

SCRep. 289-82      Health on H.B. No. 2526-82

The purpose of this bill is to provide funds to the Easter Seal Society of Hawaii, Inc., the Society for Crippled Children and Adults for Maui County, Inc., and the Waianae Coast Day Care Centers, Inc. for the purpose of assisting handicapped or disabled children and their families cope with the disabilities of their children. These organizations provide early intervention and related child development services which include physical therapy, occupational therapy, speech therapy, and specialized training for the child, and counseling services and the development of special skills for the parents.

Since 1974, these private, non-profit organizations have played a vital role in providing infant development services and continued funding of these agencies will assure that such services are maintained statewide. The appropriation requested includes replacement for Title XX funds which were eliminated effective November 1, 1981.

Your Committee has amended H.B. No. 2526-82 by adding \$10,000 to the appropriation for the Easter Seal Society of Hawaii, Inc. and changing the total sum on page 1, line 2 and line 17 from \$366,815 to \$376,815.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2526-82 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2526-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 290-82      Health on H.B. No. 2953-82

The purpose of this bill is to provide funds to enable the Sex Abuse Treatment Center to continue to provide comprehensive services to victims of sexual assault on Oahu. The Center provides these services within a multi-system network that includes the medical system, the criminal justice system, and the social services system.

According to testimony given by the Hawaii Crime Commission and the Honolulu Police Department, the Center provides the victim with medical, psychological, social and legal (collecting evidence) help and encourages reporting and participation by the victim to enable legal action to be taken against dangerous offenders.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2953-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 291-82      Health on H.B. No. 2705-82

The purpose of this bill is to provide funds to enable the Sexual Assault Crisis Center on Maui to provide comprehensive services to victims of sexual assault.

The center provides physical, psychological and spiritual support for sexually assaulted victims. The Hawaii Crime Commission testified that in many cases, the efforts of the Sexual Assault Crisis Center resulted in the successful prosecution of the perpetrators.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2705-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 292-82      Health on H.B. No. 2566-82

The purpose of this bill is to provide funds for the design and construction of a new hospital in Honokaa on the island of Hawaii.

The Honokaa Hospital was established by the Hawaii County Board of Supervisors in March, 1951. Originally designed for 40 beds, this hospital is now licensed for 35 beds. This facility is an all-wooden structure with internal and external fire sprinkler system and certified Medicare and Medicaid Programs.

It is essential for the Honokaa Hospital to continue its operation for the health and

safety of the 10,500 people it serves in the Hamakua, North and South Kohala communities.

Because of the changing population, your Committee recommends that the hospital move in the direction of providing long-term care.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2566-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 293-82          Health on H.B. No. 2540-82

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

Queen's Medical Center, a not-for-profit corporation, provides health care facilities to the general public. The facility that is proposed has received certificate of need approval by the state health planning and development agency.

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

Signed by all members of the Committee.

SCRep. 294-82          Health on H.B. No. 2704-82

The purpose of this bill is to make an appropriation of \$146,600 for fiscal year 1982-1983 to The Special Education Center of Oahu for the establishment of a day treatment program for severely multiple handicapped adults.

A demonstration day treatment program currently exists at The Special Education Center of Oahu. This program has demonstrated its effectiveness by successfully placing eight residents of Waimano Training School and Hospital in non-institutional community settings.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2704-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 295-82          Higher Education on H.B. No. 2727-82

The purpose of this bill is to provide funds to the University of Hawaii to (1) complete the necessary preliminary study and planning for the initiation of a women's intercollegiate softball program at the University of Hawaii, Manoa, and (2) initiating such a program.

Your Committee has amended this bill by adding a new section to clarify the purposes of the bill and renumbering the original sections 1 and 2 as sections 2 and 3.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 2727-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2727-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 296-82          Ocean and Marine Resources on H.B. No. 3039-82 (Majority)

The purpose of this bill is to plan and design a support facility on Midway to service American fishing vessels and to make a comprehensive study and a master plan to determine the proper location and size of facilities necessary to support projected fishing fleet growth in Hawaii.

Your Committee finds that the future of Hawaii's commercial fishing industry lies in the development of the vast fishing resources in the area north of Midway, including

the Northwest Hawaiian chain, as well as the Western and Central Pacific area. Your Committee further finds that some of the major problems in the fishery industry are the lack of fisheries base at Midway Island and the great distance between the albacore fishing grounds to the nearest cannery (Honolulu, 1,300 miles), which contribute to the marginal economic viability of the long-range fishing activities based in Honolulu.

Testimony before your Committee by the Department of Land and Natural Resources indicated that a comprehensive in-depth study and plan of action are needed in order to implement any proposed Midway fishery project by the State.

Your Committee, upon consideration, has amended this bill by deleting Section 2, since this appropriation bill does not require statutory amendments. For the purpose of consistency, your Committee has also amended the bill by renumbering Sections 3 and 4 to Sections 2 and 3, respectively.

Your Committee has further amended this bill, in the new Section 2, by designating the Department of Land and Natural Resources to be the expending agency instead of the Department of Planning and Economic Development. Your Committee has also amended the effective date in the new Section 3 to be July 1, 1982.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 3039-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3039-82, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 297-82      Energy, Ecology and Environmental Protection on H.B. No. 2872-82

The purpose of this bill is to provide funds to promote energy conservation through the establishment of a van pool program.

Your Committee finds that van pooling represents an economical and viable method of reducing transportation fuel use, traffic congestion, pollution, and the cost of maintaining our roads. The potential savings from a van pool program are very large. It is estimated that the use of 160 vans which can carry 15 passengers each would eliminate 2,240 vehicles during peak traffic hours; save 37 million passenger miles per year; and save approximately 2.4 million gallons or \$3.9 million of fuel each year.

Your Committee has amended H.B. No. 2872-82 by specifying that the appropriated funds be expended by the Department of Transportation rather than the Department of Planning and Economic Development. Testimony indicated that current statutory provisions assign responsibility for promoting ridesharing, car pool, and van pool programs to the Department of Transportation.

Your Committee on Energy, Ecology and Environmental Protection is in accord with the intent and purpose of H.B. No. 2872-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2872-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Morioka.

SCRep. 298-82      Energy, Ecology and Environmental Protection and Public  
Employment and Government Operations on H.B. No. 2051-82 (Maj.)

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

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

The situation as it exists today has given rise to confusion among the three entities with regard to their responsibilities and authority. There is a need to clarify and delineate the role and function of each so that the state environmental impact assessment program can be carried out more efficiently. This bill will eliminate the Environmental Quality Commission and transfer its responsibilities and functions to the OEQC and the Environmental Council.

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

Your Committees have made the following amendments to the bill:

1. Section 341-3, subsection (c) has been amended to change the role of the director of the Environmental Council from council chairman to ex officio member and the council to elect the council chairperson.
2. Section 341-6 has been added to the bill to reflect new amendments. The word director has been changed to chairperson so that the meetings of the council shall be called by the chairperson instead of the director. A new sentence is also added which will read "The council will determine and define the long range environmental goals of the state and shall exercise such direction of the OEQC to achieve such goals."
3. Page 7, lines 7-11, brackets removed and new material deleted.
4. Page 8, lines 5-12, new material deleted.
5. Page 8, lines 15-17, new material deleted.
6. Page 10, lines 12-19, new material deleted.
7. Page 10, lines 21-23, to page 11, line 1, new material deleted.
8. Page 11, lines 18-20, new material deleted.
9. Page 12, lines 3-4, new material deleted.
10. Page 15, lines 6-9, brackets removed.
11. Page 15, line 23, new material added which will read "(8) Prescribe procedures for the appeal to the council, of a determination made by an agency that a statement is not required under section 345-5(b) and (c)."
12. Language in the present statutes which make references to the Environmental Quality Commission has been changed to reflect the termination of the commission and its replacement by either the OEQC or the Council.
13. Other technical changes have been made for clarity.

Your Committees on Energy, Ecology and Environmental Protection and Public Employment and Government Operations are in accord with the intent and purpose of H.B. No. 2051-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2051-82, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 299-82      Energy, Ecology and Environmental Protection and Consumer  
Protection and Commerce on H.B. No. 2184-82

The purpose of this bill is to amend Chapter 125C, Hawaii Revised Statutes, by:

- 1) redefining petroleum shortage to include products other than gasoline and basing the definition on gaps between supply and demand rather than annual decreases in supply;



- 2) expanding the Governor's powers during a petroleum shortage;
- 3) establishing a Petroleum Products Control Authority to manage the petroleum products control fund and exercise powers, as designated by the Governor, during a shortage; and
- 4) establishing a hardship set-aside allocation of petroleum products during a shortage.

Your Committees find that H.B. No. 2184-82 would better enable the State to meet such energy emergencies as the oil embargo of 1973-1974. The State's heavy reliance on imported petroleum, combined with the continuing instability of international oil markets, necessitates that the State clarify and prepares its emergency procedures before another fuel crisis arises.

The present lack of federal guidelines for energy emergency preparedness has necessitated action on the part of individual states. The Energy Emergency Petroleum Allocation Act, the cornerstone of a national response to energy emergencies, expired on September 30, 1981. Congress, although presently considering several bills, has not yet passed replacement legislation.

The Reagan Administration, along with the U.S. Department of Energy, has advocated a free-market approach to dealing with future energy emergencies. Based on the uncertainty of federal policy, the State must establish and refine its own statutory basis for emergency action.

H.B. No. 2184-82 has been amended as follows:

1. SECTION 1.

- The title of PART I. has been amended to read: "PART I. GENERAL POWERS AND PROCEDURES DURING A SHORTAGE"

2. Section 125C-2

- The definition of a petroleum shortage has been amended to include the governor's determination that an increase or decrease in the available supply of the petroleum product in question may cause a major adverse impact on the economy, public order, or the health, welfare, or safety of the people of Hawaii.

- The phrase "of equal magnitude" has been inserted after the word "increase" on Page 2, line 23.

- The phrase "of equal magnitude" has been inserted after the word "demand" on Page 3, line 7.

3. Section 125C-3

- The word "retail" has been inserted after the word "the" on Page 4, line 10.

- Subparagraph (G) and (H) have been renumbered to read paragraph (2) and (3) respectively.

- Subparagraph (I), which imposed an ad valorem tax on petroleum products, has been deleted.

- For purposes of consistency, paragraphs (2), (3), (4), (5), and (6) have been renumbered to read paragraph (4), (5), (6), (7), and (8) respectively.

4. Section 125C-4

- On Page 6, line 23, the phrase "upon occurrence of a shortage," has been replaced by the phrase "when a shortage as defined in section 125C-2 exists,".

- On Page 7, line 1, the word "designated" has been replaced by the word "authorized". All references in the remainder of the bill to a "designated" representative have also been changed to read "authorized" representative.

## 5. Section 125C-7

- This section has been amended so that it is not repealed.

- This section has been further amended by providing that moneys for the petroleum products control fund may be received and expended during periods when a shortage has not been declared by the governor.

6. Paragraphs (8), (9), (10), and (11) of SECTION 2., H.B. No. 2184-82, have been deleted.

7. SECTION 3. of the bill, originally establishing a petroleum products control authority, has been deleted.

8. SECTION 4. of the bill has been renumbered to read SECTION 3. Additionally, the proposed new PART III of Chapter 125C has been amended to read PART II.

## 9. Section 125C-13

- For purposes of consistency, Section 125C-13 has been amended to read Section 125C-12.

## 10. Section 125C-14

- This section has been renumbered to read Section 125C-13.

- On Page 16, line 8-9, the phrase "upon the declaration of a shortage by the governor," has been replaced by the phrase "when a shortage as defined in section 125C-2 exists,".

## 11. Section 125C-15

- This section has been renumbered to read Section 125-14.

- On page 17, line 2, the phrase "upon the governor's declaration of a shortage:" has been replaced by the phrase "when a shortage as defined in section 125C-2 exists:".

12. SECTION 5. of the bill has been deleted. No funds will be appropriated for the petroleum products control fund.

13. SECTION 6. and SECTION 7. have been renumbered to read SECTION 4. and SECTION 5. respectively.

Your Committees on Energy, Ecology and Environmental Protection and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2184-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2184-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives  
Nakamura and Morioka.

SCRep. 300-82      Consumer Protection and Commerce and Public Employment and  
Government Operations on H.B. No. 2013-82

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

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

Your Committees therefore agree with the intent of the bill to establish separate offices for the examiner and commissioner.

Your Committees have amended the bill to provide that the offices of the bank examiner and insurance commissioner be included within the Department's organizational structure

as separate offices under the jurisdiction of the Department and not for administrative purposes only.

Your Committees on Consumer Protection and Commerce and Public Employment and Government Operations are in accord with the intent and purpose of H.B. No. 2013-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2013-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews, D. Hagino, Nakasato and Anderson.

SCRep. 301-82      Consumer Protection and Commerce on H.B. No. 175

The purpose of this bill is to amend the regulations relating to pre-need funeral trusts.

Under present law, regulations are provided in Section 441-22.2, Hawaii Revised Statutes, relating to the various aspects of the trusts required to be maintained for the sale of pre-need funeral plans. This bill would make several changes to the present law designed to strengthen protection for the consumer.

Your Committee has substantially amended the bill to conform with the reports prepared pursuant to Act 221, Session Laws of Hawaii 1981. The changes to the bill include:

1.      The 30 percent cost allowance requirement is retained.
2.      The bond requirement for pre-need authorities is raised to \$100,000.
3.      Section 441-24, Hawaii Revised Statutes, is amended to require an audit to be submitted annually by the pre-need authority to the bank examiner. The bank examiner shall also be authorized to obtain documents and required information from the authority.
4.      As part of the audit submission requirement, authorities will be required to report their respective contingent liabilities computed on an actuarial basis.
5.      Management of the trust funds shall be the responsibility of the administrator.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 175, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 175, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 302-82      Consumer Protection and Commerce on H.B. No. 2874-82

The purpose of this bill is to provide financial support for the maintenance of the TV Translator System at Puu Manawahua, Waianae.

The above TV Translator System currently allows Waianae residents to receive TV transmissions which would otherwise be blocked by the Waianae mountain range. It was constructed in 1977 through a Model Cities, U.S. Department of Housing and Urban Development grant. At that time, it was intended that the station would be operated by the Hawaii Public Broadcasting Authority (HPBA), Department of Regulatory Agencies. However, due to a lack of funds, the TV translator station has been maintained by the City and County of Honolulu. However, in order to fulfill the intent of the original agreement, additional funds are requested by the HPBA.

Upon consideration of testimony by the Chief Engineer of HPBA, your Committee has decided that \$33,977 should be appropriated for the coming year and has amended the bill to reflect this amount. The funds are to be used to finance the costs of an engineer hired by contract, parts, and other miscellaneous costs. Although an additional \$15,775 was requested for equipment, your Committee believes that it would be premature to purchase equipment before a final arrangement is worked out on the permanent maintenance of the station.

Your Committee on Consumer Protection and Commerce is in accord with the intent

and purpose of H.B. No. 2874-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2874-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 303-82      Consumer Protection and Commerce on H.B. No. 2511-82

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

Your Committee notes the study done by the Legislative Auditor relating to the handling of consumer complaints in the regulated industries programs and the criticism contained therein. Your Committee believes that at least part of the problem that the Department of Regulatory Agencies faces is the lack of staffing to adequately process all consumer complaints satisfactorily.

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

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

1. Your Committee notes that actual implementation of the the fund may be delayed because of the lag time between assessment of fees and actual hiring, biennial assessment, and other factors. Your Committee has therefore added a provision allowing the Department to utilize surpluses in existing special funds within the Department to provide start-up funds when necessary.

2. An amendment has been added to allow the Director to adjust the amount of the assessed fee when necessary to reflect the status of the fund and to avoid statutory revision every time an adjustment is necessary. Modification of the fee will be implemented only after appropriate proceedings pursuant to the Hawaii Administrative Procedure Act.

3. Accountants have been added to the list of employees that may be hired with funds pursuant to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2511-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2511-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 304-82      Employment Opportunities and Labor Relations on H.B. No. 2975-82 (Majority)

The purpose of this bill is to exempt labor unions from the provisions of section 286-108.5(g), Hawaii Revised Statutes, requiring "organizations" to provide a driver improvement program for drivers of certain large or heavy motor vehicles (e.g., trucks weighing more than 10,000 pounds, truck-trailers, and tractor-semitrailers) who are hired for casual or sporadic employment through the organization. Casual or sporadic employment is defined in that HRS section as being "temporarily engaged only for a particular job or project and not as a regular employee of the employer."

Testimony received by your Committee from the Operating Engineers Local Union No. 3 of the International Union of Operating Engineers, AFL-CIO, indicates that the present statutory requirement is financially costly and burdensome to unions such as theirs which operate a job placement center which dispatches considerable numbers of members and non-members to employers who may employ these referred individuals on a casual or sporadic basis.

The amendment or exemption made by this bill does not affect the existing requirements in the Highway Safety Law (Chapter 286, HRS) that any driver or operator of the previously mentioned large or heavy vehicles be appropriately examined and duly licensed as a qualified driver of that category of motor vehicles and, in addition, be examined

and certificated by a certificated fleet safety examiner. Moreover, the bill does not affect the existing statutory requirement that the employers of regularly employed drivers of such large or heavy vehicles provide such regular employees with a driver improvement/safety program.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2975-82 and recommends that it pass Second Reading and be referred to the Committee on Transportation.

Signed by all members of the Committee except Representative Nakasato.  
(Representatives Kiyabu, Say, Anderson and Marumoto did not concur.)

SCRep. 305-82      Employment Opportunities and Labor Relations on H.B. No.  
2930-82

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

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

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

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

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2930-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 306-82      Corrections and Rehabilitation and Youth and Elderly Affairs  
on H.B. No. 2294-82

The purpose of this bill is to direct the Department of Social Services and Housing (DSSH) to establish a vocational training center at the Hawaii Youth Correctional Facility (HYCF).

Presently, there is no formal vocational training program established at HYCF. Although the juveniles confined there engage in construction and other vocational type projects, their role is generally no more than that of laborers.

Your Committees are in agreement that a vocational training center at HYCF is needed to provide the youths with formal vocational training in usable and marketable skills. A formal vocational program, supplemented by a sound academic education, will provide the youths with opportunities to engage in meaningful work while learning skills and work habits which could benefit them when released from the facility.

The Department of Social Services and Housing testified in support of this bill, but was not ready to supply your Committees with the amount to be appropriated to carry out the purpose of this bill. The amount to be appropriated will be furnished by DSSH to the Committee on Finance when this bill is heard.

Your Committees on Corrections and Rehabilitation and Youth and Elderly Affairs are in accord with the intent and purpose of H.B. No. 2294-82 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees.

## SCRep. 307-82      Corrections and Rehabilitation on H.B. No. 2363-82

The purpose of this bill is to appropriate funds for the completion of a pre-design study leading to the construction of secure facilities for juveniles on the Islands of Hawaii and Kauai for use by the Family Court to detain or incarcerate juveniles prior or subsequent to adjudication of their cases.

Presently, the only secure detention facilities on Hawaii and Kauai are the Adult Community Correctional Centers, which are overcrowded and deemed inappropriate and undesirable alternatives for holding juveniles. Furthermore, juveniles who have been adjudicated for less than serious law violations are not being punished with short-term commitments because Family Court judges on Hawaii and Kauai are reluctant to commit youngsters to the Hawaii Youth Correctional Facility on Oahu.

Your Committee is in agreement that appropriate secure facilities to detain or incarcerate juveniles prior or subsequent to adjudication of their cases are needed on Hawaii and Kauai. Furthermore, juveniles detained prior to adjudication of their cases should be housed and treated separately from juveniles who have been adjudicated.

Your Committee has amended Section 2 of this bill by inserting the sum of \$60,000 for the study and requiring that the results of the study be reported to the Regular Session of the 1983 Legislature.

Your Committee on Corrections and Rehabilitation is in accord with the intent and purpose of H.B. No. 2363-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2363-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

## SCRep. 308-82      Youth and Elderly Affairs on H.B. No. 2618-82

The purpose of this bill is to appropriate funds for the design and construction of a multipurpose community center in the vicinity of the Queen Emma Park for the senior citizens of Nuuanu Valley.

The senior citizens of Nuuanu Valley presently meet at Nuuanu Elementary School Cafetorium at 8:30 a.m. but must vacate the premises by 10:45 a.m. During the summer months they have no place to meet except the open park at Queen Emma or at two churches in their community after receiving permission.

It was brought to the attention of the Committee that in Section 1, line 2, there was a typographical error in the amount appropriated. It should have read \$200,000.

Your Committee has amended Section 1 to reflect an appropriation of \$75,000 for fiscal year 1982-1983. Your Committee agrees that it would be wiser to appropriate funds for looking into alternative facilities and site selection rather than for designing and constructing a new facility, and has amended this bill accordingly.

Your Committee has also made a technical non-substantive change to Section 2.

Your Committee on Youth and Elderly Affairs is in accord with the intent and purpose of H.B. No. 2618-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2618-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Wong.

## SCRep. 309-82      Youth and Elderly Affairs and Public Assistance and Human Services on H.B. No. 2625-82

The purpose of this bill is to appropriate \$3,000,000 for fiscal year 1982-1983, for the purposes of increasing the State Supplemental Security Income payment to \$50.00 per elderly individual.

This bill allows the State to address the economic needs of the elderly. There are 76,150 persons over age sixty-five in the State of Hawaii, of which 4,780 persons are presently receiving Supplemental Security Income benefits. However, the State makes

no cost of living adjustments and its contributions remain constant.

Your Committees are concerned about the possible adverse effects an increase in Supplemental Security Income benefits may have on other benefits; such as food stamps, medicaid, and rental assistance. Your Committees have also expressed a concern that H.B. No. 2625-82 should include the disabled and handicapped in addition to the elderly. Nevertheless, this bill recognizes the problems of the elderly in these inflationary times and is a step in the right direction.

Your Committees on Youth and Elderly Affairs and Public Assistance and Human Services are in accord with the intent and purpose of H.B. No. 2625-82 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 310-82      Youth and Elderly Affairs and Education on H.B. No. 2473-82

The purpose of this bill is to make an appropriation of \$101,387 for the Immigrant Youth Program of the Kalihi-Palama Interchurch Council.

The Immigrant Youth Program currently assists the fifty-five public schools and the Honolulu District Office to educate and acculturate students of limited English proficiency. The program seeks to alleviate educational deficiencies or problems, resulting from language and cultural differences among immigrant and Samoan students. The program provides counseling, tutoring, bilingual and outreach services. These services are provided by five Bilingual Youth Workers for the Filipino, Korean, Laotian, Samoan, and Vietnamese. The services of the program are available to over 5,600 students, grades K - 12, in the Honolulu District.

Your Committees on Youth and Elderly Affairs and Education are in accord with the intent and purpose of H.B. No. 2473-82 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 311-82      Corrections and Rehabilitation and Judiciary on H.B. No. 2606-82

The purpose of this bill is to subject the granting of furloughs, releases, and conditional releases to the approval of the court which committed the inmate. The Department of Social Services and Housing (DSSH) is directed to transmit copies of furlough applications to the prosecutors and police chiefs of all the counties. Court hearings are not to be held less than 72 hours following the notification of the prosecutors and police. Upon denial of application by the court, the inmate shall not be permitted to file further application until one year has elapsed or upon the expiration of the minimum prison terms set by the parole authority.

Under present law the Director of the DSSH or his agent has full decision-making authority on whether to place certain prisoners on furlough, release, or conditional release.

Your Committees feel that the DSSH is in better position to assess the progress and readiness of inmates applying for furloughs, releases, or conditional releases. That authority should remain with the Director of the DSSH. Your Committees further find that some restrictions on the discretionary powers of the DSSH to grant furloughs, releases, and conditional releases, earlier than the last six months of the minimum term of imprisonment as set by the Hawaii Paroling Authority, are in order.

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

Your Committees have amended this bill by leaving the final authority on whether an inmate should be furloughed, released, or released on condition with the Director of the DSSH. Furloughs, releases or conditional releases prior to the last six months of the minimum term of imprisonment require the recommendations of the Hawaii Paroling Authority. The Director of the DSSH or his agent may grant furloughs, releases, or conditional releases to committed persons during the last six months of their minimum terms of imprisonment without the recommendations of the Hawaii Paroling Authority.



Your Committees have further amended this bill by reducing to six months the waiting period required before a subsequent furlough application can be submitted.

Your Committees on Corrections and Rehabilitation and Judiciary are in accord with the intent and purpose of H.B. No. 2606-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2606-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Baker, Dods, Kawakami and Taniguchi.

SCRep. 312-82            Transportation on H.B. Nos. 2956-82, 2646-82 and 2302-82

H.B. No. 2956-82 entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE STUDY, DREDGING OF, AND PLANS AND CONSTRUCTION OF A JETTY AT THE WAILOA RIVER, HILO, HAWAII."

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii \$525,000, or the amount which may be necessary for the fiscal year 1982-1983 to fund the study, dredging of, and plans and construction of a jetty at the Wailoa River in Hilo.

The bill was supported by testimony presented by both the Department of Transportation and a representative for the Mayor of Hawaii. The problems caused by large amounts of silting in the Wailoa River Channel has reduced the operating depth, creating hazardous navigational conditions. Thus, this bill was deemed essential for safe navigation of the Wailoa River Channel as well as for the promotion of the fishing industry.

H.B. No. 2646-82 entitled: "A BILL FOR AN ACT MAKING A SUPPLEMENTAL APPROPRIATION FOR THE IMPROVEMENT OF PUKELE DRAINAGE CANAL, OAHU."

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii a supplemental sum of \$200,000 or the amount which may be necessary to improve Pukele Drainage Canal, Oahu. This sum will be matched by the C & C of Honolulu and be expended by their Public Works department for the purposes of this Act.

H.B. No. 2302-82 entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR KAULANA BAY NAVIGATION IMPROVEMENTS."

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii \$250,000 or the amount necessary for the acquisition of lands, easements, and rights of way, and the construction of a new boat launching ramp and restroom facilities at Kaulana Bay, South Point on the island of Hawaii. However the fund shall not be provided unless the federal government provides supplemental funds of \$1,176,000.

As the Kaulana Bay ramp provides the access to one of the most productive commercial fishing areas offshore of the Big Island this Act will aid in promoting fisheries development, providing light-draft navigational improvements, and improving boat access to South Point fishing grounds.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2956-82, H.B. No. 2646-82, and H.B. No. 2302-82 and recommends that they pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 313-82            Transportation on H.B. No. 2815-82 (Majority)

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

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

Your Committee received testimony in favor of this measure from the Department of Public Works, City and County of Honolulu, as well as the City Council, City and

County of Honolulu. The establishment of the Highway Beautification and Disposal of Abandoned Vehicles Revolving Fund would help defray the expenses of the continuing program.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2815-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.  
(Representatives Say and Ikeda did not concur.)

SCRep. 314-82      Transportation on H.B. No. 2393-82

The purpose of this bill is to appropriate for the fiscal year 1982-1983 \$50,000 out of the general revenues of the State of Hawaii, for plans to install a bike path from Pupukea Beach Park to Sunset Beach Park on the island of Oahu.

