation.

Your Committee, recognizing the funding and personnel limitations of the Department of Transportation and the Department of Health and also recognizing the importance of accumulating additional data, has amended the purpose and title of the resolution.

Your Committee has further amended the resolution to reflect the willingness of the Department of Transportation, the Department of Health, the University of Hawaii School of Public Health, the Hawaii Medical Association, and the American Academy of Pediatrics, Hawaii Chapter, to continue to monitor data relating to child passenger restraints and make information pertaining to that data available to the Legislature upon request.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 99, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 99, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Cobb and Toyofuku.

SCRep. 976-82 Transportation on S.R. No. 131

The purpose of this resolution is to request the state to take over jurisdiction of the Saddle Road, and to request the Governor to submit a report to the Legislature on the actions taken pursuant to this resolution, 20 days prior to the convening of the Regular Session of 1983.

The Department of Transportation reported to your Committee that the director of the Department of Transportation, by request of the Governor, was meeting with the mayor of the County of Hawaii to discuss alternatives for the maintenance of the Saddle Road or solutions toward a possible take-over by the state.

Your Committee has amended S.R. No. 131 by deleting the request to the state to develop the Saddle Road into a cross-island highway, and by deleting the June 30, 1983, take-over date. The title of the resolution has been amended to conform to these amendments, and reads as follows: "Senate Resolution Requesting the State and County of Hawaii to Continue Discussions Regarding the Saddle Road".

Your Committee has also amended the resolution to clarify language and to make technical, nonsubstantive changes.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 131, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 131, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Cobb and Toyofuku.

SCRep. 977-82 Transportation on S.C.R. No. 84

The purpose of this concurrent resolution is to request the state to take over jurisdiction of the Saddle Road, and to request the Governor to submit a report to the Legislature on the actions taken pursuant to this resolution, 20 days prior to the convening of the Regular Session of 1983.

The Department of Transportation reported to your Committee that the director of the Department of Transportation, by request of the Governor, was meeting with the mayor of the County of Hawaii to discuss alternatives for the maintenance of the Saddle Road or solutions toward a possible take-over by the state.

Your Committee has amended S.C.R. No. 84 by deleting the request to the state to develop the Saddle Road into a cross-island highway, and by deleting the June 30, 1983, take-over date. The title of the concurrent resolution has been amended to conform to these amendments, and reads as follows: "Senate Concurrent Resolution Requesting the State and County of Hawaii to Continue Discussions Regarding the Saddle Road".

Your Committee has also amended the concurrent resolution to clarify language and to make technical, nonsubstantive changes.

Your Committee on Transportation concurs with the intent and purpose of S.C.R. No. 84, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 84, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Cobb and Toyofuku.

SCRep. 978-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Conf. Com. Rep. Nos. 68-82 to 75-82 on April 21, 1982; and

S.R. No. 141 and Stand. Com. Rep. Nos. 979-82 to 1018-82 on April 22, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 979-82 (Joint) Health and Education on S.R. No. 57

The purpose of this resolution is to request the Board of Education (BOE) to implement a program of cardiopulmonary resuscitation (CPR) training in public high schools in the fall of 1982.

Your Committees note that the Senate passed a similar resolution during the 1981 Legislature, and your Committees once again urge the implementation of a CPR program.

Your Committees received testimony from the BOE which outlined four possible alternatives for implementation of a CPR program. All the BOE cost estimates exceeded those stated in the resolution. Your Committees note that the BOE estimates did not include consideration of using equipment, as was suggested in the resolution, on a rotating basis throughout the school system to minimize costs. Your Committees further find that the Department of Education (DOE) could reduce the costs of the program by incorporating this training program into their regular incentive program for continuing education for teachers, whereby teachers could be given credit for learning how to teach CPR.

Your Committees hope the BOE will recognize the importance of increasing the number of people trained in this lifesaving skill and will agree that high schools which already have courses such as health and physical education are very appropriate places to teach CPR. With these considerations in mind, your Committees hope that the BOE will creatively and aggressively work to implement this important program rather than do nothing for another year.

Your Committee also received testimony in support of the resolution from the Hawaii Medical Association, the American Academy of Pediatrics and the president of the American College of Emergency Physicians.

Your Committees on Health and Education concur with the intent and purpose of S.R. No. 57 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 980-82 (Joint) Health and Education on S.C.R. No. 41

The purpose of this concurrent resolution is to request the Board of Education (BOE) to implement a program of cardiopulmonary resuscitation (CPR) training in public high schools in the fall of 1982.

Your Committees note that the Senate passed a similar resolution during the 1981 Legislature, and your Committees once again urge the implementation of a CPR program.

Your Committees received testimony from the BOE which outlined four possible alternatives for implementation of a CPR program. All the BOE cost estimates exceeded those stated in the concurrent resolution. Your Committees note that the BOE estimates did not include consideration of using equipment, as was suggested in the resolution, on a rotating basis throughout the school system to minimize costs. Your Committees further find that the Department of Education (DOE) could reduce the costs of the program by incorporating this training program into their regular incentive program for continuing education for teachers, whereby teachers could be given credit for learning how to teach CPR.

Your Committees hope the BOE will recognize the importance of increasing the number of people trained in this lifesaving skill and will agree that high schools which already have courses such as health and physical education are very appropriate places to teach CPR. With these considerations in mind, your Committees hope that the BOE will creatively and aggressively work to implement this important program rather than do nothing for another year.

Your Committees also received testimony in support of the concurrent resolution from the Hawaii Medical Association, the American Academy of Pediatrics and the president of the American College of Emergency Physicians.

Your Committees on Health and Education concur with the intent and purpose of S.C.R. No. 41 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 981-82 Health on S.R. No. 130

The purpose of this resolution, as received by your Committee, is to establish a special advisory committee to comprehensively review Hawaii's substance abuse and mental health services system. The review is intended to determine if state statutes need to be modified in light of the repeal of several major federal statutes which have provided guidance and funding support for substance abuse and mental health programs to the states.

Your Committee amended this resolution by deleting the special advisory committee as the review body and instead asks that the Legislative Reference Bureau conduct the review. Your Committee believes that the Legislative Reference Bureau is the more appropriate agency to conduct such a study.

Your Committee has also made stylistic amendments to this resolution as well as amendments clarifying concerns and eliminating redundancies.

Your Committee on Health concurs with the intent and purpose of S.R. No. 130 as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 130, S.D. 1.

Signed by all members of the Committee except Senator Toyofuku.

SCRep. 982-82 Agriculture on S.R. No. 58

The purpose of this resolution is to apprise our Congressional delegation that the Navy's current practice of leasing its Pearl Harbor wetlands by bid every five years has adversely affected the wetland farmers; to apprise private landowners in the wetland area of the importance of maintaining wetland crops; and to request that the Governor's Agriculture Coordinating Committee study the feasibility of converting the Pearl Harbor wetlands into an agricultural park.

Lieutenant Governor Jean King spoke in favor of the resolution, as did Jack Suwa, Chairman of the Board of Agriculture. They noted that the Pearl City wetland area is one of the few places throughout the state which has an abundant supply of recurring, fresh spring water and ample sunlight, which are essential ingredients for the cultivation of watercress

and other wetland crops.

Your Committee has made minor amendments to the resolution to clarify its intent and to add additional parties to whom the resolution will be transmitted.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 58, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 58, S.D. 1.

Signed by all members of the Committee.

SCRep. 983-82 Agriculture on S.C.R. No. 43

The purpose of this concurrent resolution is to apprise our Congressional delegation that the Navy's current practice of leasing its Pearl Harbor wetlands by bid every five years has adversely affected the wetland farmers; to apprise private landowners in the wetland area of the importance of maintaining wetland crops; and to request that the Governor's Agriculture Coordinating Committee study the feasibility of converting the Pearl Harbor wetlands into an agricultural park.

Lieutenant Governor Jean King spoke in favor of the concurrent resolution, as did Jack Suwa, Chairman of the Board of Agriculture. They noted that the Pearl City wetland area is one of the few places throughout the state which has an abundant supply of recurring, fresh spring water and ample sunlight, which are essential ingredients for the cultivation of watercress and other wetland crops.