In their testimony, the Department of Transportation concluded that the installation of a 4-foot wide paved bikeway on either side of the roadway would be more cost efficient than the proposed separate bike pathway. The appropriated sum of \$50,000 would sufficiently cover the construction costs.

For the purposes of instituting this Act your Committee on Transportation has deleted the last sentence in Section 1, starting with "This" on line 5 and ending with "right-of-way" on line 7.

Your Committee on Transportation is in accord with the intent and purposes of H.B. No. 2393-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2393-82, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Albano, Nakasato, Tungpalan and Marumoto.

SCRep. 315-82      Transportation on H.B. No. 2421-82

The purpose of this bill is to provide necessary funds for detailed engineering design studies to modify Hilo pier facilities.

Your Committee noted that the island of Hawaii holds great potential for directed population growth due to its vast land, water, and energy resources. One of the major limiting factors to this economic development and growth is the inadequate interstate and overseas transportation systems at Hilo Harbor. Hilo pier was constructed in 1905 and is not strong enough to support the heavy equipment required in a large scale barge and container operation.

Your Committee received testimony from the Office of the Mayor, County of Hawaii in support of this measure. Hilo pier was described as inadequate and a handicap to the economic development and diversification on the Big Island.

Your Committee also received testimony from the Department of Transportation supporting this bill in amended form. The Department of Transportation recommended amending the sum appropriated from \$350,000 to \$50,000 for further engineering study of alternative loading levels and operator requirements.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2421-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2421-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 316-82      Transportation on H.B. No. 2344-82

The purpose of this bill is to appropriate \$200,000 for the fiscal year 1982-1983, out of the general revenues of the State of Hawaii, to determine the costs of eliminating the highway conditions which cause flooding of a portion of the Hawaii Belt Road in

the Ka'u area of the Big Island.

The bill was supported in testimony presented by the Department of Transportation. However, it was concluded that the problems of flooding and the resulting destruction of the highways were ones which should also be the responsibility of the Department of Land and Natural Resources.

Your Committee has thus amended, Section 2 of this bill adding the Department of Land and Natural Resources, as well as the Department of Transportation as the expending agencies.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2344-82, as amended therein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2344-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 317-82      Transportation on H.B. No. 2456-82

The purpose of this bill is to appropriate out of the general revenues a sum for fiscal year 1982-1983, for the purposes of improving the roadways within the Hawaii Housing Authority Project in Nanakuli, Oahu.

Your Committee has amended Section 1 of the bill by inserting the sum of \$125,000.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2456-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2456-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 318-82      Transportation on H.B. No. 2622-82

The purpose of this bill is to appropriate for the fiscal year 1982-1983, out of the general revenues of the State of Hawaii, the sum necessary for the plans and construction of lights at bus areas in front of and across the highway from Hawaii Loa College.

In testimony submitted by the Department of Transportation it was requested that \$55,000 be appropriated to install lights in these areas. Your Committee on Transportation therefore amended Section 1 of the bill by appropriating \$55,000 out of State General Revenues for the purpose of installing these lights.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2622-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2622-82, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 319-82      Transportation on H.B. No. 2885-82

The purpose of this bill is to amend Section 286-16, Hawaii Revised Statutes, to allow respective counties latitude in promulgating specifications and requirements for reconstructed vehicles.

In 1977, the reconstructed motor vehicles approval program was transferred from the counties to the state by the 1977 Legislature at the request of the county reconstructed motor vehicle program administrators. The transfer established a statewide standardized program which would enhance highway safety and provide for better service to reconstructed vehicle owners. Reconstructed motor vehicles rules, however, vary from county to county and restrict movement of reconstructed vehicles from county to county.

Your Committee is in favor of this bill as it allows the respective counties to establish specifications and requirements for reconstructed vehicles without allowing the Director of Transportation to supercede such specifications.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2885-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 320-82      Transportation on H.B. No. 2774-82

The purpose of this bill is to appropriate \$250,000, or so much as may be necessary for the fiscal year 1982-1983, for the construction of a second access road to Leeward Community College.

Leeward Community College is presently serviced by a single roadway, the construction of a second roadway would help alleviate increasing jurisdiction of the City and County of Honolulu. Your Committee has therefore, amended Section 2 of this bill designating the City and County of Honolulu as the expending agency.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2774-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2774-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 321-82      Transportation on H.B. No. 58

The purpose of this bill is to consolidate land transportation functions at the state level.

House Bill No. 58 was introduced as a short form bill containing only a general idea as to its purpose. Your Committee amended the bill and held a public hearing on it as H.B. 58, H.D. 1.

Your Committee has received testimony from the City and County of Honolulu Department of Public Works in support of an amended version of this bill. The recommendations of the Department of Transportation and Department of Public Works have been incorporated into Section 1 subsection (b) as follows:

"(b) Within 180 days after the city and county of Honolulu has declared that the improvement of the ventilation and lighting system of Wilson tunnel has been completed, the director of transportation shall include the Wilson tunnel in the state highway system and shall proceed with the transfer of state and county roads in accordance with the state highway system agreement. The city and county of Honolulu shall make the declaration after satisfaction that the improvement of the ventilation and lighting system has been completed."

Your Committee also recommends amending the bill by deleting Section 1 subsection C.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 58, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 58, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Albano, de Heer, D. Hagino, Nakasato, Tungpalan and Marumoto.

SCRep. 322-82      Transportation on H.B. No. 55 (Majority)

The purpose of this bill is to authorize the issuance of airport revenue bonds and to appropriate the proceeds for the planning, design, and construction of a general aviation airport on Oahu.

That there is a need for relief of air traffic at Honolulu International Airport is acknowledged by all. The State has preferred to provide the relief by obtaining the use of an existing military airfield, jointly or otherwise, for general aviation aircrafts. Attempts by the State to gain such use, however, have been rebuffed in the past by the federal government.

In spite of the rebuffs, the concept is still preferred, and recent developments in Washington have revived the feasibility of the concept.

Your Committee has amended the bill by allowing the department of transportation to acquire Barber's Point Naval Air Station, Kaneohe Marine Corps Air Station, or Wheeler Air Force Base if the federal government makes the airfield available for state acquisition as a result of the consolidation of activities. The Reagan administration has indicated that it is considering the sale of excess federal lands and facilities as a means of increasing federal revenues. An existing military airfield may be among the federal facilities designated as available for sale.

Your Committee feels that the cost of acquiring and developing existing airfield facilities will be less than the cost of constructing a completely new general aviation airport. Thus, your Committee feels that the department of transportation should have the authority to acquire a military airfield if one becomes available.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 55, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 55, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Albano, Nakasato, Tungpalan and Marumoto.  
(Representative Taniguchi did not concur.)

SCRep. 323-82      Transportation on H.B. No. 2495-82

The purpose of this bill is to appropriate the sum of \$300,000 or so much thereof for fiscal year 1982-1983 for improvements to alleviate flooding conditions in Kapaau, Hawaii.

The Hamakua and North Kohala districts are vulnerable to very substantial flooding after steady rains of a few hours duration and flooding is worse after torrential rains. Serious traffic and health hazards arise as flooding often cuts off access to Hawi.

Your Committee received testimony from the Department of Transportation indicating that the problem may be corrected by replacing the existing culvert box by a larger one. The Department of Transportation, however, recommended amending the bill by removing the reference to the Kapulena area since the flooding is not caused by the highway construction. The homes in the Kapulena areas were built in natural flooding areas and pre-existed any highway construction.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2495-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2495-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Nakasato and Takitani.

SCRep. 324-82      Transportation on H.B. Nos. 2757-82, 2280-82, 2738-82 and 2492-82

H.B. No. 2757-82 entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR PLANS AND CONSTRUCTION OF AN INTERCHANGE ON INTERSTATE ROUTE H-2 IN THE VICINITY OF THE MILILANI MEMORIAL ROAD".

The purpose of this bill is to make an appropriation for an interchange on Interstate Route H-2 near Mililani Memorial Road.

Your Committee on Transportation received testimony from the Department of Transportation supporting this bill and indicating that the appropriation would enable the Department to commence preliminary engineering studies with the total cost estimate to be approximately \$5,000,000.

H.B. No. 2280-82 entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR HIGHWAY BEAUTIFICATION PROJECT IN MAUI COUNTY".

The purpose of this bill is to provide funds for Highway Beautification Projects in Maui County.

The Department of Transportation supports the purpose of this bill as it will provide funds for the purchase of supplies and materials for beautification project implementation and maintenance.

H.B. No. 2738-82 entitled: "AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN APPROPRIATION FOR THE IMPROVEMENT OF THE WALKWAY AT KOKO HEAD PARK, OAHU".

The purpose of this bill is to authorize an appropriation for improvements to the Walkway at Koko Head Park.

H.B. No. 2492-82 entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR PLANS AND DESIGN TO PREVENT THE OCCURRENCE OF LANDSLIDES ONTO KAMEHAMEHA HIGHWAY AT WAIMEA BAY, OAHU".

The purpose of this bill is to provide funds for planning and design of methods to prevent landslides onto Kamehameha Highway at Waimea Bay.

Your Committee received testimony from the Department of Transportation in support of this bill, indicating that the sum would be sufficient to provide for the design of the project.

Your Committee on Transportation is in accord with the intent and purpose of H.B. Nos. 2757-82, 2280-82, 2738-82, 2492-82 and recommends that they pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Albano, Nakasato, Taniguchi, Tungpalan and Marumoto.

SCRep. 325-82      Transportation on H.B. No. 2623-82

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum necessary to construct an access road from Kailua High School to Kalaniana'ole Highway.

Your Committee received testimony from the Pohakupu Community Council, Olomana Community Association, Kailua Community Council and concerned residents from the neighboring Pohakupu and Kukanono areas. Presently the only access from Kalaniana'ole Highway to Kailua High School is through the streets of the Pohakupu Community. The streets are narrow with no curbing, sidewalks or other safety devices to protect pedestrians, bikeriders or children. These streets were designed for local residential traffic only and are unable to safely accommodate the increased traffic. Thus, traffic congestion, high noise levels and hazardous conditions have resulted, causing not only, undue wear and tear on the streets but also, emotional stress for Pohakupu residents. It was concluded by your Committee from the testimony given that the construction of an access road was essential to rectify these problems.

In testimony presented by the Department of Transportation, it was concluded that except for the connection to Kalaniana'ole Highway, the proposed highway would be outside state jurisdiction.

Your Committee has therefore amended, Section 2 of this bill designating the City and County of Honolulu as the expending agency.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2623-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2623-82, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Albano, D. Hagino, Nakasato, Taniguchi, Tungpalan and Marumoto.

SCRep. 326-82      Transportation on H.B. No. 2698-82

The purpose of this bill is to prohibit the use of additional glass tintings to motor vehicle windshield and window glass. At the present time, the use of tinting which allows less than 70 per cent transmittance of light reduces driving visibility at night and creates hazardous road conditions to other drivers, bicyclists and pedestrians.



Testimony presented by the Department of Transportation and the Honolulu Police Department deemed this bill essential in the propagation of road safety.

Currently, Federal Motor Vehicle Standards require transparency of at least 70 per cent visible light. It was the intent of Congress that States adopt identical safety standards to be enforced over the lives of the motor vehicle or equipment. However in order that the present tint industry not be jeopardized representatives from the industry, the Department of Transportation, the Honolulu Police Department, and the office of the Attorney General met. Discussion revolved around providing the same allowances in the State Statute as required by Federal standards and instituting policies to control the illegal use and application of glazing materials and tints. The proposed amendments prohibited use of glazing material where the luminous transmittance is less than 70 per cent, and added a provision not only prohibiting the installation of the illegal tint, but also holding those applying the product liable for its removal. The added provision would also require the issuance of permits and the inspection of all vehicles to be done by reconstruction stations.

Your Committee has adopted the proposed changes and amended Section 1 of the bill as follows:

"291- Regulation of motor vehicle glazing tint; penalty.

(a) No person shall operate, permit the operation of, cause to be operated, or park any motor vehicle on a public highway where the glazing material necessary for the safe driving visibility of such motor vehicle has been tinted and the luminous transmittance of such glazing material is less than 70 per cent.

(b) No person shall install, mount, adhere, affix or use any tint in or upon any glazing material necessary for the safe driving visibility of a motor vehicle that results in a luminous transmittance through such glazing material of less than 70 per cent. Such person shall be liable for the removal of the tint applied contrary to law and all expenses associated with its removal.

(c) Every vehicle having glazing material necessary for the safe driving visibility shall be inspected at such stations established by statute or county ordinance for the inspection of reconstructed vehicles. No vehicle shall be operated or parked on a public highway unless it has been inspected and a permit issued. No permit shall be issued unless the luminous transmittance of the glazing material necessary for the safe driving visibility is at least 70 per cent.

Whoever violates this section shall be fined not less than \$50 nor more than \$250 for each separate offense."

Your Committee has made other changes deleting the phrases "either clear or tinted" on line 7, page 1 and "after market" on line 2, page 2.

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

Signed by all members of the Committee except Representatives Albano, Nakasato, Taniguchi, Tungpala and Marumoto.

SCRep. 327-82                      Transportation on H.B. No. 2770-82

The purpose of this bill is to appropriate monies for the design and construction of a bikeway-jogging path along Farrington Highway in Waianae.

Your Committee received testimony from the Department of Transportation in support of an amended version of this measure. The Department recommended deleting the reference to the makai side of Farrington Highway as the Department's proposal would pave shoulders on both sides of the street. The Department also recommended that the language regarding the "blinking caution light" be deleted. The light is not considered a proper traffic control device.

Your Committee adopted the recommendation of the Department of Transportation by amending Section 1 of the bill to read as follows:

"SECTION 1. The purpose of this Act is to appropriate funds for the



construction of a bikeway-jogging path from Luualualei Naval Depot Road to the junction of Poka'i Bay Street and Farrington Highway. The proposed bikeway-jogging path would be located along Farrington Highway and would greatly improve the safety conditions for the large and growing numbers of bicyclists and joggers on the Leeward Coast. The appropriation is to cover the costs of design and construction of the bikeway-jogging path including necessary bridge and culvert improvements."

Your Committee has also made non-substantive changes to the bill.

Your Committee is in accord with the intent and purpose of H.B. No. 2770-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2770-82, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 328-82      Transportation on H.B. No. 2258-82

The purpose of this bill is to appropriate funds from the airport revenue fund to complete construction of the Civil Air Patrol Headquarters Facility.

Act 9, SLH 1977, appropriated \$466,500 in general obligation funds to the construction of the Headquarters Facility. Because, however, of the time lapse in receiving the funds and the cost of inflation, the building was only partially completed with those funds.

Your Committee notes that the Headquarters facility is only partially habitable and no Certificate of Occupancy from the City and County of Honolulu has been received. According to testimony from the Hawaii Wing Civil Air Patrol, the monies requested would be utilized for painting, carpentry, floorings, electrical lights and wiring, air conditioning, plumbing fixtures and other necessary construction items.

The Department of Transportation supports this bill, however, recommends that the revenues to complete construction of the facility be taken from the general revenues of the State. Your Committee agrees with the Department's recommendations and has amended this bill to appropriate the funds from the general revenues of the State.

Your Committee is in accord with the intent and purpose of H.B. No. 2258-82 and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2258-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Albano, D. Hagino, Nakasato, Taniguchi, Tungpalan, Ikeda and Marumoto.

SCRep. 329-82      Transportation on H.B. No. 2637-82

The purpose of this bill is to repeal Section 266-22 of the Hawaii Revised Statutes, which requires all costs of maintaining the fireboat to be paid out of the Department of Transportation Harbor Special Funds.

Currently, under the present statute, the Department of Transportation is required to pay over \$700,000 annually in operating maintenance costs for the City and County owned fireboat. The repeal of this Section would greatly reduce State Harbor expenditures and such a reduction would be reflected in the rates charged for port facility use.

Both the Department of Transportation and your Committee recognize that the continued operation of the fireboat is essential to state-wide safety, as it provides, not only harbor protection, but also responds to emergency alarms and provides rescue and retrieval operations.

In order to insure the continuance of fireboat operations, the transfer of responsibility costs should not take place until suitable funding or different alternatives for protection are found. Your Committee has therefore amended Section 2 of this bill changing the effective date to June 30, 1983.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2637-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2637-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 330-82      Transportation on H.B. No. 3050-82

The purpose of this bill is to appropriate funds for safety improvements to Ala Ilima Street in Salt Lake.

Your Committee heard testimony from concerned citizens of the Salt Lake area that parking problems, traffic congestion and ingress and egress problems abound on Ala Ilima Street, the main thoroughfare in Salt Lake. These problems result in a hazardous safety situation there.

Your Committee notes that Ala Ilima Street is within the jurisdiction of the City and County of Honolulu. Your Committee therefore recommends that this bill be amended to appropriate the sum of \$20,000 for fiscal year 1982-1983 for safety improvements. Your Committee further recommends that this bill be amended by authorizing the City and County of Honolulu to be the expending party.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 3050-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3050-82 H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Albano, D. Hagino, Nakasato, Taniguchi, Tungpalan and Marumoto.

SCRep. 331-82      Health on H.B. No. 2522-82

The purpose of this bill is to provide grants-in-aid to the Arthritis Center of Hawaii to provide important services of diagnosis, recommendations for treatment, instruction in self-care and referral information to persons suffering from arthritis.

There is a high incidence of arthritic diseases in Hawaii's population and the Arthritis Center offers unique and important services to those afflicted.

Your Committee amends H.B. No. 2522-82 by filling in the sum of \$100,632 on line 8 and changing the expending agency on line 10 from the department of health to the University of Hawaii. This bill is further amended by adding a proviso at the end of section 2 stating that the Arthritis Center of Hawaii submit a fee schedule of reimbursement by patients.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2522-82 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2522-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 332-82      Health on H.B. No. 2329-82

The purpose of this bill is to provide funds to continue to provide and implement programs for abused spouses and their families. In addition to providing emergency shelter, these programs also provide the support, counseling and referrals so often required in violent family situations.

Your Committee has amended H.B. No. 2329-82 on page 2 by deleting line 12. The appropriation for Women Helping Women, Inc. - Hale Loko Mai Ka'i on Maui has been increased from \$70,000 to \$80,000, on page 2, line 24. The total sum appropriated on page 2, line 15 should therefore be increased by \$10,000 to \$318,000.

Your Committee on Health is in accord with H.B. No. 2329-82 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2329-82, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 333-82 Health on H.B. No. 2524-82

The purpose of this bill is to make an appropriation of \$354,909 for fiscal year 1982-1983 to several organizations for the purpose of providing preventive and remedial services to assist abused and neglected children and their families.

Child abuse is a growing problem in Hawaii, however, the efforts of a network of agencies have demonstrated that preventive and remedial services can have an impact upon the incidence and severity of abuse.

Your Committee has amended this coalition bill by changing the appropriated amounts for the Hawaii Family Stress Center section as follows:

Hawaii Family Stress Center

	<u>from</u>	<u>to</u>
Oahu Family Support Services	\$20,063	\$12,329
Hilo Family Support Services	\$29,799	\$22,065
Kona Family Support Services	\$17,164	\$30,000
Maui Family Support Services	\$16,732	\$29,367
Molokai Family Support Services	\$30,231	\$22,497
Kauai Family Support Services	\$31,818	\$24,084
Core based at Kapiolani Hospital		\$46,404
	<u>\$145,807</u>	<u>\$186,746</u>

The sum appropriated for the entire coalition is therefore increased from \$354,909 to \$395,848.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2524-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2524-82, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 334-82 Health on H.B. No. 2984-82

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

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

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2984-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 335-82 Health on H.B. No. 2958-82

The purpose of this bill is to appropriate \$148,456.40 for fiscal year 1982-1983, for the statewide operation of the Protection and Advocacy Agency of Hawaii.

The Protection and Advocacy Agency, a private, non-profit corporation, was established in 1977 pursuant to Executive Order 77-3 to provide a system of advocacy for the states' vulnerably disabled population. The Federal Developmental Disabilities and Bill of Rights Act of 1975 specifies that in order for a state to be eligible for receipt of federal developmental disabilities funding, such a system must be in effect. In addition to fulfilling this federal mandate, the agency provides individuals and their families with

personal one-to-one assistance in securing services, serves as a mediator between individuals and agencies, provides counselling, and guidance, and protects and guarantees the human, legal, and civil rights of the developmentally disabled through advocacy and education on their behalf.

Testimony presented cited the Protection and Advocacy Agency as serving an essential role in our community, and meeting the needs of individuals who would otherwise be without someone to advocate on their behalf. The agency has provided a vital link in the community services network, and has been an essential resource to agencies in assisting individuals who need help.

Your Committee has amended page 2, line 18, by changing the amount of appropriation from \$148,456.40" to "137,000", and has added the following after the word "Hawaii" on page 2, line 21: "; provided that the salary of the Executive Director remains the same as FY 1981-1982."

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2958-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2958-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 336-82      Health on H.B. No. 2841-82

The purpose of this bill is to make an appropriation of \$295,703 for fiscal year 1982-1983 to the Waianae Coast Comprehensive Health Center for the provision of emergency medical services to residents of the Waianae Coast.

Your Committee finds that the Waianae Coast Comprehensive Health Center operates one of the most heavily utilized emergency rooms in the State of Hawaii, with approximately 12,000 total encounters and 8,000 emergency encounters annually. This emergency service is provided for a low-income, medically underserved population, whose major concern, due to economic and transportation limitations, is access to medical care. Residents of the Waianae Coast are in special need of emergency services due to the area's extremely high accident rate, along with its high incidence of heart attack, violence and other emergencies. Waianae has the highest residential rate of emergency medical incidents on Oahu, twice the island-wide rate.

In anticipation of a major reduction in federal funding the Waianae Coast Comprehensive Health Center will be forced to curtail its emergency room services, unless additional sources of funding can be found. If the Center's emergency room closes, the closest 24-hour emergency room is located approximately 40 minutes away in Pearlridge, making emergency care practically inaccessible to those Waianae residents with limited transportation. An alternative way of meeting emergency care needs would be the placement of 1.5 additional paramedic units in the Leeward area. The City and County estimates the cost of operating a single ambulance unit to be \$200,000, making the Waianae Coast Comprehensive Health Center a less expensive and more comprehensive option. A petition with over 4,000 signatures of residents and visitors indicates a demand for the emergency services currently provided by the Center.

Your Committee has amended Section 3 of the bill by adding a proviso which states, "The sum appropriated shall be expended by the department of health for the purposes of this Act, provided that the department evaluates the Waianae Coast Comprehensive Health Center emergency services and reports its findings to the 1983 Legislature."

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2841-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2841-82, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 337-82      Health on H.B. No. 2523-82

The purpose of this bill is to provide funds for the planning and construction of an agricultural community center on Oahu. The center will be operated and administered by Opportunities for the Retarded, Inc. and will primarily provide agricultural training to mentally handicapped adults in Hawaii.

Futhermore, the center will provide agricultural and vocational training and create jobs within a residential setting for an estimated 100 developmentally disabled adults. These individuals are ineligible to receive services from the Department of Education because of age and have skill levels which are too low for them to be candidates for most other vocational training and rehabilitative programs. The center, in addition, will provide training opportunities in a real work environment in several areas such as: cafeteria, bakeshop, giftshop, greenhouse, farm, and maintenance of the Dole pineapple exhibition fields.

The project has already obtained five acres of land at Helemano from the State for 75 years at no cost and \$150,000 in federal Community Development Block Grants for the engineering and planning of the land. The Military 65th Engineering Division cleared the entire parcel as a voluntary service which would otherwise have cost \$100,000 or more. Also received was federal Housing and Urban Development Section 202 funds in the amount of \$640,000 and Section 8 annual contributions authority of \$67,248 for ten years.

Opportunities for the Retarded Inc. has applied for \$1.5 million in Community Development Block Grants for training facilities, workshops, and greenhouses. The mayor of the City and County of Honolulu has recommended to the City Council that construction of the project be considered for funding only if the State matches at least 50 percent of the cost.

Your Committee feels that the Opportunities for the Retarded, Inc. should be commended for their hard work and accomplishments and believes that they are moving in the right direction of becoming self-sufficient.

Your Committee has amended H.B. No. 2523-82 by deleting "and the same sum, or so much thereof as may be necessary, is appropriated for fiscal years 1982-1983, 1983-1984, and 1984-1985" on page 1, lines 9, 10, and 11.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2523-82 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2523-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 338-82      Health on H.B. No. 3029-82

The purpose of this bill is to provide grants-in-aid totalling \$2,848,701 to seventeen Oahu and neighbor island community agencies that assist persons who suffer from the effects of substance abuse.

Your Committee finds that the continuation of the program by these agencies is important. The grants-in-aid will enable the agencies to provide residential and non-residential treatment services to an estimated 1340 persons with alcohol and substance (including drug) addictions.

Your Committee has amended H.B. No. 3029-82 by adding the Habilitat, \$159,000 and Aloha House, \$96,839 to the list of substance abuse-related programs. The sum appropriated, therefore changes from \$2,592,862 to \$2,848,701 on page 1, line 13 and on page 3, line 4, the column total.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 3029-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3029-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 339-82      Health on H.B. No. 3035-82

The purpose of this bill is to appropriate funds to enable the Sexual Assault Support Service on the island of Hawaii to provide comprehensive services to sexually assaulted victims.

The center is contracted with the department of health to provide emergency and follow-up services with linkages to medical, social and legal support system. It coordinates

services provided by medical, police, and judicial communities and increases community awareness about the nature of sexual assault and the availability of help. The center also develops educational prevention programs for presentation to community groups and schools.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 3035-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 340-82      Health on H.B. No. 3011-82

The purpose of this bill is to provide grants-in-aid totalling \$85,521 to nine community agencies for the operation of substance abuse program.

The continuation of the programs conducted by these agencies will provide residential and non-residential treatment services to people with alcohol and substance (including drug) abuse. Federal funding for the substance programs of these agencies will expire before the end of the fiscal year leaving them without entitlement to state funds that had matched the federal funds.

Your Committee recognizes that the Finance Committee should consider the option of adding a proviso to the Biennium Budget Bill that would release the state match, rather than making a separate appropriation as herein contained.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 3011-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 341-82      Health on H.B. No. 3111-82

The purpose of this bill is to make an appropriation of \$79,800 for fiscal year 1982-1983 to the Autistic Vocational Education Center for provision of vocational education and independent living training to autistic and other severely behavior disordered adults.

The Autistic Vocational Education Center provides services to ten adults who, because of the severity of their behavior problems, cannot be accommodated by other community-based training programs. Due to the individualized nature of the program, the per capita costs are high, but are still less than one-third the per capita costs of maintaining an individual at the State institution. Currently, half of the trainees in the program are in work experience stations in the community.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 3111-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 342-82      Health on H.B. No. 2955-82

The purpose of this bill is to appropriate the necessary funds to enable a number of programs to provide assistance to persons requiring mental health-related services.

Collectively, these programs represent the nucleus of a system of community-based mental health services that help prevent the potential for the development of a serious mental illness and help minimize unnecessary, inappropriate, and costly institutionalization.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2955-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 343-82      Health on H.B. No. 3036-82

The purpose of this bill is to provide a grant-in-aid of \$295,372 or so much thereof for fiscal year 1982-1983 to the Chronic Renal Disease Program.

The Chronic Renal Disease Program provides financial assistance to people with end-stage renal disease who require or have artificial kidneys or kidney transplants.

Your Committee finds that this amount or so much thereof is needed to cover a shortfall in funds for fiscal year 1981-1982, and that the appropriation shall be binding for fiscal year 1982-1983.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 3036-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 344-82      Health on H.B. No. 2387-82

The purpose of this bill is to provide funds for the continued operation of the Molokai General Hospital, the only hospital and acute care facility on the island of Molokai.

Molokai has a relatively small, but steadily increasing population which indicates that there will probably be an increase in the utilization of the hospital. A clear need also exists for the accessibility to emergency medical services for all residents as mandated by Hawaii Revised Statutes, Section 321-221, Finding and Purpose.

Your Committee has amended H.B. No. 2387-82 by adding a proviso that the Department of Health monitors the expenditure of funds and reports its findings to the 1983 Legislature.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2387-82 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2387-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 345-82      Health on H.B. No. 3133-82

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

According to testimony presented by the Department of Health, the shortfalls occurred because of the following reasons:

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

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

Your Committee has amended H.B. No. 3133-82 by changing the City and County of Honolulu appropriation from \$584,396 to \$385,396 on page 1, line 6 and decreasing the total appropriation amount on page 1, line 2 from \$1,034,396 to \$835,396.

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

Signed by all members of the Committee.



SCRep. 346-82

Health on H.B. No. 2829-82

The purpose of this bill is to make the following amendments to the existing provisions regarding commitment procedures under Chapter 334 of the Hawaii Revised Statutes:

- (1) The bill proposes to add a new standard for commitment, "gravely disabled", which will provide the means of securing treatment for those individuals who are not imminently dangerous to themselves or to others, but who are in need of treatment and are incapable of volunteering for such treatment. The standard of dangerousness is presently required before a person may be involuntarily committed.
- (2) §334-1: To conform the standards for commitment under Chapter 334 to the 9th Circuit Court of Appeals decision in *Suzuki v. Yuen*, 617 F.2d. 173 (9th Cir. 1980), by amending the definitions of "dangerous to others" and "dangerous to self" to require that such danger be imminent, and by deleting the standard of "dangerous to property" which was found by the Court to be unconstitutional.
- (3) §334-60(a): To allow an individual to be voluntarily admitted to a psychiatric facility with the consent of his court-appointed guardian for a maximum of sixty days in a twelve month period, for the purpose of treating a person with chronic mental illness who lives in the community and who may require short periods of hospitalization on a periodic basis. As provided by the bill, such person may not request a discharge in writing at any time following admission to a facility without the consent of his guardian.
- (4) §334-60(b)(3)(A): To require that notice for a hearing on a petition for involuntary commitment be served on the relatives of the subject of the petition if such relatives can be found within the State.
- (5) §334-60(b)(3)(A): To provide that a person subject to a petition for involuntary commitment shall be entitled to representation by a public defender, for the purpose of ensuring that persons incapable for whatever reason of obtaining a private attorney be afforded legal representation.
- (6) §334-60(b)(4): To conform the standard of proof in civil commitment cases from "beyond a reasonable doubt" to the lesser standard of "clear and convincing evidence", the minimum standard used by the United States Supreme Court. This amendment would eliminate the difficulty Hawaii courts presently have in using the "beyond a reasonable doubt" standard to predict future behavior rather than prove a past act as in a criminal trial where the same standard is used.
- (7) §334-60(b)(6): To delete the provisions concerning expiration of the court order for commitment as well as the requirement that the court enter an order of discharge; to require the administrator to discharge the patient if no objection is filed within three days after notice is served on the persons required to be served under the order of commitment; and to clarify the procedure the court is to follow if a written objection to discharge is filed.
- (8) Other technical, non-substantive amendments.

Your Committee heard testimony from the Department of Health that Hawaii's current mental health laws, which do not permit involuntary hospitalization unless the element of imminent and substantial danger is present, are too rigorous in that many patients who need help, but who cannot or will not request it, are not being properly cared for. The National Association of Social Workers and the Task Force for the Study of Laws Relating to Guardianship, Civil Commitment and Protective Services in Hawaii, testified in support of the addition of a new standard, "gravely disabled", for civil commitment. According to the Task Force, this standard is presently being used in more than twenty-five states and as worded in the bill, has been upheld by courts in both California and Colorado.

While in support of an additional category for "gravely disabled" persons, the Mental Health Association in Hawaii raised the issue of whether the hospital would be the appropriate treatment facility for such individuals. The Association felt that a community facility would be more appropriate inasmuch as these individuals do not need to be placed in a facility with those who are dangerous and in need of intense psychiatric treatment.

Both the Mental Health Association and the Office of the Public Defender testified that "beyond a reasonable doubt" should be retained as the standard of proof in civil commitment cases in view of the fact that such commitment severely infringes upon an individual's personal liberty.

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

- (1) Deletion of "gravely disabled" (p. 4, lines 9-14) and inserting in lieu thereof "grossly disabled", defined as "a condition in which a person is unable to provide for his basic personal needs, including but not limited to food, clothing, or shelter, and is making grossly irrational or irresponsible decisions concerning his personal welfare, and lacks the capacity to understand that this is so".  
  
The purpose of this amendment is to provide a narrower definition for this new category of persons in order to more adequately protect the rights of an individual who may be involuntarily committed.  
  
Deletion of "gravely disabled" and insertion of "grossly disabled" on page 10, line 13 and page 11, line 16.
- (2) To conform the new standard of "grossly disabled" with section 334-60(b):
  - (a) deletion of "hospitalization" and insertion of "involuntary treatment" on page 11, line 20;
  - (b) deletion of "hospitalization" and insertion of "treatment" on page 11, lines 9, 11; page 13, line 6; page 15, line 14; page 18, lines 8, 16; page 20, line 5; page 21, lines 14, 17; page 22, lines 5, 18, 21; page 23, line 1.
  - (c) addition of "special treatment" on page 11, lines 11, 22; page 12, line 3; page 13, line 5; page 19, line 6; page 20, line 10; page 21, lines 1, 23.
- (3) Deletion of "served on" (p. 14, line 4) and insertion of "sent to" in lieu thereof.
- (4) Deletion of "within the State" (p. 14, lines 5-6 and 16-17) in order to eliminate the differential treatment for persons without relatives in the State for purposes of serving notice of a hearing for involuntary commitment.
- (5) Deletion of "clear and convincing evidence" (p. 20, line 4) and retention of the higher standard of "beyond a reasonable doubt" (page 20, line 3).

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

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2829-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2829-82, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 347-82      Health on H.B. No. 3044-82

The purpose of this bill is to provide funds to the Pearlridge Hospital for operational expenses. This hospital is a 32-bed acute care non-profit facility that services all of Leeward Oahu and the Waianae Coast and is the only acute care hospital in Leeward Oahu. The emergency facilities at Pearlridge is the fourth busiest in the State with approximately a thousand patients per month.

Pearlridge Hospital has managed to serve the community as a self-sustaining entity up to now. However, because of deficits incurred in the last two years, the hospital is requesting assistance from the State.

Among the major reasons for the deficits are:

- 11 per cent of the hospital's patients are without any form of medical coverage.

Many of these patients are unable to pay their bills.

- Fully 52 per cent of Pearlridge patients are on Medicare or Medicaid, which results in a lower reimbursement rate to the hospital.

- Write-offs for uncollectible accounts and contractual adjustments for Medicare and Medicaid for fiscal years 1979-80 and 1980-81 totaled \$590,000.

- Acquisition of new equipment to replace outdated equipment and to meet life safety code requirements in compliance with State licensing and Federal regulations has cost \$212,000 in the last two years alone.

- As with other institutions, Pearlridge Hospital has had to cope with the higher expenses brought on by inflation and increased utility costs.

Your Committee has amended H.B. No. 3044-82 by adding a proviso that the Department of Health monitors the expenditure of funds and reports of findings to the 1983 Legislature.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 3044-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3044-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 348-82      Health on H.B. No. 2819-82

The purpose of this bill is to make an appropriation of \$40,000 for fiscal year 1982-1983 to the Women's Health Center and Clinic for its Patient and Community Advocacy Program. The program will train 50 volunteers to provide health consumer education in both clinical and community settings to over 4,000 individuals.

Inappropriate use of health care services by consumers is a major factor in rising health care costs. Some consumers rely on medical care for minor illnesses that could be handled through prevention and self-care. On the other hand, other consumers may ignore symptoms and rely on dangerous self-treatment. In addition, unnecessary tests, treatments and surgery sometimes result from consumer ignorance or fear of the health care system.

Women comprise the largest percentage of health care consumers, and are frequently responsible for the consumerism patterns of other family members. Women who are assisted by the trained health advocates will be able to participate in conscious decision-making about family planning, self health care, medical treatments and surgery.

Your Committee has amended H.B. No. 2819-82 by filling in the appropriation amount of \$40,000 on page 1, line 16.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2819-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2819-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 349-82      Health on H.B. No. 2880-82

The purpose of this bill is to make an appropriation of \$35,210 for fiscal year 1982-1983 to the Kapiolani In-Hospital Based Teen Intervention Program for the provision of free, confidential, counseling and health education to girls under the age of eighteen in an effort to prevent first time and repeat unplanned pregnancies.

In Hawaii, between 1975 and 1980, teenage girls experienced 6,840 pregnancies. Teenage mothers and their babies are at high risk of developing medical, social and economic problems. Approximately 85% of pregnant teenagers require public financial assistance.

The Teen Intervention Program began in 1979 as a federally funded demonstration project, administered by Kapiolani Children's Medical Center. The preliminary project evaluation indicates that the project has been successful in preventing repeat pregnancies among its teenage client group. To date, 50 repeat pregnancies have been averted.

as a result of the program. Compared with national statistics, this represents a 58% reduction in the expected percent of repeat pregnancies to teenagers in Hawaii.

Your Committee has amended this bill by adding a proviso that the Kapiolani Children's Medical Center provide \$29,827 for the purpose of this Act.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2880-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2880-82, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 350-82      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 six months of the highest rental guarantee by amending Section 102-11 of the Hawaii Revised Statutes. The imposition of conditions which increase the minimum bond guarantee is to give the Department of Transportation sufficient time to prepare for the award of major concession contracts and assure continued revenues between the termination of one contract and the award of another contract for a replacement concession.

The State Department of Transportation stated in their testimony that the expanded bonding requirements should not be restricted to Honolulu International Airport and that contracts for food and beverage, parking and ground transportation are also large, complex concessions which should be required to meet additional bonding standards.

In order to encompass this broader perspective your Committee has adopted the changes recommended by the Department of Transportation by amending Section 1 of this bill by deleting the words "equal to" in line 8 and inserting "not less than" in its place. Your Committee, for the purposes of consistency has also amended line 12, replacing the words "equal to" with "not less than." Your Committee has also, amended this bill to correct a typographical error in line 7 deleting "e" in the word performance.

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

Signed by all members of the Committee except Representative Nakasato.

SCRep. 351-82      Health on H.B. No. 2926-82

The purpose of this bill is to make an appropriation of \$75,000 for fiscal year 1982-1983 to Kokua Kalihi Valley Comprehensive Family Services so that it may continue to provide low-cost primary medical and dental care for immigrants, refugees, adolescents, and other residents of Kalihi Valley.

Kokua Kalihi Valley will lose \$130,000 by April 1982 due to federal funding cutbacks, resulting in a 33% reduction in services to an underserved and high risk population. Reductions in service will be minimized by an appropriation from the legislature.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2926-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 352-82      Employment Opportunities and Labor Relations on H.B. No. 2463-82  
(Majority)

The purpose of this bill is to provide a means of health care protection for employees in this state. The cost of medical care has become so prohibitive. In 1974 Hawaii enacted a pre-paid health law that was praised nationally as a model plan but as explained below has recently been declared null and void.

Briefly, Hawaii's Comprehensive Pre-Paid Health Care Act, Chapter 393, Hawaii Revised Statutes, was held preempted by the Employee Retirement and Disability Act

of 1974, U.S.C., Section 1001-1381 (ERISA). The Ninth Circuit Court's Decision is based on ERISA's preemption provision, Section 514(a), 29 U.S.C., Section 1144(a), which provides that ERISA supercedes or preempts all state laws which "relate to any employee benefit plan". Section 3 of ERISA, 29 U.S.C., Section 1002, defines "employee welfare benefit plan" broadly as any plan or program maintained by an employer or an employee of an organization to provide medical, surgical or hospital care or benefits. In view of the plain language of the above Sections, the Circuit Court held that the plans required by Chapter 393, H.R.S., are employee benefit plans and thus preempted by ERISA's Section 514(a), 29 U.S.C., Section 1144(a). In this regard, the Ninth Circuit Court stated: "There is no expressed exemption from ERISA coverage for plans which state law requires private employers to provide their employees. The legislative history convincingly demonstrates a broad Congressional preemptive intent." (Hewlett-Packard Co. vs. Barnes, 571 F.2d 502 (9th Cir.), *cer. denied*, 439 U.S. 831 (1978)).

With respect to plans that are exempt from ERISA coverage, ERISA, Section 4(b)(3), 29 U.S.C., Section 1003 (b) (3), provides that ERISA shall not apply to any plans "maintained solely for the purpose of complying with applicable workers' compensation laws or unemployment compensation or disability insurance." Hawaii argued that the Prepaid Health Care Act is a "disability insurance law" within the meaning of this Section. The Ninth Circuit Court noted Judge Renfrow's opinion below that the Hawaii Act is not a disability insurance law since disability insurance compensated people who, because of disability, are unable to perform their normal employment duties. See Standard Oil Company vs. Agsulud, 442 F.Supp. 695, 698 (N.D. Cal. 1977). Thus, the Ninth Circuit Court held "...that all insurance or benefit plans covering medical expenses, regardless of their relationship to a disability, are "disability insurance" within the meaning of ERISA."

In view of the above Ninth Circuit Court ruling, House Bill No. 2463-82 was drafted. The bill creates a state fund for the purpose of transacting health care insurance. The fund is to be governed by a 5-person board of directors, the chairperson of which shall be the director of Labor and Industrial Relations. Neither directors nor employees shall be liable in a private capacity for acts done in good faith in an official capacity. The state is not to be liable beyond the assets of the fund.

The fund is to be a revolving fund created by the sale of insurance and the investment and re-investment of premiums. "Seed Money" is to be appropriated by the legislature with the requirement of repayment by June 30, . The fund is to be nonprofit but self-supporting.

The fund may transact prepaid health care insurance on the same basis as any other insurer. The rates and policies are also to be comparable to other insurers. The directors and the fund have been given other necessary and appropriate powers comparable to private insurers to provide for proper administration and management of fund.

Any person making misrepresentations before the fund for purposes of reducing such person's insurance cost shall be guilty of a misdemeanor.

Moreover, contribution supplementation is provided for employers with less than eight employees if they can demonstrate their entitlement.

This bill provides health care protection to a gap group previously unprotected. It is recognized that a majority of Hawaii's employees are either covered by a collectively bargained plan or an employer sponsored plan. This bill shall not be construed to diminish any protection already provided pursuant to collective bargaining agreements or employer sponsored plans.

Your Committee has amended this bill for the purpose of complying more fully with the guidelines "provided in the Ninth Circuit Court Decision. Amendments were made in the following manner:

- 1) Eligible employees are now required to establish "disability" in order to be entitled to health care benefits. Similar to the requirements under Hawaii's temporary disability insurance law, Chapter 392, H.R.S., the employee will be required to establish said disability by a doctor's certification. Once the employee establishes his disability, the employee will be entitled to all the benefits enumerated in the Act whether they be in-patient or out-patient care. Furthermore, again similar to the TDI law, an appeals procedure is provided. In view of said "disability" requirement, House Bill No. 2463-82 should be within the definition of "disability insurance law" of ERISA. In the

original 2463 there was no mention of disability, instead there were minimum requirements of health care benefits which included many preventive measures; these requirements no longer exist, thus eligibility has been made more stringent.

- 2) A state disability/medical insurance fund where contributions will be required to be paid by employers is also established. In this regard H.B. No. 2463-82 will now be in the nature of a tax similar to the Unemployment Security Act. Most important, the health care benefit plan provided by the state fund will not be one established and maintained by private employers and thus will be outside the definition of "employee benefit plan" as defined by ERISA. In the original bill the contribution was in a form of an employer surcharge or premium which could have been construed as a required "employee benefit plan".
- 3) The bill now provides a tax exemption for employers with a collectively bargained plan or an employer sponsored plan. They will be exempt from making contribution payments to the state fund. By department rules and regulations, this can be accomplished by an annual certification from the employer that a health care plan is being provided to their employees. In the original bill a minimum standard for employer sponsored and collectively bargained health plans was established. This standard has been eliminated and thus any employer who provides any type of sponsored or collectively bargained plan is now eligible for a total contribution exemption.
- 4) Throughout the bill prepaid health care has been changed to disability/medical insurance.
- 5) All mentions of voluntary coverage in the original bill have been eliminated.
- 6) A special premium supplementation fund created in the original bill has been incorporated into the disability/medical insurance fund.
- 7) For the purpose of consistency your Committee has amended the bill by extensively renumbering the affected sections.

H.B. No. 2463-82 was thus amended to provide a "disability" requirement in order to be within ERISA's 4(b) (3) exemption. Secondly, House Bill No. 2463-82 establishes a state fund which will provide employees the right to health care benefits. By definition, said state fund is not "an employee benefit plan" within ERISA.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2463-82 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2463-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Dods and Marumoto.  
(Representatives Kiyabu, Say, Takitani, Ikeda and Medeiros did not concur.)

SCRep. 353-82      Transportation on H.B. No. 3107-82 (Majority)

The purpose of this bill is to appropriate funds to install emergency telephones along Pali Highway, from Waakanaka Street to Castle Junction and Likelike Highway from Valley View Drive to Kahekili Highway.

The Department of Transportation, while concurring with the intent and purpose of the bill, concluded in their testimony that further study should be done to determine costs of installation, to find ways to provide funding for yearly maintenance and vandalism costs, and to access other major areas where emergency telephones are needed.

Your Committee has adopted the recommendations of the D.O.T. and amended this bill by adding a new, purpose section to read as follows:

SECTION 1. Purpose. The Legislature finds that the safety and well being of motorists who experience vehicle trouble or other emergencies while traveling on state highways will be enhanced by providing emergency telephone communications.



Your Committee has also, amended the bill appropriating \$100,000, or the amount necessary, to fund a study to determine locations and costs of installing a system of emergency telephone communications along certain state highways and to formulize a plan to implement the studies findings. Your Committee, for purposes of consistency, has made other nonsubstantative changes renumbering the sections of the bill.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 3107-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3107-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Nakasato and Taniguchi.  
(Representative Say did not concur.)

SCRep. 354-82      Education 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 believes that the programs of the Department of Education should be supported and improved, not only as a whole, but also at the level of the individual school. Your Committee recognizes that schools are different, each with its own special strengths and weaknesses. The Committee further recognizes that in certain matters, the schools are the best arbiters of its priorities and needs.

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

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

In its supplemental budget recommendations for fiscal year 1982-1983, your Committee provided budget proviso language relating to the school discretionary fund concept which conforms to the provisions of this bill. Your Committee intends that this bill provide the statutory reference by which future education budgets and budget proviso language may be developed.

Your Committee has amended this bill by changing the name of the new system of educational resources to the School Priority Fund to reflect the important function of the fund in addressing the basic and most critical educational priorities of the individual schools. Your Committee has also amended the definition of the fund in the bill to clarify that positions included in the fund refer to the existing Instructional Resource Augmentation positions which are to be allotted to elementary schools only. Finally, your Committee amended the word "monies" whenever it occurs to read "moneys" to conform to the spelling recommended by the Legislative Reference Bureau.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2767-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2767-82, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee.



SCRep. 355-82      Consumer Protection and Commerce and Judiciary on H.B. No.  
2125-82

The purpose of this bill is to amend Section 487A-1, Hawaii Revised Statutes, relating to the scope of transactions covered by the Plain Language Law.

Your Committees heard testimony that the present law has caused uncertainty in the legal community as to the extent of transactions falling within the coverage of Chapter 487A, Hawaii Revised Statutes.

This bill attempts to clarify that coverage by exempting or re-defining the following transactions:

- (1) Leases subject to the chapter have been re-defined to include only leases for residential space itself and not for any related but incidental 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/or trusts, when executed by the relevant parties so as to be an agreement, are exempted from coverage on the basis that the language used in such documents is, because of limited usage, sometimes highly specialized and often with historical meaning. Such documents are often highly technical and require technical language in order to precisely effectuate the intent of the drafter.
- (3) Documents which are incorporated by reference into another document covered by the chapter have also been exempted on the basis that these documents, such as ground leases or condominium conveyance documents, may be incidental to the transaction covered, are referred to merely for convenience, and are by their nature very detailed or technical. A provision has been added to restrict incorporation of documents to evade coverage by limiting incorporation to only those documents with an independent purpose.
- (4) Legal descriptions of real property, including surveyors metes and bounds descriptions and recorded liens and encumbrances, are exempted since such exact information while technical, is not translatable into plain language and is necessary to certain documents which may be otherwise subject to coverage.
- (5) Forms or language which are approved or required by government agencies are also exempt. Your Committees heard testimony stating that financial institutions often use forms adopted and required by federal agencies in order that they may participate in the national second mortgage market. Your Committees have amended the bill by combining the existing exemption for government required forms with the clarifying amendments of this bill.

This bill also attempts to define more clearly in subsection (e) the actual limits of the \$25,000 exemption.

Your Committees have made style and technical amendments to the bill to simplify the language used.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 2125-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2125-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Dods,  
Honda, Kawakami, Liu and Medeiros.

SCRep. 356-82      Judiciary and Corrections and Rehabilitation on H.B. No. 2824-82

The purpose of this bill is to enable the State Judiciary to contract with private sector agencies which provide adult treatment services as an alternative to incarceration and to provide an appropriation in the sum of \$336,000 for the fiscal year 1982-1983. Adult treatment services are residential rehabilitation programs with structured therapeutic services for drug or alcohol abusers.

Due to inadequate resources available to the courts, there is a tendency to incarcerate less serious offenders who would otherwise be benefited by these treatment services.

At present, adult treatment services provide a viable alternative to incarceration. This has helped to ease the lack of meaningful services and activities to inmates in Hawaii's prisons.

This bill will provide state funding needed to replace the loss of federal funds.

Your Committees on Judiciary and Corrections and Rehabilitation are in accord with the intent and purpose of H.B. No. 2824-82 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Dods, Kawakami, Taniguchi and Medeiros.

SCRep. 357-82          Judiciary on H.B. No. 2877-82

The purpose of this bill is to establish a white collar criminal prosecution program to investigate and prosecute white collar criminals.

The bill will provide funds to the prosecuting attorneys of the counties to combat the highly sophisticated and often complex schemes of white collar crimes. The investigation and prosecution of the white collar criminal requires personnel with specialized training and expertise and long term commitment of personnel by the law enforcement agency that is often impossible without adequate funding.

Your Committee is convinced that financial assistance is necessary to enable county prosecutors to bear down on white collar crimes heretofore accorded low priority.

The bill has been amended to clarify that the Office of the Attorney General is to coordinate a plan to provide technical assistance to the county prosecutors, and allocate the funds to each of the counties to carry out the purposes of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2877-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2877-82, H.D. 2, and be referred to the Committee on Finance.

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

SCRep. 358-82          Judiciary on H.B. No. 2826-82

The purpose of this bill is to repeal Part III of Chapter 333, Hawaii Revised Statutes, and to add a new Part III (Waimano Training School and Hospital), thereby replacing current requirements for civil commitment procedures pertaining to institutionalization at Waimano Training School and Hospital (WTSH) with guardianship and voluntary admission procedures.

Present law provides for admission to, and institutionalization at, WTSH in terms of court-imposed civil commitment procedures and requires that the Director of Health serve as guardian for any person admitted to the facility. 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; application for voluntary admission of a minor may be filed by a parent or person having legal custody of the minor. The Family Court may appoint the Director of Health as guardian only when no other suitable person is available to fulfill the role; this assures that persons, such as parents, who are vitally concerned or interested in the well-being of the prospective Waimano resident be given priority in assuming responsibility for the prospective resident.

The proposed legislation is an outgrowth of findings by the Task Force for the Study of Laws Relating to Guardianship, Civil Commitment and Protective Services in Hawaii.

Basic eligibility criteria for admission to WTSH 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 ascertain that no less restrictive alternative exists before approving an application for admission to the institution.

Your Committee believes that civil commitment proceedings should be required only for persons who pose an imminent danger to themselves or others. People are generally admitted to WTSH because they are mentally retarded, incapable of independent self-support and self-management, and in need of institutional care. The emphasis at Waimano is not upon coercive confinement for protection, but upon placement in an optimum care setting. Ideally, only persons who recognize these personal needs, and who willingly accept these services, would elect to live in an institution for the mentally retarded. Your Committee, therefore, finds that guardianship procedures for adults are more appropriate than civil commitment in providing for the care of mentally retarded persons. The Family Court, in establishing the need for a guardian, would ascertain that a person is incapable of making independent decisions.

This bill provides that persons presently committed to WTSH under current statutes will not be affected by changes enacted by the new law. A parent or other interested person could petition for transfer of guardianship responsibilities from the Director of Health who currently serves as the guardian for all Waimano residents.

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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2826-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2826-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Dods, Kawakami and Taniguchi.

SCRep. 359-82            Judiciary on H.B. No. 2674-82

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

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

Your Committee finds that under present the law, the average spending limit for state house races in 1982 will be \$11,076. With the increase proposed in this bill, the average spending limit would increase to \$14,100. In 1980, house candidates spent an average of \$13,650.77. Therefore, your Committee feels that the proposed increase would be more realistic and reasonable.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2674-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Dods, Kawakami and Taniguchi.

SCRep. 360-82            Judiciary on H.B. No. 2359-82

The purpose of this bill is to appropriate \$500,000 to establish a statewide witness protection program, in the office of the Attorney General, to fund 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 figures in Hawaii and because of the elimination of federal funds for the protection of state witnesses through the Marshals Service Witness Security Program. It is intended that the program provide coordination among county, state, and federal agencies.

Under the provisions of this bill, county law enforcement agencies may request assistance in their efforts to secure and to protect witnesses. However, due to the limited amount of state funds available for the program, the Attorney General may condition the granting

of funds to the counties upon a matching or reimbursement basis especially in cases where funds are provided for emergencies.

The provisions of the bill will promote witness cooperation and encourage persons who are willing to testify but are concerned about their own welfare, or the welfare of their relatives and associates, to be witnesses against organized crime figures.