Your Committee has made minor amendments to the concurrent resolution to clarify its intent and to add additional parties to whom the resolution will be transmitted.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 43, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 43, S.D. 1.

Signed by all members of the Committee.

SCRep. 984-82 Agriculture on S.R. No. 117

The purpose of this resolution is to request the United States government to relinquish its control over the existing Kapalama Military Reservation at Honolulu Harbor, and that the State of Hawaii negotiate to make this area available for use as a central marshalling facility for the diversified agricultural industry in the state.

Your Committee received favorable testimony on this measure from the Governor's Agriculture Coordinating Committee, the Department of Agriculture, and the Department of Transportation.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 117 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 985-82 (Majority) Transportation on S.R. No. 97

The purpose of this resolution is to request that the Department of Transportation, in consultation with the Attorney General, conduct a study of all existing laws which regulate tinted motor vehicle glazing material in order to determine the state's ability to regulate in this area of motor vehicle safety.

Your Committee heard favorable testimony from the Hawaii Business League, representing the Glass Tinters Association of Hawaii. The Department of Transportation testified against the resolution because the present federal standard requires 70% luminous transmittance for glazing materials, and in the opinion of the department, the state would be unsuccessful in obtaining an exemption from this standard.

Your Committee finds, however, that there is considerable disagreement in interpretation of the language in the federal standards, difficulties in the area of enforcement, and confusion as to the state's ability to regulate in this area. Your Committee finds, further, that no effort by the state to seek an exemption from the federal standards or to regulate in any area of glazing material tints should be undertaken without more precise information on the application of federal standards than is presently available.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 97 and recommends its adoption.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 986-82 (Joint) Transportation and Ecology, Environment and Recreation
on S.R. No. 82

The purpose of this resolution is to request the Department of Transportation to conduct a study of the organization and operations of the recreational boating program in order to improve the efficiency and accountability of the program.

In previous studies it has been pointed out that the boating program has suffered from its submersion in the Harbors Division where it must compete for time and personnel with the much larger commercial harbor program. Your Committees are aware that there have been changes in the organization of the Boating Branch to meet the criticism of the 1976 legislative audit. However, the Commercial Harbors Division still provides support for the boating program in many areas including budgeting, financial accounting, engineering and construction. Your Committees would like the study to address questions raised by reorganizing some of these functions into the Boating Branch.

The resolution further requests the Department of Transportation to assess the viability of the Boating Special Fund to sustain a boating program that meets the needs of the recreational boaters of the state and further asks the Department to recommend new sources of revenue for the Boating Special Fund.

Your Committees heard testimony from the Department of Transportation that it has no objections to such a study and shares the Committees' concerns, particularly in the area of projected revenues and expenditures of the Boating Special Fund. In fact, the department reported that its special boating task force, one of whose assignments is to explore possible new sources of revenue, will report in the near future.

Your Committees on Transportation and Ecology, Environment and Recreation are in accord with the intent and purpose of S.R. No. 82 and recommends its adoption.

Signed by all members of the Committees.

SCRep. 987-82 Judiciary on Gov. Msg. No. 227

Recommending that the Senate advise and consent to the nomination of LUCILLE W. CHUNG to the Board of Registration, Island of Hawaii, for a term ending December 31, 1985.

Signed by all members of the Committee except Senator Yee.

SCRep. 988-82 Judiciary on Gov. Msg. No. 228

Recommending that the Senate advise and consent to the nomination of GERTRUDE K.P. FRANTZ to the Board of Registration of Maui, Molokai, Lanai and Kahoolawe, for a term ending December 31, 1985.

Signed by all members of the Committee except Senator Yee.

SCRep. 989-82 Judiciary on Gov. Msg. No. 229

Recommending that the Senate advise and consent to the nominations of JOAN L. HUSTED and TERESITA U. OKIHARA to the Commission on the Status of Women, for terms ending December 31, 1985.

Signed by all members of the Committee except Senator Yee.

SCRep. 990-82 Judiciary on Gov. Msg. No. 264

Recommending that the Senate advise and consent to the nomination of CORA K. LUM to the Hawaii Crime Commission, for a term ending January 30, 1984.

Signed by all members of the Committee except Senator Yee.

SCRep. 991-82 Judiciary on Gov. Msg. No. 265

Recommending that the Senate advise and consent to the nomination of AMADO ILAR YORO to the Board of Registration, Island of Oahu, for a term ending December 31, 1985.

Signed by all members of the Committee except Senator Yee.

SCRep. 992-82 Judiciary on Gov. Msg. No. 295

Recommending that the Senate advise and consent to the nomination of EDWARD M. YOSHIMASU to the Criminal Injuries Compensation Commission, for a term ending December 31, 1985.

Signed by all members of the Committee except Senator Yee.

SCRep. 993-82 Judiciary on Gov. Msg. No. 296

Recommending that the Senate advise and consent to the nomination of ELSIE M. HIRAI to the Commission on the Status of Women, for a term ending December 31, 1985.

Signed by all members of the Committee except Senator Yee.

SCRep. 994-82 Judiciary on H.B. No. 1558

The purpose of this bill is to increase the compensation of election precinct officials.

Your Committee recognizes that election workers spend a considerable amount of time in attending training classes and working at the polls on election day. Your Committee finds that a reasonable increase in the compensation of precinct officials would alleviate the problem of recruiting election workers.

With regard to electronic ballots and voting machine elections, this bill provides for an increase from \$45 to \$60 for all precinct officials other than the precinct chairman and the voter assistant official. The compensation for the voter assistant official is increased from \$50 to \$65, and the compensation for the precinct chairman from \$55 to \$70. The additional amount paid to all precinct officials of paper ballot elections for each three hundred ballots or portion thereof is increased from \$1 to \$5.

Your Committee further finds that persons designated to attend instruction classes and who serve as standby officials should be reasonably compensated. The bill provides compensation of \$5 for alternate officials who remain available but are not utilized.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1558, 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 Senators Anderson, Kobayashi, Kuroda and O'Connor.

SCRep. 995-82 Economic Development on S.R. No. 30

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a study on the feasibility of film studios being jointly established by the government and private sector.

In response to suggestions offered in public testimony, your Committee has amended the resolution to request the Legislative Reference Bureau to: 1) study the feasibility of coordinating all governmental permits and requirements in one state departmental office, and 2) request the Legislative Reference Bureau, in conducting its study, to work with both public and private sector groups and individuals who have demonstrated expertise and interest in this area.

Your Committee also recommends that the Legislative Reference Bureau utilize a film either currently being produced or soon to be in production in Hawaii as a test case for working through the technicalities of coordinating governmental permits and requirements.

Your Committee received favorable testimony from public and private groups and individuals affirming the need and interest in expanding the capabilities of the film industry in Hawaii.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 30, amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 30, S.D. 1.

Signed by all members of the Committee except Senators Yee, Carpenter and Machida.

SCRep. 996-82 Economic Development on S.R. No. 90

The purpose of this concurrent resolution is to direct the Department of Planning and Economic Development to undertake a study of Hawaii's opportunities for economic revitalization and to recommend legislation to accomplish this task.

Your Committee finds through the Department of Planning and Economic Development that recent economic trends have resulted in a decreased level of business activity in the State of Hawaii. New federal initiatives to foster economic development and expansion offer some promise of being more effective than the traditional tools for economic stimulation on an area's economy. These programs however, are designed primarily for depressed urban areas on the U.S. Mainland, and have stringent eligibility criteria which may severely limit Hawaii's opportunities for participation.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 90 and recommends its adoption.

Signed by all members of the Committee except Senators Yee, Carpenter and Machida.

SCRep. 997-82 Economic Development on S.C.R. No. 63

The purpose of this concurrent resolution is to direct the Department of Planning and Economic Development to undertake a study of Hawaii's opportunities for economic revitalization and to recommend legislation to accomplish this task.