Your Committee on Judiciary strongly believes that a statewide witness security program is a vital component in the criminal justice effort to eliminate and stop the growth of organized crime in Hawaii.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2359-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 361-82          Judiciary on H.B. No. 2501-82

The purpose of this bill is to exclude the general public from the courtroom for the duration of a minor victim's testimony in prosecution of rape, sodomy, sexual abuse, and indecent exposure offenses.

Your Committee believes that a minor who has been a victim of sexual abuse should not be subjected to the additional trauma of having to testify before a large, often intimidating audience. The need to verbally described the circumstances surrounding the offense is in itself highly stressful for the child. The added pressure of facing strangers in a crowded courtroom could easily serve to further confuse and frighten the minor victim and thereby hinder court attempts to obtain accurate information.

Your Committee further believes that the benefit of permitting the public to be present during a minor victim's testimony is far outweighed by the need to shield a minor from further undue stress and exposure.

Your Committee has amended the bill to exclude the public from the courtroom during a minor victim's testimony in cases relating to incest, as well as in cases involving other serious sexual offenses.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2501-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2501-82, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 362-82          Judiciary on H.B. No. 2675-82 (Majority)

The purpose of this bill is to repeal in toto subsection (G) of Section 235-7, Hawaii Revised Statutes which provides for a tax deduction of not more than \$100 for contributions made to a central or county committee of a political party or a deduction of not more than \$500 for contributions to a candidate who has agreed to abide by the campaign expenditure limits and to substitute a new section under Chapter 235, to provide an income tax credit to individuals and corporations not to exceed 20% of the amount contributed to a central or county committee of a political party or a candidate who has agreed to abide by the campaign spending limits.

Your Committee believes that a tax credit rather than a tax deduction will be more equitable since there are many taxpayers who do not file itemized tax returns and cannot benefit from a tax deduction.

This bill would also encourage individuals to participate more actively in the election process, by providing for at least a partial return of any contribution given to a qualified candidate.

Your Committee, upon the recommendation of the State Tax Department, has decided to conform with the State's political contributions statutes to the existing Federal Tax Code. The Tax Department testimony pointed out numerous differences between the

Federal law and the proposed bill. Conformity with the federal law will provide a common definition of political contributions, making it easier for a taxpayer, since he will be able to claim a state tax credit if he can qualify for a federal tax credit.

The bill has therefore been amended to conform Hawaii's political contribution law with the existing federal revenue code. The major provisions of the bill as amended are:

- (1) a tax credit for one-half of any political contribution to a candidate or party not to exceed \$50 on an individual return, or \$100 on a joint return to be allowed as a tax credit,
- (2) the credit may be claimed by an individual taxpayer only,
- (3) the political contribution must be made to a candidate or political party as defined in the bill, and must be verified by the State Tax Director.

The bill has also been amended to delete section 11-225, Hawaii Revised Statutes, dealing with tax deductions to candidates who agree not to exceed the expenditure limits for the office he seeks, since this section is no longer applicable due to the new definition of political contribution set forth in the bill.

Your Committee believes that the conformity with the federal Internal Revenue Code will simplify and streamline the filing of tax returns and provide needed tax relief in the form of a tax credit for political contributions.

The projected loss of revenue to the State is estimated to be approximately \$250,000.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2675-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2675-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Dods, Kawakami and Taniguchi.  
(Representatives Baker, Ikeda and Liu did not concur.)

#### SCRep. 363-82      Judiciary on H.B. No. 2358-82

The purpose of this bill is to establish a statewide program, managed by the Attorney General, which would provide technical and financial assistance to state and county law enforcement agencies to combat organized crime.

Your Committee recognizes that organized crime in Hawaii has grown and flourished in recent years. Current efforts in this area by county agencies are hampered by a lack of sufficient funding.

Based upon testimony received, your Committee finds that the county law enforcement agencies should be funded to combat organized crime figures. There is no need for state agencies to develop programs which might duplicate, or conflict with, county efforts. It is intended that state coordination and funding be directed at supplementing county programs.

Accordingly, your Committee has amended the bill to clarify its purpose and to specify that the Attorney General administer and direct an organized crime funding program to assist county law enforcement agencies in the investigation and prosecution of persons engaged in organized crime. Your Committee has further amended the bill to provide an appropriation of \$500,000 to carry out the purposes set forth.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2358-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2358-82, H.D. 1, and be referred to the Committee on Finance.

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

#### SCRep. 364-82      Youth and Elderly Affairs and Transportation on H.B. No. 2089-82

The purpose of this bill is to appropriate out of the general revenues of the State

of Hawaii \$29,838 or so much thereof as necessary for the development and provision of a child motor vehicle safety program.

Your Committees received voluminous testimony concerning H.B. No. 2089-82 and H.B. No. 2085-82, a related bill. The State Department of Health testified that motor vehicle accidents is a leading cause of death and injuries in infants and children in Hawaii. It was indicated that the use of motor vehicle occupant protective devices and especially child restraint systems have been demonstrated to be effective in reducing mortality in young children.

Testimony from the Department of Health also indicated that the KAR (Keiki Auto Restraint) Project of the University of Hawaii has made an excellent start in increasing the use of such devices in Hawaii. This bill will enable the Department of Health, Health Promotion and Education Office to continue a program of professional and public education on the value and proper use of child restraint devices and ultimately decrease deaths and injury in our young children.

Your Committees on Youth and Elderly Affairs and Transportation are in accord with the intent and purpose of H.B. No. 2089-82 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Nakasato.

SCRep. 365-82      Transportation on H.B. No. 2817-82

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

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

Your Committee heard testimony from the Honolulu Police Department and the City and County of Honolulu in support of this measure in assisting efforts to recover stolen off-road vehicles.

Your Committee also received testimony from the Hawaiian Sugar Planters Association in support of this bill in amended form. The HSPA stated that the present form of the bill may be interpreted to force registration of agricultural vehicles not designed for nor used on the public highways.

Your Committee has adopted changes recommended by HSPA and supported by the Honolulu Police Department as follows:

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

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

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

Signed by all members of the Committee except Representative Nakasato.

SCRep. 366-82      Transportation on H.B. No. 1978-82

The purpose of this bill is to enable certain concession operations at the airport, requiring substantial capital investment in facilities and fixtures to recapture their



investments over a longer period of time than that afforded by the present fifteen year maximum.

Your Committee received testimony both in support and in opposition to this bill. Representatives of Gray Line Hawaii testified that substantial investments have been made to improvements and construction at their Lagoon Drive baseyard. It was pointed out that it would be more reasonable to amortize a large investment over a longer period such as thirty years. Budget Rent-A-Car Systems, also a ground operator at the airport testified in support of this bill. It was noted that the longer amortization period would not only be a more equitable period but also would provide added incentive to concessionaires to improve their facilities and enhance quality service.

Your Committee received testimony from the Department of Land and Natural Resources indicating that fifteen years is ample time for most of the affected operations in the airport to recapture their investments. The Department further stated that those operations requiring investments of substantial amounts which would require longer than fifteen years, would be accommodated by offering a lease at public auction under Chapter 171, Hawaii Revised Statutes, which provides for terms up to sixty-five years.

The Department of Transportation stated in testimony that ground transportation operators at the airport require minimal investment for facilities and that the fifteen year period was sufficient to underwrite those costs. The Department also alludes to Section 171-59, HRS, which allows the Department to negotiate leases of up to thirty-five years.

Your Committee believes this problem to be serious considering the disparity in position between the State Departments and the operators. Your Committee has requested an opinion from the Attorney General's office on whether in fact longer leases are available pursuant to Section 171-59, HRS.

Your Committee believes that the best interest of all persons involved will be served if this bill is referred to the Committee on Finance to await the disposition of the Attorney General and a resolution of this problem.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1978-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives D. Hagino, Nakasato, Taniguchi, Waihee, Ikeda and Marumoto.

SCRep. 367-82      Water, Land Use, Development and Hawaiian Affairs on H.B.  
No. 3136-82

The purpose of this bill is to clarify existing statutory provisions which authorize the Aloha Tower Development Corporation to redevelop the Aloha Tower complex and to authorize the Aloha Tower Development Corporation to borrow funds from the State's general fund.

Your Committee finds that this bill will eliminate concerns of the State Bond Counsel regarding the Aloha Tower Development Corporation's authority to issue revenue bonds. Your Committee further finds that this bill will facilitate interim financing of the Aloha Tower Complex by allowing the Aloha Tower Development Corporation to borrow funds from the State's general fund. The chairperson of the Aloha Tower Development Corporation's Board of Directors testified before your Committee that borrowing from the general fund will be limited to cover only interim financing up to a total sum of \$500,000.

Upon further consideration, your Committee has amended the bill to clarify that the State Director of Finance, with the approval of the governor, is authorized to only loan a total sum of \$500,000 from the State general fund to the Aloha Tower Development Corporation. Accordingly, your Committee has inserted the word "total" between the words "aggregate" and "sum" at line 12 of page 25 of the bill to clearly state that the State Director of Finance is authorized "to make loans up to the aggregate total sum of \$500,000."

Your Committee has also made technical amendments to the bill of a non-substantive nature.

Your Committee on Water, Land Use, Development, and Hawaiian Affairs, is in accord



with the intent and purpose of H.B. No. 3136-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3136-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair, Kawakami, Isbell, Monahan and Narvaes.

SCRep. 368-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 3135-82

H.B. No. 3135-82 was introduced as a short form bill. The purpose of this bill is to provide for the exchange of certain parks between the Counties and the State of Hawaii. The intent is to clarify the roles and responsibility of the State and County agencies in providing recreation services to the public. Another intent is to promote efficiency in the management of public parks and recreation programs.

In clarifying the State and County roles, the primary State responsibility focuses on the significant cultural or natural resources related to public outdoor recreation. This resource could involve a historic site or important natural landmark, significant geologic feature, representative native, ecosystem, or simply the protection of a natural, scenic area. County responsibilities focusing primarily on the community needs of the recreation users, would continue in recreation areas with little or no cultural or natural resource values.

To initiate the transfer of parks and recreation areas between the State and the counties, a jointly prepared "State/City and County of Honolulu Jurisdictional Evaluation of Recreation Sites and Exchange Plan" has been drafted by the State and the City and County of Honolulu. Similar jurisdictional evaluations and exchange plans are expected to be developed with the Neighbor Island Counties as part of the implementation of the State Recreation Plan.

The initial transfer of park lands will be with the City and County of Honolulu and will include the transfer of lands, improvements and personnel. The transfer of life guards in this initial phases does not commit the State in providing these functional responsibilities throughout the State.

The following parks are recommended for the Phase I transfer of parks between the State and the City and County of Honolulu.

<u>Transfer to State</u>	<u>Transfer to County</u>
Kawainui Marsh	Honolulu Stadium
Kahana Bay Beach Park	Sans Souci SRA
Hanauma Bay	Aina Moana SRA
Kulei Cliffs/Diamond Head Beach Park	

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 3135-82, as revised herein, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair, Kawakami, Takamine, Isbell, Monahan and Narvaes.

SCRep. 369-82      Water, Land Use, Development and Hawaiian Affairs and Agriculture  
on H.B. No. 2978-82

The purpose of this bill as received by your Committees was 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.

Your Committees find that there is a need to prevent further erosion of the state's agricultural base and to preserve prime agricultural lands. The measure would authorize the board of land and natural resources to acquire agricultural land from the Puna Sugar Plantation and to make such land available to those terminated plantation employees as have been designated by the Puna Sugar Plantation in conveyance documents.

Your Committees have amended the bill fundamentally. The amended purpose of the bill is to appropriate an unspecified amount of money for the acquisition of agricultural

land from the Puna Sugar Plantation for public land bank purposes. Your Committees have also made other amendments to the bill to conform to the amended purpose of the bill.

Your Committees on Water, Land Use, Development, and Hawaiian Affairs and Agriculture are in accord with the intent and purpose of H.B. No. 2978-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2978-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Takamine, Kawakami, Fukunaga, Baker, Hirono, Matsuura, Morioka, Isbell, Monahan and Narvaes.

SCRep. 370-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 2993-82

The purpose of this bill is to document the precise cost impact of government regulations on housing and to evaluate the cost-effectiveness of these regulations. To accomplish this, general revenues in an amount to be determined by the Legislature would be appropriated to the county central coordinating agencies. The agencies would report back to the Legislature no later than January 1983 on the findings of the studies.

Your Committee finds that 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 74/77). 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 also finds that since most of the laws regulating housing construction are administered and enforced by county governments, it is considered appropriate that county Central Coordinating Agencies take the lead in examining these laws and recommending reform, where appropriate. In addition, the benefits of the proposed studies and actions resulting from the study should be significant.

Your Committee has amended the bill by amending Section 2 by inserting the figure 100,000 in the appropriate space.

Your Committee has also amended the bill by specifying in Section 3 that the moneys appropriated shall be expended by the Advisory Council for Housing and Construction Industry in the Office of the Governor (created by Act 166, Session Laws of Hawaii). This agency was created to look into the kind of problem addressed by the bill.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2993-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2993-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Blair.

SCRep. 371-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 1971-82

The purpose of this bill is to appropriate monies to the Office of Hawaiian Affairs (OHA) so that agency may effectively carry out its management responsibilities.

Your Committee, after thorough examination of the agency's request for fiscal year 1983 and after hearing the agency's presentation of the request, makes the following recommendations:

1. The appropriation be based on a matching basis;
2. A basic "current service" budget, including an 8 1/2% inflation factor, be approved;
3. Two urgently needed positions, one each in OHA 100 and OHA 101, be approved; and

4. Monies for a proposed Short Range Needs Assessment be approved.

Your Committee has amended Section 2 of the bill by inserting in the appropriate space the figure 540,785 and adding clarifying statements as to items included in the figure recommended.

Section 3 has been amended by inserting in the appropriate space the name of the expending agency.

A new Section 4 has been added to specify that the monies appropriated by this bill is to be matched on a one-to-one basis.

Section 4 has been redesignated "Section 5."

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1971-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1971-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair, Kawakami, Isbell, Monahan and Narvaes.

SCRep. 372-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 3137-82

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

Your Committee received testimony from the chairman of the Hawaii Community Development Authority indicating that revenue bond funds will be required to enable the Authority to purchase reserved housing units from developers and to allow the Authority to make loans to qualified buyers who will purchase the reserved housing units. The chairman of the Authority also informed your Committee that the state's bond counsel recommended that Section 2 of the bill be amended.

Your Committee is in agreement with the state's bond counsel that the bill must be amended in order to effectively meet the housing objectives of Chapter 206E, Hawaii Revised Statutes. Accordingly, your Committee has amended Section 2 of the bill to read as follows:

"SECTION 2. The Hawaii Community Development Authority, with the approval of the Governor, is authorized to issue revenue bonds for the purposes of this Act pursuant to Chapter 206E, Hawaii Revised Statutes; provided that the sum total of the bonds so issued shall not exceed \$31,927,000."

Your Committee on Water, Land Use, Development, and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 3137-82, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 3137-82, H.D. 1.

Signed by all members of the Committee except Representatives Blair, Kawakami, Takamine, Isbell, Monahan and Narvaes.

SCRep. 373-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 2972-82

Your Committee finds that in cases where action is instituted in one circuit and the defendant is unknown or resides in another circuit, the present notice requirement is not adequate enough to give actual notice to the defendant in the action. This is especially unfair to defendants in quiet title actions because land that rightfully belongs to them may be taken away because they were unaware of the suit and did not come forward to defend. Therefore, in order to protect the rights of defendants in quiet title actions, the scope of notice must be expanded to statewide notice in an English language newspaper of general circulation throughout the state.

Your Committee on Water, Land Use, Development, and Hawaiian Affairs is in accord

with the intent and purpose of H.B. No. 2972-82, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Blair, Kawakami, Takamine, Isbell, Monahan and Narvaes.

SCRep. 374-82            Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 2969-82

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

Your Committee finds that OHA is required to submit a budget annually. The rest of the State government submit biennial budgets in odd-number years, with supplemental requests, if necessary, in even-numbered years.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2969-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair, Kawakami, Isbell, Monahan and Narvaes.

SCRep. 375-82            Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 3026-82

The purpose of this bill is to establish and fund an advisory study committee on water resources to carefully and comprehensively review the various issues relating to Hawaii's water resources, including existing state and county laws and regulations relating to water resources, and to formulate a proposed 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 mandate by the constitution, 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.

Testimony by representatives from the Department of Land and Natural Resources, Department of Health, Board of Water Supply and Hawaiian Sugar Planters' Association all support the intent and purposes of this bill. They all strongly believe that there is a great need for a water code that would provide the basis for the development of a strong water management program for the state.

Your Committee has amended this bill so that the group doing the study will be an advisory study committee on water resources instead of a joint house and senate interim committee. Your Committee finds that the committee should be an advisory body and that its activities should be primarily advisory and that policy making powers should remain with the legislature. Any reference in this bill to "the interim committee" has been amended to read "the committee".

This bill is further amended by limiting the term of each member to the same term as the term of office for which he is elected.

Your Committee on Water, Land Use, Development, and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 3026-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3026-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair, Kawakami, Takamine, Isbell, Monahan and Narvaes.

SCRep. 376-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 2262-82

The purpose of this bill is to appropriate monies to conduct a study to determine the feasibility of establishing a centralized location for Hawaii food distributors.

Your Committee finds that there are many food manufacturers of relatively small size but that they are large in number. These manufacturers need more space in a well located place so that expansion to meet increasing demand for their products can be accommodated.

Your Committee finds that local food manufacturers employ approximately 2,500 people on the Island of Oahu and 1,200 on the Neighbor Islands, and gross sales account for more than \$100 million. The industry is a major segment of the State's economic base--having about the same impact as the garment industry. It is essential that the stability, viability and growth of this industry be ensured. Conducting a comprehensive study to determine the feasibility of establishing industrial parks for food manufacturers would assist this major segment of Hawaii's economy, to make an even bigger contribution in expanding export sales.

Your Committee has amended the bill by inserting the figure 100,000 in the appropriate space in Section 2 of the bill, to defray the cost of the proposed study.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2262-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2262-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair,  
Kawakami, Isbell, Monahan and Narvaes.

SCRep. 377-82      Water, Land Use, Development and Hawaiian Affairs and  
Consumer Protection and Commerce on H.B. No. 2438-82

The purpose of H.B. No. 2438-82 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 Committees find that the SBA's Certified Development Company Program was enacted in July, 1980 and organized under Section 503 of the SBIA of 1958, as amended. The program's purpose is to help communities by stimulating the growth and expansion of small businesses by providing long-term, fixed asset financing.

At present, there is only one development corporation in Hawaii meeting the eligibility requirements of Section 503, but others are in the process of applying to the SBA.

It is the intent of this bill to allow the incorporation of development companies in the State by amending various sections of the Hawaii Revised Statutes.

Your Committees further find that as it relates to taxation, the bill amends Section 241-1, Hawaii Revised Statutes, to add a definition of a "Development Company" to mean a company approved by the federal Small Business Investment Administration to operate under the provisions of Title V of the federal Small Business Investment Act of 1958, as amended. Section 241-3, Hawaii Revised Statutes, is amended to include "development companies" among those taxed under its provisions.

Section 235-9, Hawaii Revised Statutes, is amended to include development companies taxable under Chapter 241, among those exempted from the net income tax provisions.

Section 237-23(15), Hawaii Revised Statutes, is amended to repeal the exemption provided for local development companies incorporated under the laws of the State. The amendment provides the exemption from the general excise tax to development companies taxable under Chapter 241. The exemption is limited to gross income derived as interest on loans made to borrowers as provided by Title V of the federal Small Business Investment Act of 1958, as amended.

Testimonies received on this bill were favorable. The Department of Planning and Economic Development and the U.S. Small Business Agency both endorse the bill. The State Tax Director has no objections to the amendments made to conform the provisions,

definitions and language to the provisions of Title V of the federal Small Business Investment Act of 1958, as amended.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2483-82 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Kawakami, Shito, Waihee, Isbell, Liu, Monahan and Narvaes.

SCRep. 378-82      Water, Land Use, Development and Hawaiian Affairs and  
Agriculture on H.B. No. 2375-82

The purposes of this bill are (1) to prohibit the issuance of special permits for hotels, airports, golf courses, commercial amusement parks, deep draft harbors, and residential subdivisions which are proposed to be located on lands within agricultural districts; (2) to require the county planning commission and Land Use Commission to use a list of six criteria when determining whether to issue a special permit for uses within an agricultural district; (3) to establish land use policies for agricultural districts to guide the Land Use Commission in its decision-making; (4) to replace all references, contained in section 205-4.5, Hawaii Revised Statutes, to the Land Study Bureau Soil Classification System with references to the Agricultural Lands of Importance to the State of Hawaii (ALISH) system; (5) to clarify the meaning of the term "farm dwelling", in subsection 205-4.5(a), by requiring that agricultural activity constitute the predominant activity undertaken on the lands located within an agricultural district when such lands are classified as prime or unique agricultural lands; (6) to further qualify the definition, in subsection 205-4.5(a), of what constitutes permissible farming or agricultural activity on lands which are classified as prime and unique agricultural lands and are located within the agricultural district; and (7) to require that any petition to a county agency relating to the zoning, subdivision, or permitted use of lands within the agricultural district be sent to the Department of Agriculture for its review and comment prior to action being taken on any such petition.

Your Committees received testimony from the Hawaii Farm Bureau Federation; the Departments of Agriculture, and Planning and Economic Development; and the Lieutenant Governor in support of the intent of the bill. Your Committees find that this bill is an important measure in the State's efforts to protect the best agricultural lands and ensure the long term availability of agriculturally suitable lands.

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

Your Committee on Water, Land Use, Development, and Hawaiian Affairs and your Committee on Agriculture are in accord with the intent and purpose of H.B. No. 2375-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2375-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Takamine, Kawakami, Blair, Isbell, Monahan and Narvaes.

SCRep. 379-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 1943-82

The purpose of this bill is promote the public health and safety at state beaches and in the beach areas within state parks by providing funds for the hiring and training of lifeguards for these beaches and beach areas.

Your Committee finds that lifeguard services should be provided at state beaches and in areas within state parks in order to promote the public health and safety of persons using such beaches and areas.

Your Committee, upon further consideration, has amended the bill by inserting the figure "50,000" at line 6 on page 1 of the bill.

Your Committee on Water, Land Use, Development, and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1943-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1943-82, H.D. 1, and be referred to the Committee on Finance.



Signed by all members of the Committee except Representatives Blair, Takamine, Isbell, Monahan and Narvaes.

SCRep. 380-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 2185-82

The purpose of this bill is to allow DPED to adopt administrative rules governing industry and product promotion activities. This is an administration measure which would amend Section 201-4, Hawaii Revised Statutes.

Section 201-4 authorizes DPED to contract with associations of producers, processors, or distributors of agricultural or industrial products to promote sales of locally produced products. While the law permits DPED to enter into such agreements, it does not expressly authorize DPED to adopt administrative rules to implement the statute.

Your Committee finds also that this bill would provide DPED with such authority in prescribing rules for eligibility, preferences, priorities, and conditions under which industry and product promotion activities may be undertaken. This authorization is contained in a new paragraph added at the end of the section. The bill also deletes language from Section 201-4 for housekeeping purposes, including language requiring the solicitation of bid proposals because such language is inconsistent with the intent of the bill.

Your Committee has amended the bill by bracketing out, on line 13 of page 1, the phrase "agricultural or". This is to be consistent with previous action taken by your Committee in recommending the transfer of agricultural product promotion from the Department of Planning and Economic Development to the Department of Agriculture.

Your Committee has also amended, at the suggestion of the Comptroller, to retain the phrase "and such data as the State Comptroller may require" on lines 19 and 20 of page 2 of the bill. The start of the bracket has been moved accordingly.

This bill will allow the Director of DPED to adopt rules for the product promotion program, in accordance with Chapter 91, Hawaii Revised Statutes, to clearly establish qualifications for eligibility of associations, preferences, and priorities in determining eligibility for assistance, and the conditions for product promotion assistance.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2185-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2185-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair, Kawakami, Isbell, Monahan and Narvaes.

SCRep. 381-82      Water, Land Use, Development and Hawaiian Affairs 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 make clear the legislative intent that the name of a person registered to vote in the Office of Hawaiian Affairs election is to be removed from the register only if that person did not vote in the primary election, did not vote in the general election, and did not vote in the Office of Hawaiian Affairs election.

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

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 3091-82, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.



SCRep. 382-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 2989-82 (Majority)

The purpose of H.B. No. 2989-82, H.D. 1, is to amend Article XI, Section 7, of the Constitution of the State of Hawaii, relating to water resources.

Your Committee finds that this bill will amend Article XI, Section 7, of the State Constitution by deleting the requirement that the Legislature provide for a water resources agency. Your Committee believes that the existing State and county agencies are adequately managing our State's water resources. Your Committee further finds that the creation or designation of a water resources agency with overall responsibilities for water resources will add another layer of government and will not improve the management and regulation of water resources in our State.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2989-82, 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 Representatives Blair, Isbell, Monahan and Narvaes.  
(Representatives Baker, Fukunaga, G. Hagino, Hirono and Okamura did not concur.)

SCRep. 383-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 2994-82

The purpose of this bill is to appropriate monies to provide for the acquisition of Kawainui Marsh, Oahu.

Your Committee, at its hearing on this bill on February 27, 1982, found that there is a tremendous amount of interest in the subject of the bill and that of the many individuals and groups offering testimony, there was near unanimity in the idea that the State should acquire the Marsh. Opinions as to how much of the marsh should be purchased and the use of the purchased property once acquired were varied.

Your Committee finds that the purchase of Kawainui Marsh at this time would be prudent and that the Department of Land and Natural Resources should immediately negotiate the purchase of the property. How much of the marsh can or should be purchased should be determined by the Department.

To permit the Department to start negotiating the purchase, your Committee has amended the bill by inserting \$4,500,000 in the appropriate space in Section 2. To allow for time to negotiate and consummate the purchase, the limitation as to the life of the appropriation has been removed.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2994-82, as amended herein, and recommends that it pass Second Reading in the amended form attached hereto as H.B. No. 2994-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair, Kawakami, Isbell, Monahan and Narvaes.

SCRep. 384-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 3139-82

The purpose of this bill is to permit those facilities, which provide recovery of energy or material resources, to qualify as a project, as defined in Part IV of chapter 39A, Hawaii Revised Statutes. In effect, such projects would be termed a processing enterprise, which would in turn, make these qualify for the issuance of special purpose revenue bonds.

Your Committee finds much support from both the public and private agencies for the bill. Testimonies received indicate that such projects will be beneficial, both economically and from the land use perspective. Oahu, for example, must find a way to dispose of its solid waste without using scarce land.

Your Committee also finds that there is as much support for the idea that such projects

do not impinge upon residential areas.

Your Committee has therefore amended the bill by adding the phrase "provided that such a plant not be built in any area" at the end of Section 2 of the bill.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 3139-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3139-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair, Kawakami, Isbell, Monahan and Narvaes.