Your Committee finds through the Department of Planning and Economic Development that recent economic trends have resulted in a decreased level of business activity in the State of Hawaii. New federal initiatives to foster economic development and expansion offer some promise of being more effective than the traditional tools for economic stimulation on an area's economy. These programs however, are designed primarily for depressed urban areas on the U.S. Mainland, and have stringent eligibility criteria which may severely limit Hawaii's opportunities for participation.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 63 and recommends its adoption.

Signed by all members of the Committee except Senators Yee, Carpenter and Machida.

SCRep. 998-82 Economic Development on S.R. No. 98

The purpose of this resolution is to request public institutions in Hawaii to increase their use of locally canned tuna.

Your committee finds that locally packed tuna is an excellent source of protein and other essential vitamins. Further it is a versatile, low calorie food source.

Your Committee also finds that an increased use of locally canned tuna by the public institutions would enhance the growth of the fishing industry, which, in turn, would stimulate the expansion of the local tuna packing industry. These related results would offer more employment opportunities and thus result in greater self-sufficiency, diversification, and expansion of Hawaii's economic base.

Your Committee has amended the resolution to clarify the intent and purpose of the resolution.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 98, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 98, S.D. 1.

Signed by all members of the Committee except Senator Yee.

SCRep. 999-82 Economic Development on S.R. No. 100

The purpose of this resolution is to indicate our state's support of extending and funding P.L. 92-444, the Central, Western and South Pacific Fisheries Development Act.

Your Committee finds that this Act formed the legal basis for the establishment of the Pacific Tuna Development Foundation (PTDF), an organization that has engaged in valuable and successful exploratory work in developing U.S. fisheries resources in the U.S. Pacific

Basin, including Hawaii, Guam, Commonwealth of the Northern Marianas, American Samoa, the Federated States of Micronesia and the Marshall Islands. PTDF's work over the past eight years has resulted in an expansion of the U.S. fleet fishing in the Pacific.

The Act was officially passed on September 29, 1972, amended for extension by P.L. 94-343, and by P.L. 95-295, to extend it through September 30, 1982. The Act authorizes \$4 million for 1980 and 1981 and \$5 million for 1982. While the legislation authorized these funds, no monies have been appropriated. Rather, the U.S. Department of Commerce chose to fund PTDF projects through Saltonstall-Kennedy funds.

Your Committee finds that the future of Saltonstall-Kennedy funds is uncertain; the current administration has no plans to fund fisheries development foundations after FY 1982. It is therefore appropriate to request that the U.S. Congress extend and fund the Central, Western and South Pacific Fisheries Development Act so that development of fisheries, one of this region's prime resources, can continue in the U.S. Pacific Basin.

Your Committee finds through the Pacific Tuna Development Foundation that the resolution will indicate our state's support for this important program, which has already opened up rich new fisheries to the U.S. fishing fleet, and has begun to provide technology transfer and fisheries infrastructure development in the U.S. Pacific Basin.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 100 and recommends its adoption.

Signed by all members of the Committee except Senators Yee, Carpenter and Machida.

SCRep. 1000-82 Economic Development on S.C.R. No. 69

The purpose of this concurrent resolution is to indicate our state's support of extending and funding P.L. 92-444, the Central, Western and South Pacific Fisheries Development Act.

Your Committee finds that this Act formed the legal basis for the establishment of the Pacific Tuna Development Foundation (PTDF), an organization that has engaged in valuable and successful exploratory work in developing U.S. fisheries resources in the U.S. Pacific Basin, including Hawaii, Guam, Commonwealth of the Northern Marianas, American Samoa, the Federated States of Micronesia and the Marshall Islands. PTDF's work over the past eight years has resulted in an expansion of the U.S. fleet fishing in the Pacific.

The Act was officially passed on September 29, 1972, amended for extension by P.L. 94-343, and by P.L. 95-295, to extend it through September 30, 1982. The Act authorizes \$4 million for 1980 and 1981 and \$5 million for 1982. While the legislation authorized these funds, no monies have been appropriated. Rather, the U.S. Department of Commerce chose to fund PTDF projects through Saltonstall-Kennedy funds.

Your Committee finds that the future of Saltonstall-Kennedy funds is uncertain; the current administration has no plans to fund fisheries development foundations after FY 1982. It is therefore appropriate to request that the U.S. Congress extend and fund the Central, Western and South Pacific Fisheries Development Act so that development of fisheries, one of this region's prime resources, can continue in the U.S. Pacific Basin.

Your Committee finds through the Pacific Tuna Development Foundation that the resolution will indicate our state's support for this important program, which has already opened up rich new fisheries to the U.S. fishing fleet, and has begun to provide technology transfer and fisheries infrastructure development in the U.S. Pacific Basin.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 69 and recommends its adoption.

Signed by all members of the Committee except Senators Yee, Carpenter and Machida.

SCRep. 1001-82 Economic Development on S.R. No. 118

The purpose of this resolution is to enable the Senate of the Eleventh Legislature of the State of Hawaii to formally encourage the enhancement of trade relations between Canada and Hawaii. The resolution also requests that the Governor of Hawaii proclaim, at an appropriate time, a "Canada-Hawaii Week", such as have been proclaimed in past years. The resolution also requests that the DPED, critically weigh the goals and objectives

cited in S.R. No. 118 and submit their findings to the Legislature prior to the convening of the Legislature in 1983.

In testimony given in a public hearing before the Senate Committee on Economic Development, the DPED stated that they are in agreement with the purpose and requests of S.R. No. 118.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 118 and recommends its adoption.

Signed by all members of the Committee except Senator Yee.

SCRep. 1002-82 Economic Development on S.R. No. 128

The purpose of this resolution is to request the Governor of the State of Hawaii to form a Hawaii Small Business Advisory Committee and make appointments to the committee from among small business organization leaders, small business owners, and state agency representatives.

Your Committee finds that small businesses in the state represent a very significant and important part of our economy and that they supply more employment than any other sector in the state. Your Committee also finds that the small business community needs assistance in researching the concerns, interests, issues, and objectives, such as extremely complicated legislation, which affect them.

Your Committee on Economic Development concurs with the intent and purpose of S.R. 128 and recommends its adoption.

Signed by all members of the Committee except Senator Yee.

SCRep. 1003-82 Economic Development on Gov. Msg. No. 132

Recommending that the Senate advise and consent to the nominations to the Board of Directors, Aloha Tower Development Corporation of the following:

DONALD M. KUYPER, for a term ending December 31, 1982;

THOMAS TRASK, for a term ending December 31, 1984; and

AARON LEVINE, for a term ending December 31, 1983.

Signed by all members of the Committee except Senators Yee, Carpenter and Machida.

SCRep. 1004-82 Economic Development on Gov. Msg. No. 133

Recommending that the Senate advise and consent to the nomination of RAYMOND SASAKI, JR., to the Board of Planning and Economic Development, for a term ending December 31, 1985.

Signed by all members of the Committee except Senators Yee, Carpenter and Machida.

SCRep. 1005-82 Economic Development on Gov. Msg. No. 207

Recommending that the Senate advise and consent to the nomination of MOSES KEALOHA to the Board of Land and Natural Resources, for a term ending December 31, 1985.

Signed by all members of the Committee except Senators Yee, Carpenter and Machida.

SCRep. 1006-82 Economic Development on Gov. Msg. No. 247

Recommending that the Senate advise and consent to the nominations of LEE GRAY and PETER STARN to the Board of Planning and Economic Development, for terms ending December 31, 1985.

Signed by all members of the Committee except Senators Yee, Carpenter and Machida.

SCRep. 1007-82 Economic Development on Gov. Msg. No. 308

Recommending that the Senate advise and consent to the nomination of WINONA RUBIN to the Land Use Commission, for a term ending December 31, 1985.

Signed by all members of the Committee except Senator Yee.

SCRep. 1008-82 Economic Development on Gov. Msg. No. 308

Recommending that the Senate advise and consent to the nomination of LAWRENCE CHUN to the Land Use Commission, for a term ending December 31, 1985.

Signed by all members of the Committee except Senator Yee.

SCRep. 1009-82 Economic Development on Gov. Msg. No. 309

Recommending that the Senate advise and consent to the nomination of FREDERICK P. WHITTEMORE to the Land Use Commission, for a term ending December 31, 1985.

Signed by all members of the Committee except Senator Yee.

SCRep. 1010-82 Transportation on S.R. No. 76

The purpose of this resolution is to request the state Department of Transportation to report to the Senate Committee on Transportation, prior to the adjournment of the present legislative session, on the progress of the department's study regarding the imposition of a fee for deliveries to the airport.

Your Committee heard testimony from the department that in response to the court ruling that the department must justify its fees for merchandise delivery at the airport, two studies were undertaken to establish the basis for fees to be charged permittees for delivery of pre-sold merchandise to the airport. These studies are both complete and under review by the department.

Your Committee also heard testimony from the Honolulu Airlines Committee recommending that permittees pay from 12 1/2% to 20% of revenues just as the airport concessionaires do, so that some equity can be established and protection afforded to businesses which have guaranteed the state certain revenues for the privilege of doing business at the airport.

Your Committee has amended the resolution to request that, in light of the completed studies, the Department of Transportation evaluate whether merchandise delivery permits should be continued or abolished, and to examine the necessity for statutory authority to regulate permittees if they are to be allowed to deliver merchandise to the airport. The department is asked to report its findings to the Senate Committee on Transportation twenty days prior to the convening of the Regular Session of 1983.

Your Committee has amended the title of the resolution to reflect the amendments to the resolution, and reads as follows: "Senate Resolution Requesting the State Department of Transportation to Report to the Senate Committee on Transportation Regarding Merchandise Delivery Fees at Honolulu International Airport".

Your Committee on Transportation is in accord with the intent and purpose of S.R. No. 76, as amended herein, and recommends its adoption as S.R. No. 76, S.D. 1.

Signed by all members of the Committee except Senators Soares and Toyofuku.

SCRep. 1011-82 Agriculture on S.R. No. 115

The purpose of this resolution is to respectfully urge the United States Congress and President Reagan to evaluate all reasonable alternative approaches to the United States Caribbean Aid Package before approving or otherwise implementing it; to request that the Foreign Affairs Committee, the United States International Trade Commission, and other appropriate committees or subcommittees of the United States Congress hold public hearings in the State of Hawaii concerning the Aid Package; and to respectfully urge Hawaii's Congressional delegation to give their highest priority to the Aid Package and to act as a united group in a manner which protects the interests of Hawaii.

Your Committee received positive testimony on this measure, and has made only technical, nonsubstantive amendments to clarify its intent and purpose.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 115, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 115, S.D. 1.

Signed by all members of the Committee.

SCRep. 1012-82 Human Resources on Gov. Msg. No. 321

Recommending that the Senate advise and consent to the nominations of JAMES CARRAS and MACK H. HAMADA to the Hawaii Public Employment Relations Board, for terms ending six years after the date of appointment.

Signed by all members of the Committee.

SCRep. 1013-82 Education on Gov. Msg. Nos. 135 and 281

Recommending that the Senate advise and consent to the nominations of M. NAOMI MORITA, ROBERT K. FUJITA and DENNIS T. TOYOMURA to the State Foundation on Culture and the Arts, for terms ending December 31, 1985.

Signed by all members of the Committee except Senators O'Connor and Kobayashi.

SCRep. 1014-82 Education on Gov. Msg. Nos. 136 and 209

Recommending that the Senate advise and consent to the nominations to the King Kamehameha Celebration Commission of the following:

HOWARD H. CROWELL, MARY LANI RAWLINS, ELIZABETH L. COCKETT, ANTOINETTE L. LEE and GWENDOLYN L. JOSEPH, for terms ending December 31, 1985; and

EDWARD NAIHE, SR., for a term ending December 31, 1982.

Signed by all members of the Committee except Senators O'Connor and Kobayashi.

SCRep. 1015-82 Education on Gov. Msg. Nos. 137, 138, 139, 210, 250 and 305

Recommending that the Senate advise and consent to the nominations of the following:

PATRICIA W. BUCKMAN, LINLEY CHAPMAN and MARIAN A. HARRIS-DE-OCHOA to the Library Advisory Commission, City and County of Honolulu, for terms ending December 31, 1985;

DAISY U. SMITH and DIANA MAE MIYAJI to the Library Advisory Commission, County of Hawaii, for terms ending December 31, 1985;

ELEANOR L.D. TAMURA, MARGARET R. O'LEARY, LENA K. PALAMA, KATHLEEN A. KOERTE, ROBERT A. GAHRAN and MARVIN TUNG-LOONG to the Library Advisory Commission, County of Kauai, for terms ending December 31, 1985; and

ALYCE B. HAINES and WINSTON S. MIYAHIRA to the Library Advisory Commission, County of Maui, for terms ending December 31, 1985.

Signed by all members of the Committee except Senators O'Connor and Kobayashi.

SCRep. 1016-82 Education on Gov. Msg. No. 140

Recommending that the Senate advise and consent to the nomination of ANN B. SIMPSON to the Board of Public Broadcasting, for a term ending December 31, 1982.

Signed by all members of the Committee except Senators O'Connor and Kobayashi.

SCRep. 1017-82 Education on Gov. Msg. No. 208

Recommending that the Senate advise and consent to the nominations of DORIS TAITANO, EMIKO I. KUDO, PAULA A. GUANZON YANO, LYDIA C. ENOKI and SHARON MAHOE to the Hawaii Education Council, for terms ending December 31, 1985.

Signed by all members of the Committee except Senators O'Connor and Kobayashi.

SCRep. 1018-82 Education on Gov. Msg. No. 249

Recommending that the Senate advise and consent to the nominations of ELMER F. CRAVALHO, FRANCIS M. STILLMAN, SR., EDWARD J. BURNS, BARBARA DALY, CLAYTON K.K. NALUAI, BARBARA MEHEULA, WAYNE ISHIHARA, HERBERT E. WOLFF, SANDI EAGLESON and DOMINGO LOS BANOS to the 1984 Hawaii Statehood Silver Jubilee Committee, for terms ending June 30, 1986.

Signed by all members of the Committee except Senators O'Connor and Kobayashi.

SCRep. 1019-82 Judiciary on S.C.R. No. 48

The purpose of this concurrent resolution is to urge the United States Congress to grant immediate redress and restitution to Americans of Japanese ancestry who were incarcerated in detention camps during World War II.

Your Committee finds that the incarceration and violations of the rights of these Japanese Americans during World War II resulted in great suffering not only in terms of economic loss, but also in terms of personal and cultural dignity. Your Committee feels that although more than thirty-seven years have passed since these wrongdoings have occurred, it is important that these mistakes of the past be recognized and rectified by providing immediate redress and restitution in the form of monetary payments or other restitution.

Your Committee concurs with the intent and purpose of S.C.R. No. 48 and recommends its adoption.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1020-82 Judiciary on Gov. Msg. No. 226

Recommending that the Senate advise and consent to the nominations of THEODORE J. GOLDMAN and HARRY H. KANADA to the Intake Center Service Board, for terms ending December 6, 1982.

Signed by all members of the Committee except Senator Yee.

SCRep. 1021-82 Judiciary on S.R. No. 8

The purpose of this resolution is to request the State Intake Service Center to review present Hawaii law relating to bail and criminal pre-trial release procedures, and if appropriate, to prepare legislation to propose to the Hawaii State Legislature in 1983 to standardize and modernize pre-trial release procedures.

Your Committee heard testimony that the current law relating to bail and pre-trial release practices is outdated, ambiguous, and conceptually insufficient. Your Committee finds that these procedures should be updated and standardized with consideration given to the setting of bail and alternative forms of release based on the characteristics of defendants and other possible criteria.