SCRep. 385-82      Water, Land Use, Development and Hawaiian Affairs and Consumer Protection and Commerce on H.B. No. 2683-82

The purpose of this bill is to provide for the designation of economically depressed areas within the State as "enterprise zones"; to provide for the establishment of a central agency to plan, develop and administer state enterprise zones, and to formulate incentives to businesses established within state enterprise zones; to enable state and county agencies to participate in the federal enterprise zone program; and to appropriate \$150,000 to fund interim staff and conduct a feasibility study of establishing an enterprise zone, including a light industrial park, in the Waianae-Nanakuli area of the Island of Oahu in order to stimulate the development of trade in Hawaii and bring the benefits of such developments to residents of depressed areas.

Your Committees find that this bill would (1) authorize the Governor to designate enterprise zones; (2) establish a state enterprise zone program; and (3) create a Hawaii Enterprise Zone Authority to plan, develop, and finance the development of enterprise zones through the issuance of revenue bonds as authorized by the Legislature. This bill anticipates the creation of a federal enterprise zone program.

Your Committees are in agreement with testimony received from the City and County of Honolulu that the creation of a new agency does not appear to be warranted and that existing agencies can handle many of the functions proposed for the Hawaii Enterprise Zone Authority. Your Committees also determined that it is premature, at this time, to provide enabling legislation for the designation of enterprise zones.

Your Committees have amended the bill fundamentally. All provisions in the bill which amended the Hawaii Revised Statutes have been deleted. The amended purpose of the bill is to appropriate \$150,000 to the Department of Planning and Economic Development for the purposes of conducting a feasibility study of establishing an enterprise zone program in Hawaii. Your Committees have also specified in the bill areas which shall be addressed in the study.

Your Committee on Water, Land Use, Development, and Hawaiian Affairs and your Committee on Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2683-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2683-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Kawakami, Takamine, Waihee, Isbell, Monahan and Narvaes.

SCRep. 386-82      Water, Land Use, Development and Hawaiian Affairs on H.B. No. 2208-82

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

Your Committee finds that the law at present (Section 171-52(d)) requires such appraisal to be made by an independent appraiser.

Your Committee also finds that such a requirement oftentimes works to the disadvantage of the State or the purchaser of the remnants. The cost of the appraisal must be added to the purchase price which often leads to an uneconomical price which leads the potential purchaser to decline the offer to sell; the State must maintain those remnants it cannot sell and loses an opportunity to obtain revenues from the sale and the remnant lands

do not get on the tax rolls of the counties.

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

Your Committee has amended the bill by deleting the first six words in the sentence beginning in line 8 of the bill. This is to make clear that the proposed exception (using State employee appraisers instead of independent appraisers) applies only to those remnant highway lands existing as of December 31, 1981.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2208-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2208-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 387-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 2653-82

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

Your Committee has received testimony in favor of controlling the harvesting of coral and seaweed because of the gradual decline in abundance of the crops. The Department of Land and Natural Resources however, suggests that the controls be statewide and not limited to Kaneohe Bay.

Your Committee has amended Section 1 of the bill to eliminate reference to Kaneohe Bay on page 1, line 6, and substitute "state waters" in its place. Other similar changes are made also.

Your Committee has also amended the bill at the suggestion of the department. These are "housekeeping" changes to mainly are made also.

Your Committee has also amended the bill at the suggestion of the department. These are "housekeeping" changes to mainly eliminate phrases which are no longer applicable.

Your Committee on Water, Land Use Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2653-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2653-82, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair, Kawakami, Takamine, Isbell, Monahan and Narvaes.

SCRep. 388-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 3067-82

The purpose of this bill is to appropriate monies to study and evaluate the possibility of expending the private section ship repair capability in Hawaii.

Your Committee finds that there is much merit in the idea there is an opportunity for the State to attract a large amount of ship repair business if there is more repair capability. Testimony presented to your Committee indicates that Hawaii may be losing vast amounts of economic activity because private ship repairs and naval ship repairs cannot be accommodated by our local facilities.

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. In addition, while Section 1 seems to be concerned with the possibilities of expanded facilities for naval ship repairs only, your Committee emphasizes the fact that private ship repair possibilities should not be overlooked.

Your Committee on Water, Land Use, Development and Hawaiian Affairs 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 Finance.

Signed by all members of the Committee.

SCRep. 389-82      Water, Land Use, Development and Hawaiian Affairs and  
Agriculture on H.B. No. 2654-82

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$6,900,000 or so much thereof as may be necessary, for the acquisition of real property in Kailua, Oahu, for agricultural park purposes. The appropriated sum is to be expended by the Department of Land and Natural Resources (DLNR).

Your committees find that purchasing real property, suitable for agricultural purposes such as agricultural parks will (1) effectively preserve available agricultural lands, (2) encourage and promote agricultural development and (3) increase agricultural self-sufficiency: therefore, purchasing real property for agricultural parks is a public purpose or use necessary to facilitate the continued growth and development of the State's agricultural base and is in the public interest.

Your committees further find that acquisition of watershed lands to provide adequate agricultural water supply is essential to make the agricultural lands productive, and is therefore, necessary to carry out the intent of this bill.

Your committees have amended the bill to include the acquisition of watershed lands, specifically the lands known as the Maunawili Watershed which is the source of the water supply for the State's Waimanalo Irrigation System.

Your committees on Water, Land Use Development, and Hawaiian Affairs and on Agriculture is in accord with the intent and purposes of H.B. No. 2654-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2654-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Blair, Kawakami, Isbell, Monahan and Narvaes.

SCRep. 390-82      Water, Land Use, Development and Hawaiian Affairs 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 find 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. This is because of the trend of the alleged violators to hire legal counsel (and properly so), which in turn causes the State to expend staff time, expend monies for surveys, graphics, exhibits, tax ownership data, photographic materials, etc., to properly pursue its case.

Your Committee finds that, as proposed by this bill, these expenses should be borne by those who violate the law. Damages to the State or its property because of the violation should also be recovered.

Your Committee on Water, Land Use, Development, and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2177-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 391-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 2179-82

The purpose of this bill is to clarify those types of items which may be forfeited upon conviction of Title 12 violations--Conservation and Resource laws--and provides an additional option in the method of disposition of the forfeited items.

Your Committee finds that the addition of "property, including aircraft, vehicles or vessels" in addition to "equipment and article", as proposed by the bill, regarding things which may be confiscated is reasonable. The inclusion of departmental use of confiscated items as a permitted form of disposition of confiscated items is also reasonable.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2179-82 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 392-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 2162-82

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

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

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2162-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 393-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 2840-82

The purpose of this bill is to place a good faith requirement on all persons claiming title to land through adverse possession. Mere possession of land for the requisite number of years will not be enough to quiet title through adverse possession. Anyone wishing to claim title to land through adverse possession must put forth a showing that entry was made in good faith and that good faith means a reasonable person would believe that the person asserting the claim has title to the land and that belief is based on a written instrument, deed, judgment of a competent court, or right of inheritance.

Your Committee finds that this bill does not eliminate adverse possession, but makes it much more difficult to alienate land by seeking to quiet title through adverse possession.

Your Committee has amended this bill by placing this provision in section 669-1, Hawaii Revised Statutes, instead of section 657-38, since it is more specifically a quiet title requirement.

Your Committee on Water, Land Use, Development, and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2840-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2840-82, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Blair, Kawakami, Takamine, Isbell, Monahan and Narvaes.

SCRep. 394-82      Water, Land Use, Development and Hawaiian Affairs and  
Culture and the Arts on H.B. No. 2919-82

The purpose of this bill is to encourage and fund a cultural exchange program involving the Waianae Historic Preservation Program (WHPP), maritime organizations on the east coast of the United States, and the Mariana Islands in the Pacific Ocean.

Your Committees find that the WHPP completed and also has in progress projects designed to preserve the maritime cultural traditions of the Hawaiians and to perpetuate these traditions among Hawaii's youth. Your Committees also find that these projects have attracted attention in the Pacific Basin as well as the east coast of the United States.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and on Culture and the Arts are in accord with the intent and purpose of H.B. No. 2919-82 and recommend

that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Takamine.

SCRep. 395-82      Water, Land Use, Development and Hawaiian Affairs 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 and the payment of administrative costs incurred in the enforcement of the law against those who encroach.

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 accounts are not unreasonable.

Your Committee has amended the bill by inserting the figure "500" in the blank space in line 20 of page 3 of the bill.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2176-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2176-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 396-82      Water, Land Use, Development and Hawaiian Affairs 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 is of the opinion that these matters must be resolved as soon as possible, and that this can be accomplished only if competent and concentrated effort is made immediately. An appropriation for this purpose is a prudent way to proceed with the effort.

Your Committee has amended Section 1 of the bill to more clearly define the scope and extent of the work to be done. Section 2 has been amended by inserting the figure "100,000" in the appropriate space.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1970-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1970-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 397-82      Youth and Elderly Affairs on H.B. No. 2882-82

The purpose of this bill is to make an appropriation for fiscal year 1982-1983 for the planning and design of a swimming pool for the West Maui Youth Center, Lahaina, Maui.

There are beaches in West Maui that can be used for swimming however, they are heavily used by tourists. This swimming pool will provide a means whereby the youth

of Lahaina will have the healthful and social benefits of a good swimming program, while at the same time, they will enjoy the economic and cultural benefits of living in a resort location.

Your Committee has amended this by inserting an appropriation of \$1.00. The sum appropriated shall be expended by the County of Maui.

Your Committee on Youth and Elderly Affairs is in accord with the intent and purpose of H.B. No. 2882-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2882-82, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 398-82      Youth and Elderly Affairs and Judiciary on H.B. No. 2129-82

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

- (1) To add a new definitions section which clearly sets forth acts which constitute child abuse and neglect, and defines the terms "report", "professional", and "department" as said terms are used in Chapter 350.
- (2) To broaden the scope of persons required to report incidents which they suspect or have reason to believe involve child abuse or neglect.
- (3) To clarify reporting procedures and the manner of reporting, and to increase police involvement in the area of child abuse and neglect.
- (4) To provide for the confidentiality of all reports concerning child abuse and neglect made pursuant to Chapter 350, with any unauthorized disclosure constituting a misdemeanor.
- (5) To provide that the attorney-client privilege shall not be a ground for excluding evidence of a minor's injuries, or the cause thereof, in any judicial proceeding resulting from a report under Chapter 350.
- (6) To provide the penalty of a petty misdemeanor for non-reporting of suspected incidents of child abuse or neglect on the part of persons required to make such reports.

Your Committees heard testimony from the Department of Social Services and Housing that the procedural steps for enhancing referrals between the Department and the Police Department, as contained in this bill, would best be handled through inter-agency working agreements which would outline the specific duties of each agency in responding to specific cases. The Department further testified that they are in the process of completing statewide procedures, which are expected to be issued for statewide implementation by May, 1982, that will set forth uniform guidelines as agency policy for mandatory referral by social workers to the police.

The Honolulu Police Department, the Oahu Children's Protective Services Advisory Committee, and Victim/Witness Kokua Services of the Honolulu Department of the Prosecuting Attorney, also submitted testimony recommending the deletion of such procedural matters from the bill in view of present efforts on the part of the Department of Social Services and Housing to resolve these matters on an inter-agency level.

Both the Oahu Children's Protective Services Advisory Committee and Victim/Witness Kokua Services expressed support of the language in this bill broadening the scope of persons required to report incidents involving child abuse or neglect, as well as the inclusion of a new section providing a penalty for non-reporting on the part of such persons. Victim/Witness Kokua Services, however, in line with testimony given by the Office of the State Public Defender, suggested that licensed attorneys not be mandated to report in light of a constitutional conflict in breaching the attorney-client relationship.

Although in support of the intent and purpose of the bill, the Family Court of the First Circuit recommended that the provision excluding the attorney-client privilege in regard to admissibility of evidence in any judicial proceeding resulting from a report



under Chapter 350, be reviewed on the basis of ethical considerations.

After careful deliberation of the testimony received, your Committees have amended this bill as follows:

- (1) Deletion of "exploitation" on page 1, line 8 as this is covered under the Penal Code.
- (2) Deletion of "suspected" (p. 1, line 16) and insertion of the higher standard of "believed" in lieu thereof.
- (3) Addition of "legal guardian" on page 1, line 9 and page 2, line 1.
- (4) Deletion of "suspect or" on page 4, line 21 and page 6, line 17, and retention of the higher standard of reason to "believe".
- (5) Deletion of "suspected" (p. 6, line 14; p. 10, lines 8, 10) and insertion of the higher standard of "reason to believe" in lieu thereof.
- (6) Deletion of "prosecuting attorneys' offices" (p. 5, line 18); "any licensed attorney" (p. 5, line 21); and "members of the clergy..." (p. 6, lines 2-3) in conformance with testimony submitted by the Family Court, Office of the Public Defender, and Victim/Witness Kokua Services.
- (7) Deletion of the procedural steps enumerated on page 8, lines 11-23 and page 9, lines 1-5 in conformance with testimony received from the Department of Social Services and Housing, the Honolulu Police Department, the Oahu Children's Protective Services Advisory Committee, and Victim/Witness Kokua Services.
- (8) Deletion of the provision granting immunity from liability and insertion of a new provision requiring the State to indemnify and hold harmless from civil liability any person who makes a report in good faith pursuant to Chapter 350.
- (9) Repeal of the section regarding admissibility of evidence inasmuch as this matter is presently covered by rule 502 of the Hawaii Rules of Evidence.

Your Committees have also made technical, non-substantive amendments to the bill for purposes of style and clarity.

Your Committees on Youth and Elderly Affairs and Judiciary are in accord with the intent and purpose of H.B. No. 2129-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2129-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Kawakami, Kunimura, Ikeda, Liu and Wong.

SCRep. 399-82      Youth and Elderly Affairs; Public Assistance and Human Services; Health; and Education on H.B. No. 3103-82

The purpose of this bill is to appropriate moneys to various programs which serve children and youth.

Your Committees received voluminous testimony in support of individual sections of this bill.

Specifically, your Committees would like to address the needs referenced within the individual sections of this bill.

Section 3: Your Committees find that testimonies received supported the critical need to increase legal support services for the Department of the Attorney General to provide legal consultation for child abuse and neglect cases. Currently, 600-700 cases are being handled by 3 deputy attorneys.

Section 4: The child sexual abuse treatment program and the paraprofessional program provide needed treatment services to confirmed child abuse cases that have been referred by the Department of Social Services and Housing.

Section 5: The four temporary emergency shelters (in each of the four counties) for abused women and their children are needed to help alleviate the immediate problems of family violence.

Section 7: Your Committees support funding of all 8 prevention programs which work with identified high risk families in child abuse and neglect.

Section 10: There is a need to expand the 5-day psychiatric residential treatment program at Leahi Hospital for severely emotionally disturbed children between the ages of 4-12 for the following reasons: (1) allow children from the outer islands an opportunity for treatment; (2) allow the State to recoup payment through third party payers, thereby reducing the cost to less than the current cost for a 5-day program; (3) provide for continued accreditation by the Joint Commission of Accreditation of Hospitals not possible as a free standing 5-day program; (4) provide for continuation of treatment without interruptions during weekends; and (5) omit the need for weekend placements of these young patients.

Section 11: Currently, the Mental Health Division is meeting only 50% of the Department of Education-referred certified handicapped children. The funds requested is to purchase services from private psychologists and psychiatrists for the 8 mental health centers statewide. As most children are covered by health insurance, funds requested would purchase only the portion not covered by insurance at approximately \$15.00 per hour. The alternative strategy is to increase the current staffing by another additional 16 positions which is less viable in terms of recruitment, retention, and controls for competent performance as well as cost effectiveness.

Section 12: Your Committees find this position to be critical as surfaced by the response to H.R. 632, H.D. 1 "Requesting the Department of Social Services and Housing and the Family Court to Report on Placement Services and Related Child Care Provided to Low, Medium and High-Risk Juvenile Offenders". The development of out-of-home placement resources and systematic long-range planning for the adolescent status offender population need to be given much more emphasis than in the past.

Section 13: The four temporary youth shelters statewide are needed for older minors in need of out-of-home placement services.

Section 15: Your Committees find that there is a need for before- and after-school hour activities to provide a structured, positive and safe environment for children while their parents are at work as statistics indicate Hawaii has one of the highest proportion of working parents. The Office of Children and Youth is in the process of hiring a before- and after-school activities coordinator to develop these programs in the community. Funds requested are to provide for start-up costs for the 5 demonstration sites.

Section 16: Your Committees support the concept of the Hawaii joint conference on children and youth in each county as a spin-off from the 1981 Governor's Hawaii State White House Conference on Children and Youth which was well received by county participants.

Section 17: A pilot and demonstration youth employment program for sixty students is needed as a practical approach to vocational education as well as to utilize youths as a viable labor force. Such employment opportunities would provide youths with valuable learning experiences and will serve as a measure to prevent juvenile delinquency.

Section 20: Your Committees support the three programs for services to handicapped or disabled children and their families, as your Committees find that these programs offer basic needs.

Section 21: Employer-sponsored child care is of growing interest as private enterprises are beginning to realize the need for providing child care services to their employees. Your Committees support the intent of hiring a consultant in order to provide the technical assistance and expertise in developing programs for employer-sponsored child care.

Section 22: The expansion of the Office of Children and youth to the neighbor islands is needed to enhance children and youth programs in the three other counties. A position for the City and County of Honolulu is not needed as the Office of Children and Youth is physically located in this county.

Your Committees have amended Section 3, line 14 by replacing the position of "clerk-stenographer" with legal-stenographer to more appropriately address this section.

Your Committees have also deleted Sections 9, 14, and 19. Your Committees agree that these sections have been addressed through separate requests.

Your Committees on Youth and Elderly Affairs, Public Assistance and Human Services, Health, and Education are in accord with the intent and purpose of H.B. No. 3103-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3103-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Takamine, Monahan and Wong.

SCRep. 400-82      Higher Education and Public Employment and Government  
Operations on H.B. No. 2920-82 (Majority)

The purpose of this bill is to provide the State of Hawaii the means to develop a set of strategies to effectively manage the consequences of (1) cutbacks in federal funding of governmental services, (2) the reorganization of federal transfers of funds to State and local governments -- basically a shift in emphasis from categorical grants to block grants, and (3) "new federalism" proposals realigning the responsibilities of federal-state-local governments for providing public services.

The cutbacks in federal funding are a reality, and further cutbacks appear inevitable in at least the next federal budgetary period. Some form of the new federalism will be adopted through negotiated compromises between the federal government and State governments. Funding cutbacks, retailoring of the federal grant system, and the new federalism have serious implications for State government as an entity, for State agencies and private providers of human services, and, most importantly, for people who need and receive services. There are different ways for the State to respond to the pressures imposed by these actual and proposed changes in federal-State relationships.

However, your Committees believe that the best approach for the State to adopt would be to follow a set of strategies that would insure the continuation of needed services at a reasonable level of quality.

No appropriate set of strategies now exists or is being developed.

This bill is directed to remedying that deficiency.

The development of the best set of strategies will require input from the most experienced, knowledgeable, imaginative, innovative, and thoughtful people available. Such people are to be found in a wide variety of organizations and groups--government agencies including the University, private corporations and organizations including consulting firms, private not-for-profit organizations, and persons independent of a particular organization. The search for such people should not be limited to the territorial boundaries of the State of Hawaii, but extended to other areas of the world. This bill would enable the State of Hawaii to draw from the vast pool of available talent that could help the State prepare a sound set of strategies to cope with managing and financing the operations of State and local government for the remaining years of the Twentieth Century.

In order to accomplish its purpose this bill proposes:

1. To create a commission designated as the "Hawaii Government Services Commission" (hereafter HGSC).
2. To set a limit on the life of the HGSC so that it would cease to exist on March 30, 1984.
3. To fund the HGSC at the level of \$2,000,000 as a one-time appropriation for the period of its existence.
4. To empower the HGSC to employ staff to accomplish its purpose.
5. To specify the purpose of the HGSC as supporting the necessary study-planning activities and projects required to develop a set of strategies for the State of Hawaii to follow in reacting to the pressures imposed by realignment of federal-State governmental relationships in ways that would insure the continuation of needed services at a reasonable level of quality.

6. To specify that the HGSC shall support the necessary study-planning activities by funding proposals from grant applicants to contribute to the development of a set of strategies for the State.

The bill creates the HGSC as a five member commission with the five members appointed by the President of the University of Hawaii. The reason for designating the President as the appointing power is that the HGSC's main task will be to review and approve or reject grant applications. There is a special expertise involved in the competent review of grant applications including (1) the ability to review and analyse and make a decision in a timely fashion, and (2) the ability to determine if an applicant has the resources and competencies to do the task under consideration. This expertise is most readily available in the community that is involved in "grantsmanship" and the University of Hawaii is the institution in Hawaii most knowledgeable about that community. The President of the University is a logical choice as appointing authority for the HGSC. While the University of Hawaii may be most involved in "grantsmanship" and the President of the University an appropriate appointer of HGSC members it needs to be stressed that the funds available for grants should be available to all "qualified" applicants with worthwhile proposals and applicants associated with the University system are not entitled to special consideration.

Because the need to develop strategies for State action is immediate the bill sets certain time limits on the HGSC. One time limit is that the President of the University of Hawaii shall appoint the members of the HGSC within forty days of the effective date of the Act. A second time limit is that the members of the HGSC shall act on grant applications within thirty days of their receipt by the Commission. A third time limit is that the HGSC shall complete its work by December 31, 1983. A fourth time limit is that the HGSC shall cease to exist on March 30, 1984.

From the onset a year ago of Federal budget cutting proposals for Fiscal Year 1982 to the present FY83 budget cuts and new federalism proposals, nationwide controversy has developed over the impact and wisdom of these actions on the fabric of American political and governmental relationships. Questions concerning Constitutionality, national policy, institutional and fiscal responsibility, and the ethics of a just society are being raised and urgently debated.

The following article written by Haynes Johnson (The Honolulu Advertiser, 2 March 1982) sets forth some of the questions in regard to the responsibilities and role of government in providing basic human services and maintaining a strong, growing, and stable economy:

...debate about the Reagan presidency has centered on the nature of his bold, if not radical, prescription for change. In terms both of the nature of government and the working of the economy he is forcing the nation to examine fundamental aspects of American life that seldom are truly seriously addressed.

Reagan deserves great credit for compelling citizens, through the political process, to decide what kind of country they want, with which values, and what they are prepared to pay for in the expenditure of national treasure and labor. I am not saying his course is correct, wise or fair, but, unlike many presidents, he is engendering a great debate about great issues.

The stakes, of course, are immense.

In the last few days two commentators have put these stakes in clear perspective.

Dr. John E. Hansan, executive director of the National Conference on Social Welfare, speaks from the vantage point of the government and social policy:

"President Reagan has prompted the American public to reconsider the role of government in our free enterprise system," he wrote. "By proposing to reduce federal support for some social welfare programs and to leave others entirely to the responsibility of the states, the president appears to want the nation to return to conditions that existed prior to World War II.

"...If the Reagan administration is successful in further reducing federal support for social programs it is certain it will have severe and far-reaching effects on present inter-governmental relations and the financing of social programs at state and local levels.

"In the short range, many citizens in need of services or benefits will be unable to obtain what they require to be independent or productive -- hurting people will

suffer even more; some preventable social and health problems will become acute or chronic, requiring even more time and resources in the future for repair, restoration or rehabilitation; and the proportion of federal funds spent for our poorest citizens will shrink while the proportions going to middle and upper income citizens will grow larger."

Another view, delivered by a political consultant, Horace W. Busby, to Louisiana bankers, deals with the impact of the president's budget deficit on the nation's social fabric.

"If those projected numbers are not addressed," Busby said, "if response is to be simply acceptance, the consequence could be an unimaginably trying, difficult and uncertain time ahead. This deficit, coming at this time, from this administration, has the potential for precipitating a political crisis of grave magnitude in this country, in Europe and elsewhere in the world.

"If, however, the numbers are addressed responsibly, if the Congress, the country and the chief executive respond courageously, in a spirit of constructive cooperation, great good can finally come from what would be, otherwise, a moment of great peril."

As he says, "The choice is exceptionably stark and clearly drawn."

In addition to the sorts of questions the foregoing article addresses the thrust of federal funding cutbacks and new federalism proposals raises questions fundamental to the basic tenets of American government. What should be the appropriate division of responsibilities between federal and State governments? What factors (fiscal ability, equity, service delivery capacity, jurisdictional control, for example) need to be considered in determining the division of responsibilities? In dividing or re-dividing responsibilities what constitutional problems are posed and how should they be resolved?

Hawaii has choices to make. What should those choices be? Traditionally the State has been committed to planning for the welfare of all its people. Hopefully, Hawaii will take positive action to prepare for the critical concerns being thrust upon the State.

#### Budget Cuts and Block Grants

Federal funding reductions and program eliminations and rearrangements hit Hawaii hard last year with the FY82 budget and again this year in the proposed FY83 budget which makes even sharper cuts in almost every federal social program (Figure 1). While Congress may not agree to such sweeping cuts a second successive year, the administration's message is clear: non-defense spending should be sharply reduced.

Figure 1

#### DECREASE IN NONDEFENSE OUTLAYS FROM EXISTING POLICY

(in billions of dollars)

<u>Benefit Entitlement Programs</u>	<u>FY 82</u>	<u>FY 83</u>
Medicaid	-0.3	-2.0
Food Stamps	-0.3	-2.4
AFDC	-0.2	-1.2
Medicare	-0.3	-2.5
SSI	-0.1	-0.3
Guaranteed Student Loans	-0.2	-0.8
Retirement and Disability	-0.1	-2.5
Miscellaneous	-0.1	-1.2
<u>Discretionary Programs</u>		
Employment and Training	-0.1	-2.2
Education	-0.1	-1.2
Income Security and Social Services	-0.1	-2.8
Housing Assistance	-0.1	-0.6
Transportation	-0.1	-1.6
Miscellaneous	+0.1	-2.7
Source: OMB	Totals	-2.0
		-24.0

The impact of these federal cuts on Hawaii has been estimated at \$25 million for FY 82 (Honolulu Star Bulletin, 27 January 1982). Another analysis (Figure 2) shows the amount of federal funds the State is estimated to receive for FY 81, FY 82, and FY 83 for certain selected education, health and human services programs.

Figure 2

ESTIMATED STATE RECEIPTS OF  
FEDERAL FUNDS FOR SELECTED  
HUMAN SERVICES PROGRAMS

(in millions of dollars)

<u>Program or Block</u>	<u>FY 81</u>	<u>FY 82</u>	<u>FY 83</u>
Elementary and Secondary			
Education Block	3.7	2.7	2.3
Preventive Health Services Block	0.8	0.7	0.7
Alcohol and Drug Abuse and Mental			
Health Block	2.8	2.4	2.4
Maternal and Child Health Block	2.3	1.4	1.4 (Plus WIC)*
Primary Care Block	4.3	3.3	3.3
Social Services Block	11.3	10.2	8.4
Community Services Block	2.2	1.6	0.4
Home Energy Assistance Block	1.8	2.0	1.4
Child Welfare	3.1	2.3	2.3
Aging Services	4.6	4.4	3.9
Health Planning	0.7	0.4	0.01
Refugee Assistance	4.4	5.1	3.8
Total	42.0	36.5	30.4

\* WIC - Supplemental feeding for pregnant women, infants and children.