Your Committee amended this resolution by requesting that the Attorney General of the State of Hawaii rather than the State Intake Service Center undertake this bail and pre-trial release study. Your Committee feels that the Attorney General's office is more appropriate because of its responsibility to advise the Legislature on criminal justice matters.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 8, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 8, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1022-82 (Majority) Judiciary on S.R. No. 139

The purpose of this resolution is to request the Senate Judiciary Committee of the Legislature of the State of Hawaii to conduct an investigation of the allegations of brutality against inmates of the Oahu Community Correctional Center arising from the prison shakedown which occurred from December 14 to December 18, 1981.

Your Committee is concerned about the testimony it received that instances occurred where excessive force was used against OCCC inmates during the prison shakedown. Your Committee has further concern about the procedures utilized during the shakedown due to these allegations and to the substantial costs and use of manpower involved. Your Committee feels that a review by an independent investigatory body of the shakedown procedures used to achieve the goals of ensuring the safety and security of the inmates and the guards is warranted.

Your Committee has amended the resolution to request that in addition to the investigation and report on the allegations of brutality, the Senate Judiciary Committee investigate the procedures used in the shakedown. The title of the resolution has also been amended to reflect this change.

Your Committee further amended the resolution to reflect that the Senate Judiciary Committee undertake its investigation in accordance with Chapter 21, Hawaii Revised Statutes.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 139, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 139, S.D. 1.

Signed by all members of the Committee except Senator Anderson.
Senator O'Connor did not concur.

SCRep. 1023-82 Judiciary on S.R. No. 86

The purpose of this resolution is to urge the Governor of the State of Hawaii, the President of the United States, the U.S. Department of State, and the members of the United Nations to pursue all available means to dissuade and deter the government of Iran from its present policy of religious persecution.

Religious freedom is a fundamental part of the historical and cultural heritage of our country and state. Your Committee recognizes that some religious groups in other nations, such as Iran, are not afforded similar opportunities for religious expression. Your Committee finds that due to the dire situation presently confronting Baha'i followers and other religious minorities in Iran, our state and nation should be urged to pursue available and appropriate means to ensure religious freedom and tolerance in Iran.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 86 and recommends its adoption.

Signed by all members of the Committee except Senators Anderson and Cobb.

SCRep. 1024-82 Judiciary on S.R. No. 109

The purpose of this resolution is to request a review of the relevant statutes and court rules pertaining to the criminal defendant's right to a speedy trial.

The resolution originally requested that review and suggestions for amendments of the Rules of Penal Procedure, the Supreme Court and existing statutes be conducted by the state Judiciary and prosecuting attorneys of each county. Your Committee has received testimony from the Judiciary that a subcommittee has been formed under the Judicial Council on penal procedure and that this subcommittee has already begun to identify and discuss possible solutions to meet the goals of speedy trial within the operation of the Judiciary. This subcommittee is composed of Judicial Council members, attorneys from the local bar and the police. Your Committee finds that the work already begun by this subcommittee will only be duplicated by the study requested in this resolution. Your Committee, therefore, has amended this resolution to recognize the study initiated by the Judiciary and requests that the results and copies of the study and proposed legislation be transmitted to the Legislature upon its completion.

Your Committee has made a technical, nonsubstantive change to the title of this resolution.

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 Senator Anderson.

SCRep. 1025-82 Judiciary on S.R. No. 111

The purpose of this resolution is to request the Hawaii Crime Commission to study the criminal justice system to identify functions involving unnecessary delay and make recommendations for reducing those delays.

Your Committee heard oral testimony from the Hawaii Crime Commission supporting the intent of the resolution. Testimony submitted by the State Intake Service Center indicated a willingness to cooperate with the Crime Commission in its study and to provide information gathered from its own studies. Your Committee finds that the identity and reduction of unnecessary delays in the criminal justice system will contribute greatly to a more efficient use of our police, prosecutorial, judicial, and correctional facilities and will enhance the criminal defendant's right to a speedy trial.

Your Committee made a technical, nonsubstantive amendment to the resolution.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 111, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 111, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1026-82 (Majority) Judiciary on S.R. No. 46

The purpose of this resolution is to encourage the Hawaii Supreme Court to allow the electronic recording and public broadcasting of criminal sentencing.

The resolution addressed the public benefits and the possible burdens on criminal defendants' right to fair trials and balanced those concerns in favor of permitting cameras in the court but limiting such access to sentencing proceedings during which time the judge would be required to orally explain the basis of the sentence.

Your Committee received testimony from the news directors of the three local networks, the chairman of the Hawaii State Bar Association's Committee on Cameras in the Courtroom, and other concerned groups and individuals opposed to the limitation suggested by the resolution. Your Committee believes that in light of other alternatives addressing the concerns of victims, witnesses, and defendants, that the purpose of educating and informing the public of the workings of the criminal justice system would be better served by encouraging the electronic recording and broadcasting of all criminal court proceedings. Therefore, your Committee has amended the resolution accordingly by deleting references to the limitation to sentencing proceedings and by amending the title of this resolution.

Your Committee has made a further amendment by deleting the resolution's suggestion to limit public broadcasting of criminal proceedings to "prime time." Your Committee feels that this limitation hinders the advancement of the public interests.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 46, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 46, S.D. 1.

Signed by all members of the Committee except Senator Anderson.
Senator Kuroda did not concur.

SCRep. 1027-82 (Majority) Judiciary on S.C.R. No. 30

The purpose of this concurrent resolution is to encourage the Hawaii Supreme Court to allow the electronic recording and public broadcasting of criminal sentencing.

The concurrent resolution addressed the public benefits and the possible burdens on criminal defendants' right to fair trials and balanced those concerns in favor of permitting cameras in the court but limiting such access to sentencing proceedings during which time the judge would be required to orally explain the basis of the sentence.

Your Committee received testimony from the news directors of the three local networks, the chairman of the Hawaii State Bar Association's Committee on Cameras in the Courtroom, and other concerned groups and individuals opposed to the limitation suggested by the concurrent resolution. Your Committee believes that in light of other alternatives addressing the concerns of victims, witnesses, and defendants, that the purpose of educating and informing the public of the workings of the criminal justice system would be better served by encouraging the electronic recording and broadcasting of all criminal court proceedings. Therefore, your Committee has amended the concurrent resolution accordingly by deleting references to the limitation to sentencing proceedings and by amending the title of this concurrent resolution.

Your Committee has made a further amendment by deleting the concurrent resolution's suggestion to limit public broadcasting of criminal proceedings to "prime time." Your Committee feels that this limitation hinders the advancement of the public interests involved.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 30, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 30, S.D. 1.

Signed by all members of the Committee except Senator Anderson.
Senator Kuroda did not concur.

SCRep. 1028-82 Judiciary on S.R. No. 133

The purpose of this resolution is to urge the Judicial Selection Commission of the State of Hawaii to solicit public input regarding the qualifications of possible nominees for judgeships by publishing the names of all persons being considered by the commission as candidates for nomination.

Under the present system, the Judicial Selection Commission does not inform the public as to who is being considered for nomination for a judgeship. Your Committee feels that the general public should have an opportunity to submit input and comments about the persons being considered for nomination in order to assist the commission in selecting the most qualified candidates.

Your Committee has amended the resolution by making technical, nonsubstantive amendments.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 133, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 133, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1029-82 Judiciary on S.C.R. No. 86

The purpose of this concurrent resolution is to urge the Judicial Selection Commission of the State of Hawaii to solicit public input regarding the qualifications of possible nominees for judgeships by publishing the names of all persons being considered by the commission as candidates for nomination.

Under the present system, the Judicial Selection Commission does not inform the public as to who is being considered for nomination for a judgeship. Your Committee feels that the general public should have an opportunity to submit input and comments about the persons being considered for nomination in order to assist the commission in selecting the most qualified candidates.

Your Committee has amended the concurrent resolution by making technical, nonsubstantive amendments.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 86, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 86, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1030-82 Judiciary on S.C.R. No. 16

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct financial and management audits of the Oahu Community Correctional Center and to report its findings and recommendations to the 1983 Legislature.

Your Committee acknowledges that the Oahu Community Correctional Center has been beset with problems of overcrowding, inadequate educational programs and staff shortages. This current situation not only impedes the delivery of basic human services and rehabilitation programs, but also poses a serious threat to the continued safety of the correctional staff and residing inmates, as well as the general community.