NOTE: The figures, from the same sources, for Assistance for Families with Dependent Children are FY81 - \$89 million; FY82 - \$87 million; FY 83 - \$65 million.

(Sources: Health and Community Services Council of Hawaii and Department of Budget and Finance.)

Concurrent with budget reductions Federal administrative efforts to rearrange and pare federal categorical grant-in-aid programs by (1) consolidating them into block grants, (2) removing requirements to make them more like block grants, or (3) eliminating certain programs altogether, have been aimed at removing from Washington's purview the "expensive and unwieldy, often unfair and unresponsive" categorical programs with the intent of making "states better able to make (block grant) programs more immediately responsive to the needs of their citizens" (Edward N. Brandt, Jr., "Block Grants and the Resurgence of Federalism", *Public Health Reports*, November-December, 1981, p. 496). Instances of the Federal direction include the combining of 21 categorical grant programs into 4 health block grants in FY82, the elimination in FY83 of WIC as a separate grant-in-aid and its inclusion in the Maternal and Child Health Block Grant with only 69% of its FY82 funds being transferred to the Block Grant.

The consummated cutbacks and rearrangements of the Federal government and proposed further cutbacks and changes pose several questions to which the State of Hawaii will have to respond:

1. How do federal budget cuts translate into reduced or lost services for Hawaii?
  - a. Cuts can effect staffing, capital investments, ongoing maintenance, or outreach in varying degrees--e.g., loss of one position count might have minimal effect on one program while completely removing a specialized capability in another.
  - b. How will quiet cuts--the withholding of authorized outlays or the delaying of their release--disrupt delivery of services?

- c. What planning should State agencies undertake to better anticipate future cuts and prepare for responding to them?
- 2. What reorganization of State agencies may be necessitated by the change in federal aid availability?
  - a. Are there inter- or intra-departmental management or operating processes or procedures that must be revamped in order to handle increased, decreased, or modified federal relationships or money flows?
- 3. How should Hawaii respond to the funding reductions?
  - a. Does Hawaii have a preferred ranking of societal functions or services which would serve as a guide to redistribution of the funds that will be received?
  - b. Will Hawaii reduce the quantity or quality of services provided? In whole or in part? In which part?
  - c. Will Hawaii eliminate services? If so, which ones and at what pace?
  - d. Will Hawaii chose to raise additional revenues? If so, from what sources?
  - e. How will Hawaii provide services more economically--by improving the policing function?; by reducing administrative overhead?; by sacrificing quality?
  - f. Will the State's constitutionally set spending limit impede delivery of services? If so, should it be raised in order to improve services?
  - g. Will Hawaii's response to these problems be decided at the State level alone? What role will local government, private institutions, and individual citizens play in forming that response?
  - h. Does the State have models or methods for developing answers to these and related questions?
- 4. Does the block grant funding give Hawaii burdensome new responsibilities without the resources to handle them?
  - a. Do block grants offer flexibility for state discretionary use, while providing adequate safeguards for equitable implementation?
  - b. Tough political decisions have to be made: Who will take the blame for service cuts over which they have no real control? How will priorities be set? How will the urban-rural balance be decided?
  - c. How will the division of responsibility for planning and overseeing the use of the block grants be made? What, if any, State laws will have to be changed?
  - d. Will the streamlining of programs under broad headings result in insufficient accountability? Will untargeted monies go to those in greatest need?
  - e. Will returning programs to the State truly decrease administrative costs? Or are block grants a means of shifting financial burden and complexity from federal to state government? What new State operational units will have to be created? How will the interaction between State and local governments be coordinated? What will happen to the current federally funded staffing in Hawaii? Will they be reemployed by the State?
  - f. What will or should be the role of private not-for-profit providers of human services in the altered system of funding such services?

In summary, the most advantageous response Hawaii can make to the fiscal proposals of the federal government is to actively and energetically do the study and planning



needed to answer questions such as those posed above.

### New Federalism

The new federalism has been described by the President as "a realignment that will end cumbersome administration and spiraling costs at the federal level while we insure these programs will be more responsive to both the people they are meant to help and the people who pay for them".

The President's proposal for restructuring federal-state relations involves a phased exchange of some \$47 billion in programs and revenues between Washington and the States beginning in fiscal 1984. He proposes a swap of the three principal welfare programs for the poor: the federal government would assume the full costs of the Medicaid health program while states take over food stamps and Aid to Families with Dependent Children. He also calls for a dramatic shift of some 40 social, transportation and community development programs -- and the revenues to help pay for them in the early phase -- to States.

The first few of what will become many debates have stated some of the basic differences of viewpoint regarding new federalism proposed realignments of federal-state responsibilities:

"we support the administration's desire to strengthen the national economy and to sort out the proper responsibilities of state and federal governments, but we cannot accept a plan which jeopardizes the fiscal soundness of the states in order to decrease the federal budget." (Ross Doyen, President, National Conference of State Legislatures, The Christian Science Monitor, 18 February 1982, p.5).

Two areas of concern in the current national debate are: (1) questioning if and how quality and equity of services can be maintained following any shifting of programs, and (2) scrutinizing the federal arithmetic which critics claim casts the savings for states in the best possible, but misleading, light.

Any consideration of quality and equity of services to citizens rightly begins by asking to which benefits all members of a society ought to have equal claim. The "areas in which most civilized nations have established national standards are social security, including health and medical care, education, penal codes, and environmental protection and preservation" (Henry Steele Commager, "The New Federalism: Back to Jefferson Davis", The Christian Science Monitor, 19 February 1982, p. 23). Indeed, it is just this point that the nation's governors, at a meeting of the National Governors' Association, voiced their disagreement with the swap portion of the president's proposal. By a vote of 36-5 and by "informal consensus" they unequivocally stated their belief that both Medicaid and welfare, AFDC and Food Stamps, should be administered by the federal government and that differences between richer and poorer states should be modified by a federally funded equalizing procedure to guarantee that all Americans would have access to equable and adequate health and welfare benefits regardless of their states' wealth. The governors further emphasized the distinction between national and state concerns by indicating readiness to discuss which other, more locally pertinent programs, properly might be turned back to state control. (Harrison Donnelly, "Reagan Changes Focus With Federalism Plan", The Congressional Quarterly, 30 January 1982, pp. 148, 150-54; Richard L. Strout, "Governors Aim to Modify 'New Federalism'", The Christian Science Monitor, 24 February 1982, p. 6; Don McLeod, "State, County Leaders Take Issue with 'New Federalism'", The Honolulu Star-Bulletin, 22 February 1982, p. A-6).

The issue of the proper alignment of responsibility for the welfare of Americans, and Hawaiians, involves other less philosophical questions, too.

1. If health and welfare responsibilities reside solely at the federal level, will Hawaii, which has higher benefits than the national average, find residents receiving less benefits if federal standards are set lower than Hawaii's?
2. Are there administrative and operational difficulties, complexities or costs which will make new federalism unmanageable in whole or in part by state and local governments? In other words, are state governments more or less capable, efficient, honest, and fair than the federal government?
3. As federal programs are handed over to state jurisdiction, will city and county

and private interests be any better protected and provided for than under federally administered programs? How will localities receive monies from the State?

4. What will happen to the institutional structure, public and private, in Hawaii as the result of the shifting of so many programs? Will the institutional and administrative refitting be costly?
5. Will Hawaii have to bear the full burden of an extraordinarily severe economic problem, e.g., collapse of sugar, which would prevent State attention to human service programs.
6. Which constituencies will gain or lose power in Hawaii as a result of new federalism? Is there any benefit of directing the shifts in power toward particular constituencies?

Turning to the question of the arithmetic of the new federalism, an immediate question is: does the proposal contain a sufficient revenue base for Hawaii to operate the programs it will inherit?

This is where the president's reasoning and assumptions are most controversial. The formula is simple: cost to states equals benefits to states. Thus, each state has a zero net effect, gaining as much as it loses. But that's not how some observers see the numbers working out (Figure 3).

Figure 3

NEW FEDERALISM IN HAWAII

(in millions of dollars)

	<u>The White House estimates</u>	<u>Hawaii Government Employees' Associa- tion estimates</u>
<u>Costs Transferred to Hawaii</u>		
AFDC and Food Stamps	106	130
Turnback Programs	<u>133</u>	<u>192</u>
Totals	239	322
<u>Costs of Programs Assumed by Federal Government</u>		
Medicaid	94	94
Trust Fund Allocations	<u>145</u>	<u>145</u>
Totals	239	239
<u>Fiscal Burden on Hawaii</u>	-0-	83

These differences in estimates point up the uncertainties associated with the whole subject of federal funding cutbacks and the new federalism. Considerable thoughtful attention will need to be focused on the questions mentioned in this report and related questions before the uncertainties can be resolved.

This bill provides a means for the State to plan ahead and develop a sound set of strategies. The alternative to doing the needed planning is to leave the State in the position of reacting to federal initiatives. One end result of this latter alternative will be that many of Hawaii's people in need of the aid provided by government programs will go without that aid.

Your Committees on Higher Education and Public Employment and Government Operations are in accord with the intent and purpose of H.B. No. 2910-82 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Nakasato, Takamine, Isbell, Marumoto and Monahan.  
(Representatives Say and Takitani did not concur.)

SCRep. 401-82      Transportation and Youth and Elderly Affairs on H.B. No. 2742-82

The purpose of this bill is to provide a \$25.00 income tax credit to resident taxpayers for the purchase of an approved child passenger restraint system.

Your Committees recognize the importance of child restraint systems for children riding in motor vehicles. An economic incentive such as a tax credit is seen as a positive incentive to encourage the use of child restraints systems.

Your Committees on Transportation and Youth and Elderly Affairs are in accord with the intent and purpose of H.B. No. 2742-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives  
Kunimura, Levin, Nakasato, Ikeda, Lacy, Liu and Wong.

SCRep. 402-82      Transportation and Youth and Elderly Affairs on H.B. No. 2085-82

The purpose of this bill is to protect a child who is being transported in a motor vehicle and who is either less than the age of four years or weighs less than forty pounds by requiring that the driver properly use a child passenger restraint system for the child.

The bill, as received by your Committees, would add a new section to Chapter 291C, Hawaii Revised Statutes, thereby requiring that a driver transporting a child use a child restraint system that meets certain federal and state vehicle safety standards. Your Committees concur that such a requirement is necessary to protect the health and welfare of children riding in vehicles.

After due consideration, your Committees have amended the bill in the following major respects:

(1) On page 1, line 5, the words "State resident" have been added before the word "driver", thereby making the new statutory section applicable only to drivers who are State residents.

(2) On page 1, line 5, the words "the front seat of" have been added before the words "a motor vehicle."

(3) On page 1, line 5, the word "the" has been deleted and the word "public" has been added before the word "roadways" so that the new statutory section will apply on public roadways, streets, and highways.

(4) On page 1, line 12, the following words and punctuation have been added immediately after the phrase "shall not apply to": "vans and recreational vehicles, vehicles with only a front seat (such as trucks and sport cars)". The effect of this amendment is that the new statutory section will also not apply to the added types of vehicles.

(5) On page 1, lines 13-14, the phrase for "trucks having a tonnage rating of three tons or more" has been amended to read: "trucks having a gross vehicle weight rating of more than 10,000 pounds."

(6) On page 1, line 14, the following new provisos have been added: "provided that for children ages four or older, a seat belt shall also be sufficient to meet the requirement of this section; provided that no violation shall be deemed to exist when the child's personal needs are being attended, or if all seating positions equipped with seat safety belts or child passenger restraint systems are occupied;".

(7) On page 2, lines 2-6, the violation and penalty paragraph has been deleted.

(8) On page 2, line 8, the effective date section has been changed from "upon its approval" to "on January 1, 1983."

Your Committees on Transportation and Youth and Elderly Affairs are in accord with the intent and purpose of H.B. No. 2085-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2085-82, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representatives Nakasato and Wong.

SCRep. 403-82      Transportation and Youth and Elderly Affairs on H.B. No. 3104-82

The purpose of this bill is to provide an income tax credit to resident taxpayers for the purchase of an approved passenger restraint system used upon the taxpayer's own dependent child. Your Committees recognized the importance of child restraint systems for children riding motor vehicles. An economic incentive such as a tax credit is seen as a positive incentive to encourage the use of child restraint systems.

Your Committees on Transportation and Youth and Elderly Affairs are in accord with the intent and purpose of H.B. No. 3104-82 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives D. Hagino, Kunimura, Levin, Nakasato, Ikeda, Lacy, Liu, Marumoto and Wong.

SCRep. 404-82      Water, Land Use, Development and Hawaiian Affairs on H.B. No. 3061-82

The purpose of this bill is to appropriate monies to examine the feasibility of alternative nonagricultural uses for lands cultivated by Puna Sugar Company.

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

Your Committee has amended the bill by inserting the figure \$50,000 in the appropriate space in Section 2.

Your Committee has also amended Section 2 by changing the expending agency from the Department of Planning and Economic Development to the Department of Agriculture. This is done because this study could tie in with other Department of Agriculture activities.

Your Committee on Water, Land Use Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 3061-82, as amended herein, and recommends that it pass Second Reading in the amended form attached hereto as H.B. No. 3061-82, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kawakami, Morioka, Takamine, Isbell, Monahan and Narvaes.

SCRep. 405-82      Water, Land Use, Development and Hawaiian Affairs on H.B. No. 3143-82

The purpose of this bill is to clarify certain provisions relating to the Hawaii Community Development Authority's (HCDA) power and rules, and to provide HCDA with specific authorization for the implementation of the Kaka'ako Community Development District Plan and rules.

Your Committee received testimony in favor of this bill from the Chairman of HCDA. Your Committee finds that the bill (1) authorizes HCDA to enforce the community development provisions of Chapter 206E, Hawaii Revised Statutes and provides a penalty for violations of these provisions; (2) authorizes HCDA to provide relocation assistance to persons and businesses displaced by governmental actions within the district and requires HCDA to promulgate rules relating to relocation assistance; (3) clarifies the definition of "public facilities" in Chapter 206E, Hawaii Revised Statutes, by specifying additional types of public facilities which are identified in the Kaka'ako Community Development District Plan; (4) authorizes HCDA to issue revenue bonds for financing district-wide infrastructure improvements, to establish improvement districts, and to either adopt the improvement district assessment ordinances of the county in which the improvements are located or to formulate its own assessment rules; (5) allow HCDA to engage in construction activities outside of the Kaka'ako district if the construction relates to infrastructure development or residential or business relocation activities; and (6) authorizes HCDA to issue an unspecified amount of tax-free revenue bonds and administer housing loan and mortgage programs which are similar to the Hawaii Housing Authority's

Hula Mae program.

Your Committee received additional testimony from the Chairman of HCDA that the State's bond counsel advised that, due to existing federal government constraints, Section 7 of the bill, which authorizes HCDA to issue tax-free revenue bonds and administer housing loan and mortgage programs, should be deleted or significantly amended.

Your Committee upon further consideration has made the following major amendments to the bill:

- (1) Clarified the language regarding HCDA's authorization to issue and sell revenue bonds for its improvement district program.
- (2) Substituted the phrase "housing loans and mortgage programs" with the phrase "reserved housing loan programs" in Section 7 of the bill.
- (3) Authorized HCDA to issue taxable revenue bonds instead of tax-exempt revenue bonds, the proceeds of which will be loaned to qualified purchasers of reserved housing units in the Kaka'ako Community Development District, and made other amendments to Section 7 of the bill to conform to this amendment.
- (4) Inserted the figure "45,000,000" at line 22 of page 34 of the bill. HCDA is now authorized to issue an aggregate principal amount of revenue bonds not to exceed \$45,000,000 for the purpose of undertaking and maintaining any of the district-wide improvement programs described in Section 206E-6.

Your Committee on Water, Land Use, Development, and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 3143-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3143-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kawakami, Takamine, Isbell and Monahan.

SCRep. 406-82      Finance on H.B. No. 2561-82

The purpose of this bill is to amend section 36-21, Hawaii Revised Statutes, to broaden investments of state funds in repurchase agreements.

Your Committee finds that investments of state funds are presently limited to banks. Your Committee agrees that the authority to broaden investments may be granted provided that the safety of such investments is insured and your Committee has amended this bill to limit the investment in repurchase agreements to those with "federally insured banks and savings and loan associations authorized to do business in the State" and such language is added to the first three lines of page 2 of this bill.

Your Committee is in accord with the intent and purpose of H.B. No. 2561-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2561-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 407-82      Finance on H.B. No. 2204-82

The purpose of this bill is to amend section 235-61, Hawaii Revised Statutes, to provide additional withholding allowances for taxpayers who have excess itemized deductions.

This bill will amend the state income tax law to base the excess itemized deductions on the state zero-bracket amounts. It will also conform to the Internal Revenue Code provision to allow amounts of excess itemized deductions which would increase the additional allowance to one-half or more of an additional exemption to round off the amount and include one additional exemption.

Additionally, the bill permits the director of taxation to adopt by rule, the rules and regulations promulgated by the United States Secretary of Treasury or a delegate of the Secretary relating to the provisions of subtitle C, Chapter 24, of the Internal Revenue Code operative in this section.

Your Committee finds that the enactment of this measure would further the legislature's intent of maintaining conformity between the state and federal income tax law in order to minimize the confusion of taxpayers.

Your Committee on Finance 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 except Representative Nakasato.

SCRep. 408-82      Finance on H.B. No. 2839-82

The purpose of this bill is to provide for the appointment of a new tax review commission on or before July 1 and for the replacement of members upon vacancy or dissolution before completion of duties. This bill also appropriates funds for the purposes of the commission.

This bill will require the next commission to submit its evaluation and recommendations to the legislature 30 days prior to the convening of the 1984 legislature.

Your Committee agrees that this bill is necessary to deal with the current problem created by the resignation of the first commission appointed under the constitutional provision calling for a periodic review of Hawaii's tax system.

Your Committee has amended this bill to authorize an appropriation of \$350,000 for the purposes for the commission.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2839-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2839-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 409-82      Finance on H.B. No. 2562-82

The purpose of this bill is to allow institutions within the State as well as banks in the continental United States to serve as depositories for securities deposited with the state director of finance for the protection of public funds.

Your Committee agrees with the intent of this proposal but your Committee believes that the types of financial institutions which may be considered for appointment be limited to those qualified to perform the duties and discharge responsibilities required under chapter 38 of the Hawaii Revised Statutes relative to the receipt, safekeeping and disposition of such security deposits. Institutions which are able to do this must have trust powers. Investment brokerages are not generally regarded as possessing such powers.

Accordingly, your Committee recommends that the first portion of section 38-3, Hawaii Revised Statutes, be amended to read:

"§38-3 Securities for protection of funds deposited. For the protection of funds deposited by the director under this chapter, the following securities shall be deposited with the director, or with banks in the continental United States, or with financial institutions with trust powers authorized to do business in the State, as the director may select,..."

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2562-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2562-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 410-82      Public Assistance and Human Services and Judiciary on H.B.  
No. 2246-82

The purpose of this bill is to separate the matter of visitation from the matter of child

support and provides that when public assistance is paid for any dependent child, the non-custodial parent must meet the obligation of support even if the custodial parent denies visitation to the non-custodial parent.

Child support and parental rights of visitations are clearly separate issues which are frequently combined. It is often the case that absent parents refuse to pay child support owing the State, using denial of visitation as a defense. Use of this defense places an effective block in the way of enforcing support against many parents who are gainfully employed and are well able to support their children. The child must be assured a means of support from his legal parents notwithstanding parental differences concerning custody and visitation. There are specific legal and equitable remedies available to enforce visitation rights if a parent wishes to visit the child.

Your Committees have amended section 1 of the bill by deleting "public assistance" on lines five and six and inserting "child support". This amendment expands and stipulates the payment of child support beyond public assistance payments.

Your Committees have also changed the statute number from 346 (DSSH) to 571 (Family Courts). This statute more accurately reflects the revised intent of the bill.

Your Committees on Public Assistance and Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 2246-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2246-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 411-82            Judiciary on H.B. No. 2098-82

The purpose of this bill is to amend Section 707-741 of the Hawaii Revised Statutes by creating two classes of incest to distinguish between first degree and second degree offenses, and by including deviate sexual intercourse as defined in Section 707-700, as a punishable act under the incest laws.

The present law provides only one class of incest as a class C felony. The offense of deviate sexual intercourse with a minor over fourteen years of age, is not punishable under our current laws, unless there is forcible compulsion. Section 707-741, Hawaii Revised Statutes, (incest) applies only to sexual intercourse and not deviate sexual intercourse and Section 707-733 (sodomy) requires the use of forcible compulsion or that the victim be less than fourteen years old to be punishable. In most cases of deviate sexual intercourse between a parent and child, there is no use of force, therefore, if an adult has deviate sexual intercourse with a minor over fourteen years of age and uses no force, his act goes unpunished.

This bill will correct the above situation by creating two classes of incest:

- 1)        incest in the first degree, a class B felony, and
- 2)        incest in the second degree, a class C felony.

The class B felony would cover situations where an adult commits sexual intercourse or deviate sexual intercourse with a minor as a more serious offense; the class C felony would cover situations of incest between adults.

Testimony in support of the bill was received from representatives of the Honolulu City Council, the Hawaii State Association of Counties, the Honolulu Police Department, and the Victim/Witness Kokua Services.

Your Committee believes that incest with a minor should carry a heavier penalty than incest with an adult. A minor subjected to an incestuous relationship with a parent, or other adult within the degrees of consanguinity or affinity within which marriage is prohibited, is more vulnerable and susceptible to greater psychological damage than an adult. Moreover, incestuous deviate sexual intercourse causes as many, if not more, deleterious effects as incestuous sexual intercourse. In cases of incestuous deviate sexual intercourse with a minor over the age of 14, the element of forcible compulsion is often absent or unprovable due to the minor's vulnerability, psychological impairment, or ignorance; this does not reduce the seriousness of the offense. A minor frequently is unable to recognize any sexual deviancy until after the age of 14, although incestuous relationships with authoritarian figures usually begin at a much earlier age.



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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2098-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2098-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 412-82          Judiciary on H.B. No. 2099-82

The purpose of this bill is to amend Section 709-904, Hawaii Revised Statutes, by creating a new class of endangering the welfare of a minor, as a class C felony.

The present law provides only one class of offense of endangering the welfare of a minor as a misdemeanor.

This bill would create two classes of endangering the welfare of a minor:

- (1)          endangering the welfare of a minor in the first degree, a class C felony, and
- (2)          endangering the welfare of a minor in the second degree, a misdemeanor.

The class C felony would cover the more serious cases where the minor is placed in situations that produce physical pain that are likely to produce bodily injury or death or in situations that endanger the minor's health or well being; the misdemeanor covers situations where a parent, guardian, or other person interferes with or neglects the legal duty or care owed to a minor.

Testimony in support of the bill was received from representatives of the Honolulu City Council, Hawaii State Association of Counties, the Honolulu Police Department, and the Victim/Witness Kokua Services. It was agreed that this bill is necessary to deal with the more serious cases where the minor's physical and mental health is endangered, and will have a deterrent effect on potential offenders.

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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2099-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2099-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 413-82          Agriculture and Ocean and Marine Resources on H.B. No. 2175-82

The purpose of this bill is to enable the extension of the term of any intensive agricultural, aquaculture, mariculture, or special livestock lease to the extent necessary to qualify the lessee for loans from any private lending institution qualified to do business in the State of Hawaii.

At the present time, the Board of Land and Natural Resources may extend the term of such leases to the extent necessary to qualify the lease for mortgage lending or guaranty purposes with any federal mortgage lending agency or to qualify the lessee for any State loan, private loan guaranteed by the State or any loan in which the State and any private lender participates. However, your Committees find that lease term extension is presently not allowed to qualify a lessee for loans from a private lending institution alone. This bill proposes to enable the department to extend such lease terms for the purpose of qualifying the lease for loans from any private lending institution qualified to do business in the State.

Your Committees concur with testimony supporting this bill from the Chairman of the Board of Land and Natural Resources.

Your Committees on Agriculture and Ocean and Marine Resources are in accord with the intent and purpose of H.B. No. 2175-82 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

## SCRep. 414-82      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 non-members.

Section 421-11, Hawaii Revised Statutes, currently requires that agricultural cooperative associations treat members and non-members equally in distributing net earnings. At the same time, Federal laws allow agricultural cooperative associations to treat members and non-members differently in distributing net earnings of the cooperative association if it is so stated in the agricultural cooperative association's by-laws. This bill will change the State law to allow agricultural cooperative associations in Hawaii the same flexibility allowed under Federal laws in distributing net earnings. This bill will not prohibit cooperatives from treating their members and non-members equally.

Your Committee has received testimony from the Chairman of the Board of Agriculture and the Kona Farmers Cooperative in support of this bill.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2565-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 415-82      Consumer Protection and Commerce and Energy, Ecology and  
Environmental Protection on H.B. No. 2045-82 (Majority)

The purpose of this bill is to require existing structures converting to condominium status to install solar energy devices and heat pumps to meet an unspecified percentage of the condominium's hot water heating requirements.

Your Committees find 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.

Consequently, your Committees believe that it would be in the best interest of the State to encourage and promote the utilization of these energy conservation devices.

H.B. No. 2045-82 has been amended as follows:

1. Page 4 - Page 5, paragraph (10), subparagraph (D) has been amended by requiring that structures converting to condominium status install solar energy devices and heat pumps or show that the installation of these devices is not feasible or economically justifiable. Additionally, the requirement that the installed solar energy devices and heat pumps meet an unspecified percentage of the condominium's water heating requirements has been deleted.

Testimony indicated that the original language of subparagraph (D) was too restrictive and precluded reasonable exceptions to the mandated requirements of that subparagraph.

2. For purposes of clarity, other technical and non-substantive changes have been made to the bill.

Your Committees on Consumer Protection and Commerce and Energy, Ecology and Environmental Protection are in accord with the intent and purpose of H.B. No. 2045-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2045-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Medeiros.  
(Representative Monahan did not concur.)

## SCRep. 416-82      Consumer Protection and Commerce on H.B. No. 2295-82

The purpose of this bill is to defer sunset review of the various regulated industries under Chapter 26H, Hawaii Revised Statutes, for one year.

Under present law, the next group of boards and commissions is scheduled to be sunsetted in 1983. Your Committee notes that there are various provisions awaiting

hearing and enactment which would affect the regulated industries program of the Department of Regulatory Agencies. Your Committee therefore agrees with the intent of this bill to defer any sunset action for one year until the modified regulatory programs have been established.

Your Committee has amended the bill to provide:

1. That a maximum of four boards or commissions are reviewed each year; and
2. That the boards and commissions reviewed in any one year are similar or related in their scope of commerce.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2295-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2295-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 417-82      Judiciary on H.B. No. 2444-82

The purpose of this bill is to clarify who is authorized to legally determine that a person is dead and to clarify who is authorized to certify the cause of death on a death certificate.