Your Committee notes that these conditions prevail despite the fact that the center currently has an operating budget of over \$9 million and a working staff of over 390 persons. Furthermore, a deficit of over \$3 million is expected by June 30, 1982.

Your Committee fully acknowledges that many of the current problems incurred by the center have been caused by the rapid increase in inmate population which has, in turn, resulted in a large and complex system of staffing and maintenance duties. In consideration of these facts, your Committee feels that management and financial audits are critical in order to determine whether resolution of existing problems can be met by more efficient or economical measures or staffing arrangements while maintaining adequate and proper levels of correctional services.

Your Committee made a technical, nonsubstantive amendment.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 16, as amended herein, and recommends its adoption in the form attached herein as S.C.R. No. 16, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1031-82 Judiciary on S.C.R. No. 54

The purpose of this concurrent resolution is to request the President of the Senate and the Speaker of the House to undertake discussions with members of the Hawaii Cable Television Association regarding the feasibility of televising legislative committee hearings and meetings on cable television to the public on a statewide basis.

Your Committee finds that it is often difficult or impossible for an interested member of the public to attend legislative committee hearings, and that coverage of such proceedings is limited by available newspaper space and commercial television time. Your Committee believes that since government and public access cable television channels are available for coverage of important legislative hearings, discussions should be undertaken to determine the feasibility of utilizing cable television for these purposes.

Your Committee has made a technical, nonsubstantive amendment to the concurrent resolution.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 54, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 54, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1032-82 Education on S.R. No. 27

The purpose of this resolution is to request the Departments of Education and Health to establish, within the Central Oahu area, an additional orthopedic unit for the implementation of a program similar to the orthopedic unit at the Pohakea School in the Leeward School District.

Your Committee heard testimony from: the Department of Health; State Planning Council on Developmental Disabilities; Dr. Norma Jean Hemphill, Co-Director of the Hawaii Integration Project (University of Hawaii); the Department of Education; and the United Cerebral Palsy Association of Hawaii.

Your Committee notes that establishment of a third orthopedic unit, similar to the ones now operating at Pohakea and Jefferson Schools, would require a staff of five health professionals and a budget of approximately \$100,000.

Your Committee finds that because of these costs it may be preferable to relocate an existing orthopedic unit instead of establishing a new one.

Therefore, your Committee amended this resolution to request the Departments of Education and Health to evaluate alternative ways of providing the needed orthopedic services to include but not be limited to relocation of the orthopedic unit at Pohakea School to a more central location within the Central School District.

Your Committee has also amended the resolution by making technical changes which have no substantive effect.

Your Committee on Education concurs with the intent and purpose of S.R. No. 27, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 27, S.D. 1.

Signed by all members of the Committee.

SCRep. 1033-82 Education on S.C.R. No. 17

The purpose of this concurrent resolution is to request the Departments of Education and Health to establish, within the Central Oahu area, an additional orthopedic unit for the implementation of a program similar to the orthopedic unit at the Pohakea School in the Leeward School District.

Your Committee heard testimony from: the Department of Health; State Planning Council on Developmental Disabilities; Dr. Norma Jean Hemphill, Co-Director of the Hawaii Integration Project (University of Hawaii); the Department of Education; and the United Cerebral Palsy Association of Hawaii.

Your Committee notes that establishment of a third orthopedic unit, similar to the ones now operating at Pohakea and Jefferson Schools, would require a staff of five health

professionals and a budget of approximately \$100,000.

Your Committee finds that because of these costs it may be preferable to relocate an existing orthopedic unit instead of establishing a new one.

Therefore, your Committee amended this concurrent resolution to request the Departments of Education and Health to evaluate alternative ways of providing the needed orthopedic services to include but not be limited to relocation of the orthopedic unit at Pohakea School to a more central location within the Central School District.

Your Committee has also amended the concurrent resolution by making technical changes which have no substantive effect.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 17, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 17, S.D. 1.

Signed by all members of the Committee.

SCRep. 1034-82 Judiciary on S.R. No. 16

The purpose of this resolution is to request the Legislative Auditor to conduct financial and management audits of the Oahu Community Correctional Center and to report its findings and recommendations to the 1983 Legislature.

Your Committee acknowledges that the Oahu Community Correctional Center has been beset with problems of overcrowding, inadequate educational programs and staff shortages. This current situation not only impedes the delivery of basic human services and rehabilitation programs, but also poses a serious threat to the continued safety of the correctional staff and residing inmates, as well as the general community.

Your Committee notes that these conditions prevail despite the fact that the center currently has an operating budget of over \$9 million and a working staff of over 390 persons. Furthermore, a deficit of over \$3 million is expected by June 30, 1982.

Your Committee fully acknowledges that many of the current problems incurred by the center have been caused by the rapid increase in inmate population which has, in turn, resulted in a large and complex system of staffing and maintenance duties. In consideration of these facts, your Committee feels that management and financial audits are critical in order to determine whether resolution of existing problems can be met by more efficient or economical measures or staffing arrangements while maintaining adequate and proper levels of correctional services.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 16 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1035-82 Judiciary on S.R. No. 67

The purpose of this resolution is to request the Legislative Auditor to conduct a management audit of the Legal Aid Society and to report its findings and recommendations to the next Legislature.

Your Committee finds that, despite the fact that the Legislature has continuously supported the operations of the Legal Aid Society through legislative appropriations, a thorough audit has yet to be conducted.

In consideration of the large amount of state support that has been annually provided to the Legal Aid Society, your Committee feels that it is important that the Legislature be fully apprised as to the society's priority directions and overall effectiveness.

Therefore, your Committee finds it worthy that an audit be conducted to evaluate the Legal Aid Society in terms of its performance and financial responsibility. Particular attention should be given to: (1) the effectiveness of delivery of legal services; (2) the appropriateness of its program priorities; (3) the composition of its board of directors; and (4) the degree of client participation.

Your Committee has amended the resolution by deleting as part of the purpose of the audit the words, "and to investigate the charges made in reference thereto," in order to focus on the specific purposes mentioned.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 67, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 67, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1036-82 Judiciary on S.R. No. 124

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a study on the concept of creating a department of corrections to determine the practicality of such an organizational change for Hawaii's correctional system and to report its finding to the Hawaii State Legislature in 1983.

Your Committee finds that the issue of coordination among Hawaii's criminal justice agencies continues to be of major concern to the state and that various possible organizational structures and needs should be studied. Your Committee feels that establishment of a separate department for the consolidation of correctional services might facilitate better coordination among correctional agencies and reduce duplication of efforts and fragmentation of services among agencies.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 124 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1037-82 Ways and Means on Gov. Msg. Nos. 231, 232 and 303

Recommending that the Senate advise and consent to the nominations of the following:

JOSEPH G. WILLIAMS to the Board of Taxation Review, Second Taxation District, for a term ending December 31, 1985;

MARY H. WONG to the Board of Taxation Review, Fourth Taxation District, for a term ending December 31, 1985;

FRANK K. HAMADA to the Board of Taxation Review, First Taxation District, for a term ending December 31, 1982; and

SHARON R. HIMENO to the Board of Taxation Review, First Taxation District, for a term ending December 31, 1983.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1038-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Conf. Com. Rep. Nos. 76-82 and 77-82 and Stand. Com. Rep. Nos. 1019-82 to 1037-82 on April 22, 1982; and

Gov. Msg. No. 324 and Stand. Com. Rep. No. 1039-82 on April 23, 1982 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 1039-82 Ecology, Environment and Recreation on H.C.R. No. 173

The purpose of this concurrent resolution is to request that the Waikiki War Memorial Park and Natatorium be properly improved and maintained as open space. This resolution also requests that no commercial use or activity be permitted in the memorial park.

Your Committee received overwhelming public testimony during a recent hearing on the natatorium issue in opposition to the commercialization of the natatorium facility. Your Committee was also advised of the prohibitive expense which would be incurred for the repair and restoration of the natatorium and its subsequent upkeep.