Several sections of the Hawaii Revised Statutes have been amended by this bill as recommended by a committee convened by the Director of Health pursuant to Section 327C-1(e):

- 1) Section 327C-1 currently limits the authority to determine that an individual is dead to "physicians licensed under Chapter 453." This bill would extend this authority to those physicians who are already authorized to certify the cause of death under Chapter 460 and Section 453-2(3) (i.e. doctors of osteopathy; commissioned medical officers of the United States Army, Navy, Marine Corps, or Public Health Service; and specified doctors of medicine licensed to practice in another state.)
- 2) Section 338-1(6) currently includes naturopaths in the definition of "physician." Department of Health findings indicate that naturopaths are not qualified to determine that a person is dead or to certify causes of death. This bill deletes naturopath from the definition of "physician" and revises the definition to conform with those authorized to determine that a person is dead, as specified by this bill in revisions to section 327C-1.
- 3) 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.
- 4) Section 453-2 presently contains a misspelling of the word "practitioner;" this bill also corrects the error.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2444-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 418-82      Consumer Protection and Commerce on H.B. No. 2168-82

The purpose of the bill is to eliminate the provisions requiring itinerant vendors of medicine, drugs or devices to obtain a license.

Under present law, itinerant vendors of drugs, medicines, or devices are required to obtain a permit from the Department of Health to engage in the business of vending.

Your Committee heard testimony from the Department of Health that they have not issued a permit to an itinerant vendor in the past 17 years and they do not anticipate

issuance of any permits in the near future. Virtually all medicines are attainable from pharmacies, markets and other retail stores at lower prices.

Your Committee feels that with accessibility to and variety of over-the-counter drugs, there is little, if any, need for itinerant vendors.

Your Committee has made a technical correction to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2168-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2168-82, H.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 419-82      Consumer Protection and Commerce and Energy, Ecology and  
Environmental Protection on H.B. No. 2039-82 (Majority)

The purpose of this bill is to permit any licensed contractor to perform plumbing work without a plumbing license if such work is performed to install solar energy devices or heat pumps.

Your Committees find that under current law only a licensed plumbing contractor is permitted to perform plumbing work during the installation of a solar water heating system or heat pump. Even a solar contractor, although qualified and licensed to install solar hot water systems, is not allowed to perform the simple connecting procedure necessary to complete the installation of a solar water heater.

The potable water connection procedure necessary to complete the installation is a simple one. Homes are required to have a shut off valve on the incoming city water supply that feeds the water heater. This valve is turned off before removal or alteration of the existing water heater. Once the valve is shut off, the area to be worked on is isolated (much like turning a valve shut when replacing a washing machine). The new tank is then installed and connected. The city valve is turned on and the system is activated.

Your Committees find that requiring the services of a licensed plumbing contractor in addition to the services of a licensed solar contractor for the installation of solar energy devices or heat pumps places an unnecessary financial burden on the consumer. The estimated added cost for the services of a licensed plumbing contractor is between \$50 and \$250.

H.B. No. 2039-82 has been amended by specifying that any person be allowed to make the necessary potable water connection without a plumbing license if such work is performed to install solar energy devices or heat pumps.

Your Committees have further amended H.B. No. 2039-82 by specifying that the installation of solar energy devices and heat pumps by persons not holding plumbing license be limited to single-family or duplex residential dwellings. Your Committees believe that the more difficult plumbing work necessary to install solar energy devices or heat pumps in commercial structure should be undertaken by licensed plumbing contractors.

Your Committees on Consumer Protection and Commerce and Energy, Ecology and Environmental Protection are in accord with the intent and purpose of H.B. No. 2039-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2039-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.  
(Representatives Kawakami, Morioka and Okamura did not concur.)

SCRep. 420-82      Consumer Protection and Commerce on H.B. No. 2196-82

The purpose of this bill is to establish insurance and bonding requirements that a licensed contractor must maintain in order to do business as a contractor.

Present law does not clearly require the maintenance of liability insurance or bonding. This bill would create a new section in Chapter 444, Hawaii Revised Statutes, requiring

licensed contractors to maintain such coverage at all times. Failure to maintain said insurance and bonding coverage would result in automatic suspension of the contractor's license and eventual termination unless the coverage is re-established within 60 days.

Your Committee finds that it is in the best interest of consumers to require liability insurance and bonding coverage at all times in addition to workers compensation coverage. Your Committee also finds that the present procedure of applying to the hearings officer under the Administrative Procedure Act for the suspension of a license for failure to maintain workers compensation insurance coverage can create situations where a contractor is allowed to operate for up to one year without coverage while awaiting hearing. Because of this potential problem and the backlog of cases before the hearings officer that such applications have contributed to, your Committee agrees with the automatic suspension and termination provision of the bill.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2196-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2196-82, H.D. 1.

Signed by all members of the Committee except Representative Liu.

SCRep. 421-82      Judiciary on H.B. No. 1964-82

The purpose of this bill is to amend Section 338-17.7 of the Hawaii Revised Statutes to permit the Department of Health to issue new certificates of birth to persons born in Hawaii who cooperate with law enforcement agencies in criminal prosecutions.

Under the present law, new certificates of birth are issued by the Director of Health only for a limited number of persons not including those whose safety is endangered due to their cooperation with law enforcement agencies. This bill is necessary to provide for the safety and protection of witnesses who testify on behalf of the prosecution in criminal cases. Family members of these witnesses, particularly children, are also in need of this protection as their future lives could be jeopardized by the revealing of their true identities.

Representatives from the United States Marshals Service, the Department of Health, and the Honolulu Police Department submitted testimony in support of this bill. Testimony indicated that the provisions of this bill are especially crucial in cases where witnesses and their family members are relocated outside the State of Hawaii.

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. 422-82      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 present day practice.

Your Committee is in agreement with the intent of this bill to repeal Section 603-15.

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.

SCRep. 423-82 Finance 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, and to enable the fund to be augmented by other appropriations (in addition to fines).

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 one dollar to three dollars.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2313-82, H.D. 1 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2313-82, H.D. 2.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 424-82 Finance on H.B. No. 2105-82

The purpose of this bill is to amend section 290-41, Hawaii Revised Statutes, to require towing companies to notify the county police department of the towing of a vehicle prior to actually towing the vehicle.

Under present law, towing companies are not required to notify the police department until 24 hours after the tow.

The intent of this bill is to enable the police to determine whether or not the vehicle is the subject of any current investigation prior to towing and to provide the police with the earliest opportunity to discover and seize vehicles of investigative importance.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2105-82 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 425-82 Finance on H.B. No. 2406-82

The purpose of this bill is to amend the notice provision of section 281-57, Hawaii Revised Statutes, relating to liquor license application.

Under present law, applicants for liquor licenses are required to notify two-thirds of all owners or lessees of real property located within 500 feet of the premises for which the license is being applied, and three-fourths of all owners or lessees of real property located within 100 feet of the premises. All joint owners are included in the notice requirement, as are all lessees, whether or not the lessee is noted as such in any government record.

Your Committee finds that the present requirement, together with the increasing number of large multi-unit buildings, has created an unreasonable burden for applicants not commensurate with any benefit of corresponding magnitude which justifies such a stringent requirement.

Your Committee agrees that notifying certain lessees serves a legitimate purpose as in the case where an owner of a large tract of subdivided real property has leased it for residential use. Limiting the notice requirement to those lessees who appear as such in the records of a government agency which are open for inspection by the public appears reasonable to your Committee.

Your Committee also agrees that notice to one fee owner and to one lessee, in the case of property which has multiple owners and multiple lessees, is sufficient notice to all other owners and lessees for purposes of the section.

Your Committee has amended this bill to change the phrase "owners or lessees" or similar references in the bill to read "owners and lessees".

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2406-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. 2406-82, H.D. 2.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 426-82      Finance on H.B. No. 2149-82

The purpose of this bill is to grant the Department of Agriculture the flexibility to adjust the fee for registration of a livestock brand or mark. The bill repeals the statutory registration fee of \$1 and authorizes the department to establish registration fees by rule.

Your Committee agrees that the establishment of these fees by administrative rule is appropriate.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2149-82 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 427-82      Finance 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 finds from testimony presented that several inconsistencies exist under current law between certain provisions of chapters 287 and 294, Hawaii Revised Statutes. This bill would conform the provisions of section 287-1, 7, and 18, Hawaii Revised Statutes, to the applicable provisions in chapter 294, Hawaii Revised Statutes.

This bill amends section 287-3, Hawaii Revised Statutes, relating to furnishing of operating records, to reflect the transfer of the traffic violations bureau, formerly a part of the county police departments, to the Judiciary. The fee for furnishing records is changed to \$2.

This bill also amends section 287-17, Hawaii Revised Statutes, to conform it to Perez v. Campbell, 402 U.S. 637 (1971), by deleting provisions in conflict with the Bankruptcy laws and in violation of the Supremacy Clause.

This bill also clarifies the applicability of section 287-20, Hawaii Revised Statutes, by specifically including adjudications of driving under the influence of an intoxicating liquor within its provisions. Interpretations of the present law are unclear as to whether the section applies to convictions under section 286-155, Hawaii Revised Statutes.

Your Committee has amended this bill to limit the furnishing of records to those involving "moving violations" on page 2, beginning in line 5.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2092-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2092-82, H.D. 2.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 428-82      Finance on H.B. No. 2029-82

The purpose of this bill is to repeal sections 445-51, 445-52, and 445-53 and to amend section 445-54, Hawaii Revised Statutes.

Your Committee finds that the sections regulating billiards and bowling alleys are out-of-date and their repeal is in order.

Your Committee has amended this bill to direct the counties to prohibit intoxicating



liquor on the premises where billiards or pool tables are had and operated.

Your Committee has further amended this bill to correct typographical and drafting errors on line 5, page 1 and on line 3, page 3 of the bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2029-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2029-82, H.D. 2 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 429-82          Finance 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 which 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, and will insure that the financial condition of the organization is open for review by the general public.

Your Committee has amended this bill to add the section heading on page 1, line 3.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2191-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2191-82, H.D. 1.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 430-82          Finance on H.B. No. 1515

The purpose of this bill is to except securities registered in the name of nonresident decedents from inheritance tax clearance requirements prior to transfer.

Under present law, transfers of stock or other securities upon the death of nonresident registered owners or joint owners, but prior to obtaining a tax clearance from the Department of Taxation, were not allowed. This requirement has created a problem of paperwork and workload, that is out of proportion to its intention of ensuring that inheritance taxes are collectible.

This bill would continue to require stock transfer agents to obtain an affidavit of domicile and will continue application of the requirements to decedents who were residents of foreign countries. The existing provisions will not, however, be applicable to nonresident decedents who were not residents of a foreign country.

This bill should eliminate unnecessary paperwork now experienced by the Department of Taxation as a result of transfers of property after the death of certain nonresidents.

Your Committee has amended this bill to correct a spelling error on page 1, line 15, and to make other technical corrections.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1515, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1515, H.D. 2.

Signed by all members of the Committee except Representative Nakasato.

## SCRep. 431-82 Consumer Protection and Commerce on H.B. No. 2489-82

The purpose of this bill is to create a new license classification under Chapter 448E, Hawaii Revised Statutes, to be known as "journeymen industrial electricians".

Your Committee heard testimony from the Board of Water Supply noting that the Board of Electricians and Plumbers has recently changed their policy regarding the licensing of electricians and are now denying licenses to plant electrical maintenance employees, citing insufficient residential and commercial experience for the denials. Your Committee also notes from testimony presented that a journeymans's license is required for promotion of certain employees within the Board of Water Supply.

Since there has been a change in electrician licensing policy and since your Committee agrees with the concern of the Board of Water Supply that to remove the licensing requirement for promotion into certain supervisory positions may result in safety problems in the future, your Committee agrees with the new license classification.

Your Committee has amended the bill to include a supervisory license for and to clarify the duties of industrial electricians.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2489-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2489-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 432-82 Housing and Youth and Elderly Affairs on H.B. No. 2380-82

The purpose of this bill is to amend Section 359-62, Hawaii Revised Statutes, to allow unrelated elderly persons to share a dwelling accommodation in an elderly project of the Hawaii Housing Authority.

Your Committees find that Section 359-62 is contained in Part III of Chapter 359, entitled "Housing for Elderly Persons". The director of the Hawaii Housing Authority submitted testimony indicating they have not developed elderly housing projects under Part III which was enacted in 1976. Funds were not appropriated to implement the program, therefore, the provisions of Section 359-62 have not been applied by the Authority. However, the Authority has no objections to the passage of this bill.

Your Committees on Housing and Youth and Elderly Affairs are in accord with the intent and purpose of H.B. No. 2380-82 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

## SCRep. 433-82 Consumer Protection and Commerce on H.B. No. 509

The purpose of this bill is to provide an alternative method to life insurers for the fixing of maximum interest rates chargeable on life insurance policy loans.

Under present law, insurers may charge a maximum of eight percent interest per annum on life insurance policy loans.

This bill would allow insurers to periodically vary the maximum interest rate chargeable on life insurance policy loans according to a rate determined by reference to an index of long term fixed corporate bonds that are traded nationally, or alternatively, by the rate used to determine the policy's cash surrender value plus one percent per annum.

The maximum rate of interest chargeable shall be determined at least annually for such policies. The insurer will also be required to give the policyholder proper notice of the initial rate of interest and any changes thereof.

Your Committee notes that the substance of this bill reflects the Model Policy Loan Interest Rate Bill adopted by the National Association of Insurance Commissioners and which has been enacted or approved by twenty states in 1981.

Your Committee finds from testimony presented by the insurance industry that increased

borrowing on policies written with interest rates set by previous statutes has created cash flow problems within the industry and that if interest rates remain artificially pegged at the present level, premiums will necessarily increase to reflect the low return on those loans. Your Committee believes that allowing life insurers to earn a reasonable return on policy loans will keep the cost of insurance down to levels representative of the cost of insuring the policyholder.

Your Committee has made technical corrections to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 509, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 509, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 434-82          Finance on H.B. No. 2240-82

The purpose of this bill is to reduce the length of time a child, who is receiving federal financial aid, will spend in foster care placement and to promote early reunification with parents, or to have other permanent plans drawn up for the child's care. A second purpose is to conform to Public Law 96-272, 96th Congress, second session, which mandates that states establish statutes on or before 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.

Your Committee finds that there is an increasing concern over the length of time that children are in foster care placement without adequate and timely plans for their return to their parents or have other permanent plans arranged. The Department of Social Services and Housing testified that passage of this bill would insure the receipt of federal funds to carry out the Department's Child Welfare Program.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2240-82, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 435-82          Finance 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.

Heat pumps are proven energy-saving devices. They 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 4000. 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.

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 agrees 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 on Finance is in accord with the intent and purpose of H.B. No. 2207-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 436-82          Finance on H.B. No. 2147-82

The purpose of this bill is to amend section 9-3, Hawaii Revised Statutes, to permit the State Foundation on Culture and the Arts to award grants to qualified individuals,

associations, corporations, and agencies to implement the preservation and furtherance of culture and the arts and history and the humanities.

Your Committee finds that the State Foundation on Culture and the Arts (SFCA) has no legal authority to award grants for the promotion of culture, the arts, history, and the humanities. This bill will provide the needed statutory authorization for the SFCA to continue to award grants in accordance with its functions and responsibilities.

Your Committee has amended this bill to correct drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2147-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2147-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 437-82          Finance on H.B. No. 2210-82

The purpose of this bill is to clarify the repayment status of University of Hawaii students who are awarded State higher education loans and subsequently reduce their enrollment status below full-time.

The intent of this proposal is to ease the administrative burden placed on financial aid offices, in converting to repayment status, the loans of all students who may occasionally fall below the full-time status now required of loan recipients. Under the existing statute, a student who drops below full-time enrollment is considered to be in repayment status and this results in the University computing and issuing a repayment schedule. In the majority of these cases, the student registers full-time in the following semester thereby cancelling both the student's repayment status and amortization schedule.

Your Committee finds that this bill will eliminate a time-consuming and paper-wasting process, simplify the administration of the program, and reduce confusion among student borrowers who drop to less than full-time status.

Your Committee has amended this bill to change the word "If" to "While" on line 9, page 1 for clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2210-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2210-82, H.D. 1.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 438-82          Finance on H.B. No. 2684-82

The purpose of this bill is to increase the maximum interest rate payable on bonds issued by the Hawaii Housing Authority under chapter 359, Hawaii Revised Statutes, from eight per cent to eighteen per cent.

Under section 356-29, Hawaii Revised Statutes, the Hawaii Housing Authority is authorized to issue project notes for construction of federal public housing projects. However, because the interest rate ceiling is set at eight per cent, a rate which makes such notes virtually unmarketable at the present time, the HHA has been unable to proceed with its construction plans. Increasing the interest rate under this section would in no way obligate the State of Hawaii, for under an arrangement with the United States Department of Housing and Urban Development, the full faith and credit of the United States government backs these project notes.

Your Committee approves the increase of the interest rate ceiling to eighteen per cent.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2684-82, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 439-82      Finance 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. This bill would eliminate all of these allowances.

Your Committee finds that none of the other 28 boards and commissions under the jurisdiction of the Department of Regulatory Agencies are allowed statutory fees or salaries for its members. This bill would make the fee and salary provisions consistent among all boards and commissions.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2194-82 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 440-82      Finance on H.B. No. 2166-82

The purpose of this bill is to enable the county/state hospitals to deposit patient funds outside of the state treasury.

Patient funds maintained in savings and loan institutions will benefit the patient and reduce the county/state hospitals' recordkeeping requirements imposed by federal regulations.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2166-82, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 441-82      Finance on H.B. No. 2165-82

The purpose of this bill is to authorize the State of Hawaii to enter into the Northwest Interstate Compact on Low-Level Radioactive Waste Management.

In 1980, Congress passed P.L. 96-573, the Low-Level Radioactive Waste Policy Act that made states responsible for providing disposal capacity for waste generated within the state and encouraged states to band together to establish regional disposal sites.

Congress provided that when states join in interstate low-level waste compacts, an exemption to the Interstate Commerce Clause will be permitted and waste generated outside the region may be excluded after January 1, 1986. The 1986 authorization for exclusion of out-of-region waste means that all states must have selected and implemented their disposal strategy by January 1986.

Potential party states of the Northwest Interstate Compact, as of January 1982, include: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. The radioactive waste disposal site will be in Washington. Oregon and Idaho will provide disposal sites for hazardous chemical waste.

Your Committee agrees that it would be in the best interest of the State to participate as a party state in the Northwest Interstate Compact on Low-Level Radioactive Waste Management.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2165-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 442-82      Consumer Protection and Commerce on H.B. No. 2669-82

The purposes of this bill are to amend the name of the Department of Regulatory Agencies to the Department of Commerce and Consumer Affairs, and to shift the responsibility

of receiving and processing consumer complaints with respect to unlicensed activities from the Office of Consumer Protection to the Complaints Officer's jurisdiction.

Your Committee notes that the present title, "Regulatory Agencies" does not reflect the jurisdiction the Department has over the rapidly growing areas of commerce that it oversees nor does it notify the public that consumer concerns and complaints regarding certain areas of commerce are handled by the Department. Your Committee therefore agrees with the proposed change of title.

Your Committee is aware of the study and criticism of the Legislative Auditor of the complaints resolution process regarding consumer complaints against regulated industries. This bill is one part of an effort to modify the present process towards improving the responsiveness of government to the consumer. Included in this bill is the shift of the handling of complaints against unlicensed activity from the Office of Consumer Protection to the Regulated Industries Complaints Office. This shift is intended to accomplish the purposes of (1) freeing the Office of Consumer Protection to devote more of its resources to pursue a higher public profile in the furtherance of 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.

Other measures proposed to further the intent of this bill are establishment of a special fund to provide funds necessary for adequate staffing, and the provision for authority of the Department to hire deputies, attorneys and other staffing which in the discretion of the Department is adequate. These bills should be considered as necessarily related to one another and dependent on one another for the success of the proposed changes.

While in agreement with the intent of the bill, your Committee has further amended Section 26-9(g), Hawaii Revised Statutes, to more fully implement the purpose of the bill. Your Committee has also amended the bill to preserve the Office of Consumer Protection's attachment to the Department for administrative purposes in order to allow the Office the independence it desires.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2669-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2669-82, H.D. 1., and be placed on the calendar for Third Reading.

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

SCRep. 443-82      Consumer Protection and Commerce 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 heard testimony stating 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 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 on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2890-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 444-82      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 has, however, received testimony indicating that should the professional die while holding such shares, the corporation will be subject to probate and the corporation may lose much of its value because of the passage of time while the estate is being probated.

This bill would permit shares in a professional corporation to be transferred to an appropriate trust in order that the corporation assets pass to the beneficiaries outside of probate thereby avoiding unnecessary expense and economic losses.

Your Committee has amended the bill by correcting the testamentary trust provision as a transferee to an inter vivos trust with the appropriate limitations.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2980-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2980-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kawakami.

SCRep. 445-82      Consumer Protection and Commerce on H.B. No. 3030-82

The purpose of this bill is to repeal Section 448-14, Hawaii Revised Statutes.

Under the present Section 448-14, Hawaii Revised Statutes, licensed dentists who practice in the the counties of Hawaii, Kauai and Maui are required to first register with the county treasurer.

Your Committee sees no need for such requirement and believes the requirement to be outdated. Your Committee also heard testimony from the Board of Dental Examiners in favor of the repeal of this section.

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 Representatives Honda and Kawakami.

SCRep. 446-82      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 access by fiduciaries to safety deposit boxes.

Present statutory law provides no provisions governing the accessibility to safety deposit boxes by persons acting in the capacity of fiduciaries.

Your Committee heard testimony that present common law in this area is not settled in the United States 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 Representatives Honda and Kawakami.



SCRep. 447-82 Consumer Protection and Commerce on H.B. No. 2627-82 (Majority)

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 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, and reduce deliberations of the Public Utilities Commission.

The bill adds language to the policy section of the Water Carrier law which recognized the need for transportation by means of water carriers and provides guidelines to insure continue<sup>d</sup> service for 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.

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 percent 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 percent or less, establishing a fourteen percent 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 percent nosuspension 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 Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2627-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2627-82, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 448-82 Consumer Protection and Commerce on H.B. No. 1042

The purpose of this bill is to amend the filing system contained in Article 9 of the Uniform Commercial Code (Chapter 490, Hawaii Revised Statutes) to include leases and consignments.

Your Committee notes that the initial version of the Uniform Commercial Code, which was adopted into law in this State in 1965, did not include any provisions covering leases

or consignments. Your Committee further notes that the drafters of the Uniform Commercial Code revised Article 9 covering leases and consignments in 1972 and recommended adoption by the states.

This bill, which is the provision drafted in 1972, would permit the filing of leases in order that the public be notified of the ownership and the secured party be allowed to perfect its interest, should the lease subsequently be held to be a security interest.

Your Committee has made a technical correction to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1042, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1042, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 449-82      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, for the use of industrial loan companies only.

There are no such prohibitions under current law restricting the use of certain words to the names of industrial loan companies.

Your Committee heard testimony that the potential for confusion and misrepresentation exists with the unrestricted use of certain words. Your Committee also heard testimony that the public has in the past been misled in certain cases as to the nature of a business because of its name.

This bill would restrict the use of words such as "finance", "financial", or "industrial loan" in names of business entities unless the entity is a licensee under Chapter 408, Hawaii Revised Statutes. Your Committee agrees with the intent of the bill to deal with the problem of confusion on the part of the public.

Your Committee has made a technical correction to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3053-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3053-82, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 450-82      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 clarify the distinction between credit card agreements and overdraft lines of credit.

Under present law, the definition of "credit card" is contained in Section 478-11, Hawaii Revised Statutes. Your Committee heard testimony that the continuing expansion of banking services offered in conjunction with the use of a credit card has created an uncertainty in the interest rate allowed on certain borrowing transactions available to credit card holders and serviceable through the holder's card.

This bill would clarify the definition of a credit card based on the provisions of the Federal Truth in Lending Act (Regulation Z). Additionally, this bill distinguishes between the extension of credit granted to a cardholder when the credit card is used, and an overdraft line of credit. Your Committee finds that this distinction has become less clear with the increasing use of credit cards to provide access to the cardholder's checking account and to a possible overdraft situation through such access. Should this distinction between these two separate forms of extensions of credit become blurred, uncertainty may arise over the maximum interest rate allowable on overdraft lines of credit since credit card extensions of credit are limited to 18 percent; an interest rate of 24 percent is allowable on overdraft extensions of credit.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2933-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2933-82, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 451-82                      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 promptly investigate and recover stolen precious or semi-precious metals and gems.

Your Committee finds that due to the unique qualitative nature of precious and semi-precious metals and gems, the theft of such jewelry poses unusual obstacles to law enforcement agencies in their investigation and recovery of these valuable or sentimental items. An additional consequence has been the relative ease of concealment and disposition which may occur immediately following such theft. It has been found that concealment is usually accomplished by altering the identity, and therefore the appearance, of the stolen item through a melting process. Once alteration occurs, police investigation is seriously jeopardized thus reducing the probabilities of apprehension of the wrongdoer and recovery of the stolen metal or gem.

This bill will require dealers of second-hand or previously owned precious or semi-precious metals or gems to maintain specific records regarding particulars of every transaction involving such items and to make such records available for police investigatory inspections; prohibits dealers from accepting or purchasing such metals and gems from any minor person; requires dealers to maintain the physical character of the metal or gem in its state of appearance at the time of its receipt by the dealer for a period of not less than ten days following the dealer's gem or metal purchase or possession, whichever is later in time and to make such gem or metal generally available for police inspection.

Your Committee is of the opinion that regulation of this rapidly expanding market is necessary to protect the public's welfare, deter criminal exploitation of an otherwise appropriate commercial enterprise, and aid law enforcement operations at the apprehension and recovery stages.

The Hawaii Jewelers Association, State Advisory Council for Children and Youth, State Office of Children and Youth, and the State Department of Social Services and Housing have either supported or are in accord with the intent of the bill. The Hawaii Antique Dealers Association and two private concerns, namely, the Gold and Crystal Commodities Exchange, Inc. and Kamaaina Metals, have opposed the bill. Charles Bonner of the Criminal Investigation Division, City and County of Honolulu, and Deak-Perera, a private concern, suggested several amendments to the bill which have been duly considered with several of such suggestions having been accepted by your Committee and incorporated into the bill.

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

- (1) Excludes bullion and bullion type coins and bars from the bill's coverage.
- (2) Expanded the record keeping obligations of dealers.
- (3) Prohibits transactions with minor persons regardless of parental or a guardian's consent.
- (4) Reduced the dealer's retention period from 30 to 10 days.
- (5) Expressly covered licensed and non-licensed dealers. A condition of licensing would include acknowledgment of and compliance with the regulation.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. 2348-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2348-82, H.D. 1, and be placed on

the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 452-82      Finance on H.B. No. 2206-82

The purpose of this bill is to amend section 237-4(8), Hawaii Revised Statutes, to remove the provision that capital goods sold to a licensed leasing company are goods which have a depreciable life of more than three years.