A similar resolution was adopted by the Senate several days ago requesting that the Department of Land and Natural Resources and the City and County Department of Parks and Recreation address the future of the Waikiki War Memorial Natatorium.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of H.C.R. No. 173 and recommends its adoption.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 1040-82 Human Resources on Gov. Msg. No. 222

Recommending that the Senate advise and consent to the nomination of RAYMOND M. HIGHTOWER to the Policy Advisory Board for Elderly Affairs, for a term ending December 31, 1983.

Signed by all members of the Committee.

SCRep. 1041-82 Human Resources on Gov. Msg. No. 262

Recommending that the Senate advise and consent to the nomination of DONN A. CARSWELL to the Advisory Commission on Manpower and Full Employment, for a term ending June 30, 1985.

Signed by all members of the Committee.

SCRep. 1042-82 Human Resources on Gov. Msg. No. 263

Recommending that the Senate advise and consent to the nomination of ROSE T. OHASHI to the Board of Social Services and Housing, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 1043-82 Human Resources on H.C.R. No. 103

Your Committee finds that in 1977 the Legislative Reference Bureau reviewed different methods of financing Hawaii's unemployment insurance program and recommended that the definition of "adequate reserve fund" be amended. Since then the balance in the Unemployment Compensation Fund has risen to more than \$100 million. In light of rising unemployment, which warrants caution, your Committee feels that a study on the definition of "adequate reserve fund" should first be conducted before any drastic changes in the system are made.

Your Committee also finds that there exists some concern on the fairness of the method which now exists in the unemployment insurance system whereby earlier employers in the base period who may not have been responsible for the claimants payments. Your Committee therefore feels that this problem should be studied as well.

Your Committee on Human Resources concurs with the intent and purpose of H.C.R. No. 103, H.D. 1 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1044-82 Higher Education on Gov. Msg. No. 324

Recommending that the Senate advise and consent to the nomination of CHARLES T. AKAMA to the Western Interstate Commission for Higher Education, for a term ending December 31, 1985.

Signed by all members of the Committee except Senators Cobb, Abercrombie and Ushijima.

SCRep. 1045-82 Public Utilities on H.C.R. No. 102

The purpose of this concurrent resolution is to direct the Legislative Auditor to conduct a study of the rationale and effects of the imposition of taxes and fees upon privately-owned public utility companies operating within the state.

Your Committee heard testimony in favor of the concurrent resolution from the Director of Taxation and a representative from Hawaiian Electric. The only amendment made by your Committee to the concurrent resolution provides that certified copies of the concurrent resolution be transmitted to all Directors of Finance for all the counties of the state. This concurrent resolution affects the counties and copies should be sent for their review.

Your Committee on Public Utilities concurs with the intent and purpose of H.C.R. No. 102, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Legislative Management as H.C.R. No. 102, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senator Campbell.

SCRep. 1046-82 Judiciary on Gov. Msg. No. 172

Recommending that the Senate advise and consent to the nomination of JOHN A. CHANIN to the Commission to Promote Uniform Legislation, for a term ending December 31, 1985.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 1047-82 (Majority) Ways and Means on H.B. No. 2316-82

The purpose of this bill is to increase the number of circuit court judges from fifteen to seventeen in the first circuit and from two to three in the second circuit; and to increase the number of district court judges from twelve to fourteen in the first circuit, from two to three in the second circuit, and from one to two in the fifth circuit. The additional positions are necessary due to growing work loads and mounting backlogs in these courts.

Your Committee finds that the offices of the Public Defender, the Honolulu Prosecuting Attorney, and the Administrative Director of the Courts support this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2316-82, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie and Cayetano. Senator Kawasaki did not concur.

SCRep. 1048-82 Ways and Means on H.B. No. 2540-82

The purpose of this bill is to issue special purpose revenue bonds to assist not-for-profit health care facilities that provide services to the general public.

The State Health Planning and Development Agency has issued a certificate of need for Queen's Medical Center and this bill authorizes the issuance of special purpose revenue bonds in the amount of \$20,000,000 to assist in the financing of its health care facilities.

Your Committee had a hearing on the companion bill, S.B. No. 2761-82.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2540-82 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. 1049-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Stand. Com. Rep. Nos. 1040-82 to 1048-82 and Conf. Com. Rep. Nos. 78-82 to 90-82 were printed and made available to the members prior to 11:59 o'clock p.m. on April 23, 1982;

Conf. Com. Rep. No. 91-82 was printed and distributed on April 24, 1982, prior to 2:00 o'clock a.m.; and

Stand. Com. Rep. Nos. 1050-82 to 1052-82 were printed and distributed prior to the 10:00 o'clock a.m. Session on April 26, 1982.

Signed by all members of the Committee.

SCRep. 1050-82 Legislative Management on H.C.R. No. 103

The purpose of this concurrent resolution is to request the Legislative Auditor to review the administration of and the level of solvency or reserves necessary or prudently adequate for the Unemployment Compensation Fund, and in particular the Unemployment Trust Fund account therein, and the related provisions in the Hawaii unemployment insurance law, including but not limited to those provisions governing or relating to employer contribution rates, experience rating provisions, adequate reserve fund, reserve ratio, and the various contribution rate schedules--with the overall objective of determining whether the relevant sections of the Hawaii law should be amended.

Your Committee on Legislative Management concurs with the intent and purpose of H.C.R. No. 103, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1051-82 Legislative Management on S.R. No. 67

The purpose of this resolution is to request the Legislative Auditor to conduct a management audit of the Legal Aid Society and to report its findings and recommendations to the next Legislature.

Your Committee finds that, despite the fact that the Legislature has continuously supported the operations of the Legal Aid Society through legislative appropriations, a thorough audit has yet to be conducted.

In consideration of the large amount of state support that has been annually provided to the Legal Aid Society, your Committee feels that it is important that the Legislature be fully appraised as to the Society's priority directions and overall effectiveness.

Your Committee agrees with the Senate Committee on Judiciary in finding it worthy that an audit be conducted to evaluate the Legal Aid Society in terms of its performance and financial responsibility. Particular attention should be given to (1) the effectiveness of delivery of legal services; (2) the appropriateness of its program priorities; (3) the composition of its board of directors; and (4) the degree of client participation.

Your Committee on Legislative Management concurs with the intent and purpose of S.R. No. 67, S.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1052-82 Legislative Management on S.R. No. 124

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a study on the concept of creating a department of corrections.

After almost nine years since the adoption of the Hawaii Correctional Master Plan, the functions relating to corrections are still dispersed among various governmental agencies and there is no one underlying philosophy governing corrections.

In recognition of the seriousness of this problem, the Senate passed a bill this session to create a department of corrections with the belief that such a reorganization would help to resolve the problems of coordination that exists in the criminal justice system today. The House of Representatives, however, was reluctant to pass the measure this session as many supporters of the concept are now indicating that a study should be done before a final decision is made. Accordingly, your Committee agrees with the Committee on Judiciary that a comprehensive study of the concept is required to factually determine the practicality of such an organizational change for Hawaii.

Your Committee on Legislative Management is in accord with the intent and purpose of S.R. No. 124 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1053-82 Government Operations and Intergovernmental Relations on
S.R. No. 80

The purpose of this resolution is to urge Congress to amend President Reagan's New Federalism program.

The New Federalism program in part proposes to transfer two of the largest income security programs, Aid to Families with Dependent Children (AFDC) and food stamps, from the federal government to the states, while transferring the responsibility for the Medicaid program from the states to the federal government.

White House figures for fiscal year 1984 estimate that just this aspect of New Federalism will cost Hawaii at least an additional \$12 million. The actual cost may well exceed this amount since the White House projection is based upon questionable assumptions, i.e. that the AFDC and food stamps budget would decrease by \$7 million and that Medicaid budget would increase by \$10 million.

In addition to the AFDC and food stamp transfer, the President's program also proposes

to turn over to the states 43 grant-in-aid programs for which the budgetary responsibility will be transferred between 1987 and 1991 by yielding to the states the funding sources for those programs, i. e. oil windfall profits taxation, excise taxation on alcohol, tobacco, and telephones, and gasoline taxation.

The major funding component for these grant-in-aid programs, however, is the oil windfall profits tax. Thus, for the majority of states, including Hawaii, which are not producers of oil, the transfer of this tax from the federal government is without benefit. The federal excise taxes reverting to Hawaii would amount to a miniscule \$11 million. Compared to the \$133 million which Hawaii currently receives for grant-in-aid program expenditures, your Committee projects a shortfall of \$122 million for the grant-in-aid programs.

To compensate for this shortfall, Hawaii would have to increase all of the federal excise taxes identified in the President's program fifteen times, for example the excise taxes on gasoline increased from two cents to thirty cents per gallon, on distilled alcohol from \$10.50 to \$157.50 per gallon, on small cigarettes from \$4 to \$60 per thousand, and on telephone charges from 1 per cent to an incredible 15 per cent.

Your Committee finds that the adoption of the President's proposed program is nowhere near a financially equal exchange or "swap" and is thus not only financially disastrous to this State but also is fundamentally in conflict with accepted principles of Federalism. Income security programs should remain a federal responsibility because such programs have nationwide impact and because localized responsibility would engender disparities in program benefits from state to state. This disparity in benefits would expose the more generous states to ever mounting budgetary drains as the poor, not unexpectedly, migrate to those states. For Hawaii, this would mean a recurrence of its experiences of the mid-sixties and early seventies when there was a large influx of persons seeking its more ample welfare benefits.

Your Committee supports the principle of Federalism but finds the President's "New Federalism" to be anathema unless the federal government provides a realistic source of funding and assumes full responsibility for the income security programs.

Your Committee strongly urges the Congress of the United States to amend President Reagan's proposed Federalism program by retaining federal control over income security programs and by allowing the states to utilize federal individual income tax funds for programs turned over to the state and local governments.

Your Committee on Government Operations and Intergovernmental Relations concurs with the intent and purpose of S.R. No. 80, and recommends its adoption.

Signed by all members of the Committee except Senators Ajifu and Kuroda.

SCRep. 1054-82 Ways and Means on S.R. No. 136

The purpose of this resolution is to request the Legislative Auditor to conduct a program audit of the state's program of special tax credits and exemptions.

The resolution, in particular, requests that the program audit be directed to tax credits and exemptions which are not generally applicable to businesses or individuals and to focus on the effectiveness of such special tax credits and exemptions in meeting their objectives, alternative means of meeting these objectives, and the cost to the state in terms of taxes foregone, and the equity and tax efficiency of these tax credits or exemptions.

Your Committee finds that this program audit would serve a valuable purpose by providing the necessary background to the Legislature on the effectiveness of special tax credits and exemptions in terms of meeting their objectives. Your Committee further finds that the Department of Taxation concurs with the intent and purpose of this resolution.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 136 and recommends its referral to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Abercrombie and Campbell.

SCRep. 1055-82 Ways and Means on S.C.R. No. 89

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct a program audit of the state's program of special tax credits and exemptions.

The resolution, in particular, requests that the program audit be directed to tax credits and exemptions which are not generally applicable to businesses or individuals and to focus on the effectiveness of such special tax credits and exemptions in meeting their objectives, alternative means of meeting these objectives, and the cost to the state in terms of taxes foregone, and the equity and tax efficiency of these tax credits or exemptions.

Your Committee finds that this program audit would serve a valuable purpose by providing the necessary background to the Legislature on the effectiveness of special tax credits and exemptions in terms of meeting their objectives. Your Committee further finds that the Department of Taxation concurs with the intent and purpose of this concurrent resolution.

Your Committee on Ways and Means concurs with the intent and purpose of S.C.R. No. 89 and recommends its adoption.

Signed by all members of the Committee except Senators Abercrombie and Campbell.

SCRep. 1056-82 Ways and Means on S.R. No. 47

The purpose of this resolution is to appoint a committee to conduct a study of the impact of allowing shares of a professional corporation to be transferred into a revocable living trust.

Your Committee received testimony from the state Department of Taxation which stated that it has no objections to allowing the transfer of shares in a professional corporation to a revocable living trust.

Your Committee agrees with the Department of Taxation that the formation of a special committee to conduct this study is not necessary and would involve a useless expenditure of manpower and financial resources, and has thus amended this resolution to request the Department of Taxation to conduct the study.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 47, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 47, S.D. 1.

Signed by all members of the Committee except Senators Abercrombie and Campbell.

SCRep. 1057-82 Ways and Means on S.C.R. No. 31

The purpose of this concurrent resolution is to appoint a committee to conduct a study of the impact of allowing shares of a professional corporation to be transferred into a revocable living trust.

Your Committee received testimony from the state Department of Taxation which stated that it has no objections to allowing the transfer of shares in a professional corporation to a revocable living trust.

Your Committee agrees with the Department of Taxation that the formation of a special committee to conduct this study is not necessary and would involve a useless expenditure of manpower and financial resources, and has thus amended this concurrent resolution to request the Department of Taxation to conduct the study.

Your Committee on Ways and Means concurs with the intent and purpose of S.C.R. No. 31, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 31, S.D. 1.

Signed by all members of the Committee except Senators Abercrombie and Campbell.

SCRep. 1058-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Conf. Com. Rep. No. 92-82 and Stand. Com. Rep. Nos. 1053-82 to 1057-82 on April 26, 1982.

Signed by all members of the Committee.

SCRep. 1059-82 Human Resources on H.B. No. 2849-82

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

Your Committee has found that over the years the Legislature has periodically amended the Health Fund Law as required to increase the fixed amount contributions because of increases in cost of the health benefits plan. Periodic adjustment of the fixed dollar amount provides an opportunity for the Legislature to review the cost of the employees health fund.

This bill increases the fixed dollar monthly contribution amount from \$14.88 to \$15.98 for self only, from \$47.34 to \$49.14 for the family enrollment for the health benefits plan and from \$5.00 to \$5.28 for dental benefits.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2849-82, H.D. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Campbell.

SCRep. 1060-82 Human Resources on H.C.R. No. 108

The purpose of this concurrent resolution is to approve the report of the biennial review of the compensation plans submitted by the personnel directors of the state, the judiciary and counties and by the Public Employees Compensation Appeals Board, including the costs of any adjustments effective July 1, 1982, provided that funds have been appropriated in the supplemental budget to implement the adjustments.

Section 77-4 and Section 77-5, Hawaii Revised Statutes, require all personnel directors of the state, the judiciary and counties to meet in joint conference to review the general condition of the compensation plan for civil service employees and to compile its views and recommendations for submittal to the Public Employees Compensation Appeals Board, who will make the final adjustments to the tentative compensation plans.

The final adjustments to the compensation plans were transmitted by the Governor to the Legislature on February 2, 1982, and awaits the approval of both the Senate and House.

Your Committee on Human Resources concurs with the intent and purpose of H.C.R. No. 108 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1061-82 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Stand. Com. Rep. Nos. 1059-82 and 1060-82 on April 27, 1982; and

S.R. Nos. 142 to 151 and Stand. Com. Rep. No. 1062-82 on April 28, 1982 at the 2:00 o'clock p.m. Session.

Signed by all members of the Committee.

SCRep. 1062-82 (Majority) Ways and Means on S.R. No. 88

The purpose of this resolution is to request the Office of the Legislative Reference Bureau with the cooperation and assistance of the Department of Taxation and sales representatives and purchasing agent industry officials to conduct a study of the general excise tax on sales representatives and purchasing agents.

Your Committee finds that such a study is necessary to ascertain the present treatment of sales representatives and purchasing agents under the general excise tax, including such concerns as whether such individuals are equitably treated under the general excise tax and whether and to what extent the present general excise tax rate should be reduced to promote the equitable tax treatment of these individuals.

Your Committee received testimony in favor of this resolution from the state Department of Taxation, the Hawaii Business League, and the Hawaii Food Industry Association.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 88 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Campbell, Cayetano, Young and Yee.
Senator Kawasaki did not concur.