This bill clarifies the existing statutes by stating that the wholesale tax rate is applicable only to capital goods which are purchased by the leasing company for lease to its customers. This bill will treat all taxpayers the same regardless of the depreciation of recovery method used and provide a safe vehicle by eliminating a three-year time period. These changes will apply to taxable years beginning after December 31, 1982.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2206-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 453-82      Finance 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.

The claims for refunds, reimbursements, and other payments were filed with the state director of finance and submitted to the attorney general for review and recommendation for payment.

Your Committee has amended this bill to include a claim for Aloha Airlines, Inc.

Your Committee has further amended this bill to reduce the claim of Bette S. Carter from \$250 to \$50.

This bill appropriates \$403,769.17 for the payment of 17 claims under HRS section 37-77 and chapter 662.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2155-82, H.D. 1, as amended herein and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2155-82, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 454-82      Finance 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 Finance is in accord with the intent and purpose of H.B. No. 2679-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 455-82      Finance on H.B. No. 2096-82

The purpose of this bill is to authorize the various counties to charge registrants of vehicles with out-of-state license plates a registration fee of \$5.

Under present law, motor vehicles entering the State without state license plates are required to be registered within 10 days of arrival. No authority for the assessment of a fee is contained in the present law.

Your Committee finds that with the increasing number of nonresident vehicles and the cost to register such vehicles, an administrative fee is long overdue. This bill would provide for the assessment of a registration fee of \$5 for the registration of out-of-state vehicles. This bill would also conform the provision relating to placement of the certificate of registration to that in section 286-47, Hawaii Revised Statutes.

Your Committee has amended the bill to correct technical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2096-82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2096-82, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 456-82      Finance 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 directors 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.

Your Committee reviewed testimony from the county of Hawaii, the city and county of Honolulu, and the lieutenant governor. 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. The city and county of Honolulu has indicated its willingness to handle the contracting for the neighbor island counties.

Your Committee agrees that this bill should not be considered a mandate under Article VIII, section 5, of the State Constitution, for a political subdivision to undertake a new program or to increase the level of service under an existing program of a political subdivision. Your Committee has amended this bill to include a provision to this effect.

Your Committee has further amended this bill to correct technical drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2095-82 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2095-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 457-82      Finance 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 \$1,000.00 to permit the commission to make payment on an award made in 1979, but not yet paid.

Your Committee on Finance is in accord with the intent and purpose of H.B. 2010-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 458-82          Finance on H.B. No. 2244-82

The purpose of this bill is to amend the definitions of a dependent and family of a veteran to correctly reflect individuals whom the Department of Social Services and Housing's veteran counselors serve and to repeal sections 363-8, 363-9, 363-10, Hawaii Revised Statutes, on the burial of veterans and eligible dependents which are no longer applicable.

This proposal would serve to amend the statutes to correctly identify individuals who are eligible for services, to repeal sections governing burial payments which the State has not made and has not budgeted funds for and governing the inappropriateness of burial in a cemetery only for indigents because there are no cemeteries that are exclusively for indigents located in the State.

Your Committee has amended the bill by changing the last sentence of HRS 363-1 to read: "It shall not include a dependent of a person discharged under other than honorable conditions."

Your Committee has further amended this bill by making technical corrections.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2244-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2244-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 459-82          Finance 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. It also provides new schedules for estates and trusts which are not affected by zero bracket amounts.

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 first adopted in 1976. Adoption of these provisions will assist taxpayers who are making many errors in their tax returns due to the difference between the state and federal method of calculating deductions. 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.

The zero-bracket amounts must be incorporated into the tax schedules which Act 208 failed to provide. As determined under Act 208, this revision of the tax schedules results in no loss of revenues. 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 235-52, Hawaii Revised Statutes, which deals with the method of computing the tax on joint returns. The zero-bracket amounts require that the method be changed somewhat and provision for such change must be made in the statute. Your Committee has also added a new section 2 to allow for the various bills in the legislature which may pass amending section 235-2.3, Hawaii Revised Statutes, to save the substantive amendments made in this and such other bills.



Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2203-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2203-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 460-82            Finance on H.B. No. 2158-82 (Majority)

The purpose of this bill is to change 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. 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 essential capital improvement projects in a municipal bond market where interest rates were escalating rapidly. However, this rate will revert to nine and one-half per cent on March 31, 1982.

As a result of uncertainty as to the national deficit, higher costs due to inflation and a combination of other unfavorable economic factors, the rise in municipal bond interest rates continues unabated. Historically, general obligation bond interest rates have trended upwards as measured by The Bond Buyer's 20-Bond Index. Since World War II, the 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 12 per cent since December 3, 1981. The use of statutory rate limits in setting guidelines for controlling public debt offerings has proven to be unrealistic and inflexible. While long-term tax-exempt interest rates may improve, we do not believe that they will recede to levels we have seen traditionally. Competition for funds by the Federal Government, large business corporations and the swell of new tax-exempt offerings by housing finance agencies, industrial development agencies, hospitals and gas and electric authorities will continue to exert strong pressure on interest rates.

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 states, or more than half of the 46 states which have authority to issue general obligation debt, have no statutory interest rate ceiling on their bonds.

Expenditures for capital improvement projects is expected to continue at a rate of about \$150 million a year. To insure continued, orderly financing of these projects, it is advisable to have the interest rate ceiling on state general obligation bonds changed.

Your Committee has amended this bill in its entirety to raise the interest rate temporarily to fourteen per cent, but to limit the effect of such ceiling until June 30, 1983, after which the statutory rate of nine and one-half per cent shall apply.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2158-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2158-82, H.D. 1 and be placed on the calendar for Third Reading.

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

SCRep. 461-82            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.

Present law prohibits the production of "material" containing a minor engaging in sexual conduct. A recent circuit court decision ruled that Sections 707-750(1) and 707-751(1) are unconstitutional because they are overly general in applying to non-pornographic material in which children are shown engaging in sexual acts. Although the Honolulu Prosecuting Attorney has filed an appeal of the ruling with the Hawaii Supreme Court, this bill is necessary in order to prevent the complete inefficacy of present statutes during the appeal process.



Testimony from the Honolulu Prosecuting Attorney indicated that, although the present law was aimed at child abuse and not pornography, most of the materials being found in prosecution proceedings are clearly pornographic. Prosecution efforts will not be unduly hampered by provisions of the bill.

It is the opinion of your Committee that the main intent of the law will not be adversely affected by including pornography in the offense of promoting child abuse.

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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2585-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2585-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 462-82          Judiciary on H.B. No. 2629-82

The purpose of this bill is to amend Section 707-726, Hawaii Revised Statutes to provide that a person who is found guilty of violating an ex parte temporary restraining order issued pursuant to Chapter 585, prohibiting the removal of a child from the jurisdiction of the court, shall be guilty of custodial interference in the first degree, a class C felony.

Under existing law, the penalty for a willful violation of a temporary restraining order is a misdemeanor. Thus, in cases where the court has granted an ex parte temporary restraining order prohibiting the removal of a child from the court's jurisdiction and a parent knowingly removes the child from the court's jurisdiction, the errant parent is not subject to punishment commensurate to the violation. Also, because the violation is only a misdemeanor, assistance of interstate and federal law enforcement agencies cannot be utilized.

By making the violation of an ex parte temporary restraining order a class C felony, the full force of other state and federal law enforcement agencies can be utilized to seek and prosecute violations of Chapter 585.

Your Committee is cognizant that the errant parent is not always notified of an ex parte restraining order. In the absence of actual notice, your Committee believes that violation of an ex parte restraining order should not be punishable as a class C felony. Accordingly, the bill has been amended to provide that only knowing violations of a restraining order issued pursuant to Chapter 585, shall be punishable as a class C felony.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2629-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2629-82, H.D. 1, and that it be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 463-82          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.

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.

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.

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 H.B. No. 2071-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2071-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 464-82      Judiciary on H.B. No. 2513-82

The purpose of this bill is to require a notary public to file a copy of his commission, an impression of his seal, and a specimen of his signature with the circuit court clerk of the circuit in which the notary public resides and to make optional the filing of these documents in any other circuit. This bill also changes the date on which a notary public must file his records with the circuit court from June 30 to July 1 of each year.

Section 456-4 of the Hawaii Revised Statutes currently requires a notary public to file the specified documents with the clerk of the circuit court of each judicial circuit. This practice has proven to be unnecessary because many notaries actually notarize documents only in the circuit in which they reside. This bill would eliminate fees imposed on these notaries by the judicial circuits where they do not practice, and would assist in reducing unnecessary paperwork for the respective circuit court clerks.

Section 456-16 of the Hawaii Revised Statutes currently requires that the records of a notary public be filed on June 30 each year. In changing the filing date to July 1, this bill would provide for better processing by conforming the filing date with the closing of each fiscal year.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2513-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 465-82      Judiciary on H.B. No. 2355-82

The purpose of this bill is to amend Sections 704-411 and 704-415, Hawaii Revised Statutes, to shift the burden of proof from the State to the applicant in cases where a person seeks release following acquittal by reason of insanity or other disorder.

Under present law, the State must prove that a person may not safely be discharged and must be committed when an acquittal by reason of insanity is initiated and when

the person's release from commitment to an institution (resulting from such an acquittal) is subsequently sought. This bill requires that the person, or applicant acting on the person's behalf, prove that the discharge may be safely granted in both situations.

Currently, after establishing the fact of a criminal act, the prosecutor must prove that the defendant was sane at the time of the offense. If the defendant is acquitted by reason of insanity, the prosecutor is then placed in the untenable position of having to argue that the defendant requires commitment due to the defendant's insanity and dangerousness.

Your Committee finds that this procedure favors the defendant over the community even though the fact of offensive criminal conduct by the defendant has been established. By requiring the defendant to demonstrate lack of dangerousness, this bill provides that community safety have greater priority.

In cases where the court grants custody of an acquitted person to the Director of Health for purposes of commitment to an institution, the Department of Health has possession of records pertaining to the person's progress during commitment. Frequently, the person has been in the custody of the Director for several years when an application for release is filed. Under present statutes, the prosecutor is again faced with an untenable position: i.e. that of having to use evidence presented on behalf of the acquitted person for the adversarial purpose of establishing a need for the person's commitment. Your Committee finds that the Department of Health and the acquitted person are in the best position to produce medical records and evidence regarding the person's mental status, and that, as provided in this bill, they should therefore bear the burden of proof in determining whether the person should be released.

Your Committee recognizes that this bill provides for a major change in present law. Research by the office of the Honolulu Prosecuting Attorney indicates that precedent for placing the burden of proof upon a defendant or applicant in establishing commitment requirements for persons acquitted of crimes by reason of insanity has been set in at least fifteen other states. The constitutionality of such provisions has been upheld in numerous cases including *Lubliv v. Central Islip Psychiatric Center*, 43 N.Y.2d 341, 401 N.Y.S.2d 466, 372 N.E.2d 307 (1977) and *United States v. Ecker*, (D.C. App., 1976) 543 F.2d 178.

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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2355-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2355-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 466-82      Water, Land Use, Development and Hawaiian Affairs and  
Agriculture on H.B. No. 2332-82

The purpose of this bill is to establish a minimum lease term of twenty 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 investment. Your Committees further find that lending institutions are reluctant to make loans to farmers or ranchers who have short term leases.

Upon further consideration, your Committees have amended the bill to require that the minimum lease term for state lands which are leased for intensive agricultural and pasture uses be fifteen years instead of twenty years. Your Committees believe that a lease term of fifteen years is sufficient to allow a farmer or rancher to recoup his investment and to obtain adequate financing for his operations.

Your Committee on Water, Land Use, Development, and Hawaiian Affairs and your Committee on Agriculture are in accord with the intent and purpose of H.B. No. 2332-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2332-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 467-82      Water, Land Use, Development and Hawaiian Affairs and Ocean and Marine Resources on H.B. No. 2178-82

The purpose of this bill is to enable the Department of Land and Natural Resources to continue its "endangered and threatened species" conservation programs.

Your Committee finds that in enacting Act 85, S.L.H. 1981, an unintentional error was committed. That law permitted the department to take or issue permits to take wildlife and aquatic resources for scientific, educational or propagation purposes but not if the species were endangered or threatened. This error, if not corrected, would make it impossible for the department to continue its conservation work which requires the taking of such species for scientific and propagation purposes.

Your Committees are in accord with the intent and purpose of H.B. No. 2178-82 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 468-82      Water, Land Use, Development and Hawaiian Affairs and Agriculture on H.B. No. 2331-82 (Majority)

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 Committees find that the qualification criteria are essentially the same as the criteria contained in section 171-68, Hawaii Revised Statutes, which apply to agricultural and pasture leases which are awarded by drawing. This bill will exclude persons from bidding for agricultural and pasture land leases who may be unable to use the lands for bonafide farming purposes. Your Committees further find that this bill will give bonafide local farmers a greater chance of obtaining state lands for agricultural and pasture uses.

Your Committee on Water, Land Use, Development, and Hawaiian Affairs and your Committee on Agriculture are in accord with the intent and purpose of H.B. No. 2331-82, and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Blair.  
(Representative Monahan did not concur.)

SCRep. 469-82      Water, Land Use, Development and Hawaiian Affairs on H.B. No. 2697-82

The purpose of this bill is to extend the deadline by which the residents of Maunaloa 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 Maunaloa Valley residents' homesites are located partly within a conservation district and partly within a 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 Maunaloa 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 Water, Land Use, Development and Hawaiian Affairs 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. 470-82      Health on H.B. No. 2169-82

The purpose of this bill is to authorize the department of health to designate by administrative rule the number of blood samples and times of occurrence blood samples are to



be taken from pregnant women for syphilis testing.

Serological testing for syphilis in pregnant women is conducted to detect and treat syphilis infections to avert infection and damage to the fetus as well as to treat the mother.

Your Committee on Health has amended H.B. No. 2169-82 by adding "as directed" after the word "taken" on page 2, line 1, and by deleting "by a licensed physician" on page 2, lines 10 and 11.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2169-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2169-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 471-82      Finance on H.B. No. 2241-82

The purpose of this bill is to permit the retention of state income tax refunds for those persons owing a debt to the State.

Your Committee finds that retention of state income tax refunds will become an effective enforcement technique to be used in the collection of delinquent payments, due and owing to the State. Some state programs have up to fifty per cent of payments due to them being paid delinquent and it has become apparent that the State must use all methods available to collect these debts lawfully owed.

Your Committee also finds that similar programs in the federal government and other states have proved effective in the collection of debts due and owing to them.

Your Committee has amended this bill by deleting the phrase "or any subdivision thereof" on the last two lines of page 1 for clarity purposes. Your Committee has also amended this bill so that only issues that have been previously litigated cannot be considered in the hearings and appeal section on the bottom of page 2 and the top of page 3.

Your Committee has further amended this bill by making technical corrections.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2241-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2241-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 472-82      Youth and Elderly Affairs and Judiciary on H.B. No. 2243-82

The purpose of this bill is to amend the existing provisions regarding elderly abuse or neglect under Chapter 349C of the Hawaii Revised Statutes to provide for the confidentiality of reports and records made pursuant to the chapter.

Your Committees heard testimony from the Department of Social Services and Housing in support of this bill as it would serve to protect the rights and privacy of individuals receiving services under Chapter 349C as well as those persons reporting incidents of elderly abuse or neglect.

After careful consideration of the testimony received, your Committees have amended this bill as follows:

- (1) Deletion of the body of this bill as its intent is not to repeal Chapter 349C, the existing chapter of the Hawaii Revised Statutes pertaining to elderly abuse and neglect, by adding a new chapter to the Hawaii Revised Statutes, but rather to add a new section to Chapter 349C on confidentiality of reports and records (p. 1, lines 1-14; p. 2, lines 1-21; p. 3, lines 1-21; p. 4, lines 1-20; p. 5, lines 1-14).
- (2) Insertion of a new section to provide that it shall be a misdemeanor to make any unauthorized disclosure of a report or record made pursuant to Chapter 349C as such reports or records are confidential; and providing the Director



of Social Services and Housing with the authority to adopt, amend, or repeal rules, subject to Chapter 91, to provide for such confidentiality as well as the authorized disclosure of reports and records.

- (3) Addition of a new section providing that non-reporting of incidents believed to involve elderly abuse or neglect by persons required to make such reports shall be a petty misdemeanor.
- (4) Deletion of the existing provision concerning immunity from liability and insertion of a new provision requiring the State to indemnify and hold harmless from civil liability any person who makes a report in good faith pursuant to Chapter 349C.
- (5) Repeal of section 349C-6 regarding admissibility of evidence as this matter is presently covered by Rule 502 of the Hawaii Rules of Evidence.
- (6) Division of section 349C-2 regarding reports into three subsections for the purpose of clarity.

Your Committees on Youth and Elderly Affairs and Judiciary are in accord with the intent and purpose of H.B. No. 2243-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2243-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 473-82      Housing 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 recommends the following amendments to H.B. No. 791:

1. Page 1, lines 11-13: Substitution of "a principal residence" for "any residential property" and "such property."
2. Deletion of page 1, line 16 - page 2, lines 1-4.

These amendments provide a more clear definition of "eligible borrower" in regards to the person's ownership of property and conforms more closely to the federal Mortgage Subsidy Bond Tax Act of 1980.

3. Page 2, line 13: Insertion of the word "permanent" before the word financing.

This amendment clarifies the fact that a Hula Mae Loan is for the permanent financing of a dwelling unit rather than for its construction.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 791, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 791, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 474-82      Energy, Ecology and Environmental Protection and Consumer  
Protection and Commerce 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 and shall not be less than the fuel cost the utility would otherwise incur in generating the same amount of electricity.

Your Committees find that since the State depends upon imported petroleum for over ninety per cent of its energy needs, the development of non-fossil fuels is essential to the energy security and economic stability of the State.

An important incentive necessary to promote and encourage the development and commercialization of sources capable of supplying electricity generated from non-fossil fuels is an assurance that these suppliers are paid a fair minimum base price for their non-fossil fuel generated electricity.

Your Committees have amended H.B. No. 2230-82 as follows:

1. In its original form, H.B. No. 2230-82 amended subsections (a), (b), and (c) of Section 269-27.2, Hawaii Revised Statutes. H.B. No. 2230-82, H.D. 1, amends only subsection (c) of the aforementioned section.
2. In its original form, H.B. No. 2230-82 made several amendments to subsection (c) of Section 269-27.2, Hawaii Revised Statutes. In H.B. No. 2230-82, H.D. 1, all of the original amendments to subsection (c) have been deleted.
3. Subsection (c) has been amended by establishing that the rate payable by the public utility to the producer of non-fossil fuel generated electricity shall, as a minimum, not be less than ninety per cent of the estimated avoided costs as required by section 6-74-17 (requirements regarding data from which avoided costs may be derived) of the rules established by the PUC for standards for small power production and cogeneration and, as a maximum, not be greater than one hundred per cent of such avoided costs.
4. Subsection (c) has also been amended by providing that in establishing the rate for the non-fossil fuel generated electricity supplied to the utility by the producer, the provisions of section 6-74-23 (factors affecting rates for purchase) of the aforementioned PUC rules shall not apply.
5. Subsection (c) has been further amended by providing that existing contracts between utilities and suppliers of non-fossil fuel generated electricity shall not be affected by the new requirements addressed in subsection (c).

Your Committees on Energy, Ecology and Environmental Protection and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2230-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2230-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 475-82      Water, Land Use, Development and Hawaiian Affairs and  
AGriculture on H.B. No. 2573-82

The purpose of this bill is to amend Section 205-4.5, Hawaii Revised Statutes, to make water storage tanks ancillary to domestic use, as well as agricultural use, a permitted use within agricultural districts with A or B soil classifications.

Your Committees find that the several counties of the State have suffered prolonged drought which affected the health, safety, and welfare of the people of the counties.

Your Committees further find that the location of major storage tanks generally depends on elevation, source of water, and proximity to the users. Therefore, any long-range plan may call for the location of water storage tanks on lands with A or B classifications.

The Department of Agriculture has "...no objection to this bill, as long as sufficient need can be demonstrated."

Your Committees conclude that permitting major water storage tanks ancillary to both agricultural and domestic uses will serve the best interests of the counties and therefore the State.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and on Agri-

culture are in accord with the intent and purpose of H.B. No. 2573-82 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Blair, Kawakami and Takamine.

SCRep. 476-82      Water, Land Use, Development and Hawaiian Affairs 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 the volunteers of other state agencies--a situation which should be corrected.

Your Committee on Water, Land Use Development and Hawaiian Affairs 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. 477-82      Water, Land Use, Development and Hawaiian Affairs 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 finds that these organizations occupy public lands by virtue of revocable permits without long term tenure, and that that situation makes it virtually impossible to finance improvements on the property.

Your Committee finds that these organizations (such as the American Legion, the Veterans of Foreign Wars, the Red Cross) should be permitted to have the same kind of opportunities afforded to educational, charitable, and religious organizations.

Your Committee has made certain style changes in Section 1 of the bill after the reference to "Section 235-9(a)(2)" in line 8. The changes do not affect the substance of the bill.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2271-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2271-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 478-82      Consumer Protection and Commerce on H.B. No. 2934-82

The purpose of this bill is to raise the allowable cumulative preferred dividend rate from six to twelve percent.

Under present law, dividend rates payable for preferred stock issued by banks are limited to six percent per annum.

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. 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 raised substantially. Your Committee therefore finds itself in agreement with the intent of this bill.

Your Committee also notes that dividend rates are a matter of business judgment on the part of the issuing bank and that adequate regulations and controls exist to prevent any abuse of the preferred stock issuance process. Your Committee has therefore amended

the bill to provide that there shall be no limit on the allowed dividend rate.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2934-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2934-82, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 479-82      Consumer Protection and Commerce on H.B. No. 2408-82

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

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 heard testimony from the Hawaii Central Credit Union that allowing credit unions greater flexibility in setting their own interest rates and giving them the opportunity to offer a variety of services to their members will help them to effectively compete in Hawaii.

Your Committee also heard testimony from the Department of Regulatory Agencies that changing the effective date of the bill from January 1, 1983 to July 1, 1983 would allow the department some time to recommend further amendments to chapter 410, Hawaii Revised Statutes.

While in agreement with the purpose of the bill, your Committee has amended the bill by raising the ceiling of interest rates that credit unions may charge. Your Committee has also amended the bill by changing the effective date of the bill from January 1, 1983 to July 1, 1983.

Your Committee has also made technical corrections to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2408-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2408-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 480-82      Judiciary on H.B. No. 2822-82

The purpose of this bill is to amend Section 712-1241(1)(b)(ii)(A), Hawaii Revised Statutes, by deleting reference to "alkaloids" of heroin, morphine, and cocaine as they relate to the offense of promoting a dangerous drug for the reason that alkaloids of these drugs do not exist.

Present statutory references to "alkaloids" of heroin, morphine, and cocaine were apparently made in error. This bill is needed to prevent problems that could arise due to the inaccurate chemical description.

Your Committee finds that additional inappropriate references to alkaloid drugs are made in Sections 712-1241(1)(a)(i) and 712-1242(1)(b)(i), Hawaii Revised Statutes.

Accordingly, your Committee has amended the bill to correct terminology in Sections 712-1241(1)(a)(i) and 712-1242(1)(b)(i).

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2822-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2822-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 481-82      Finance on H.B. No. 2564-82

The purpose of this bill is to allow the Department of Regulatory Agencies to assess special fees for the special handling of corporation and partnership documents.

Under present law, the Department is authorized to charge a single fee for the processing of certain documents. Due to the volume of documents received to be processed, there exists a backlog which has caused a lag time of several weeks between submission and processing. Requests are regularly received for expedited processing of documents.

This bill would provide a source of funds from which more flexible staffing can be utilized by the Department.

The fund established by this bill will have a life of two years at which time its effectiveness and circumstances can be evaluated for continuation or lapse.

Your Committee has amended this bill to make the two business registration assistants positions temporary. Your Committee has also amended this bill to clarify language relating to the special fund.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2564-82, as amended herein, and recommends that it pass Third Reading in the form attached as H.B. No. 2564-82, H.D. 1.

Signed by all members of the Committee.

SCRep. 482-82      Health on H.B. No. 3016-82

The purpose of this bill is to require the Department of Health to issue birth certificates to individuals who were born outside of the Territory or State of Hawaii.

The present law does not provide for issuance of Hawaii birth certificates to foreign born persons, except in the limited circumstance of adoption in the State of Hawaii.

Your Committee received favorable testimony from the Department of Health and the public, indicating the desire and need for legislation to provide for such birth certificates. Oftentimes, residents of this state are temporarily outside of this state due to employment or military service. Upon the birth of a child, the child receives a birth certificate issued by the state or country in which the child is born. Due to this State's unique heritage, a Hawaii birth certificate is extremely important to the child and the parents of the child.

Your Committee has amended H.B. No. 3016-82 by deleting reference to adopted children, as "legal parents" includes parents of adopted children. This bill has also been amended by deleting (1) and (2) of subsection (a) pertaining to the requirements of residency and payment of taxes because the director of the department of health may promulgate rules and regulations with respect to such requirements.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 3016-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3016-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 483-82      Health on H.B. No. 2167-82

The purpose of this bill is to enable the department of health to require the administration of silver nitrate or other prophylaxis for the prevention of blindness in the newborn at childbirth.

Ophthalmia prophylaxis in the newborn, one of the greatest preventive health accomplishments in ophthalmology, is required by statute or regulation in forty-eight states. This bill would clarify the responsibility of the department of health in establishing standards for the use of ophthalmia prophylaxis to prevent blindness in the newborn.

Your Committee has amended H.B. No. 2167-82 by deleting "silver nitrate or other" on line 6.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2167-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2167-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 484-82      Finance 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 has made some minor technical changes to the bill of a non-substantive nature.

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

Signed by all members of the Committee.

SCRep. 485-82      Consumer Protection and Commerce and Housing 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.

Under the present Section 478-7, Hawaii Revised Statutes, the recovery of compound interest is not permitted. This bill would provide a limited exception to that prohibition.

Your Committees have heard testimony that the recent increase in interest rates has produced a variety of responses from the lending industry to provide financing at affordable rates for borrowers, while at the same time providing an adequate return for the lender. One of these programs is the adjustable rate mortgage loan where a loan is made with a long term repayment schedule, but 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 Committees note that the federal government has approved the concept of negative amortization. Your Committees also believe that this type of loan is a flexible financing arrangement that consumers may wish to utilize, and is therefore in agreement with the intent of the bill.

Your Committees have made technical, clarifying amendments to the bill.

Your Committees on Consumer Protection and Commerce and Housing are in accord with the intent and purpose of H.B. No. 2404-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2404-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Levin.

SCRep. 486-82      Consumer Protection and Commerce on H.B. No. 2935-82

The purpose of this bill is to authorize banks to offer certain banking services at locations such as hotels or airline facilities without those areas being designated as

branch banks.

Under present law, the various locations where banking services may be offered are regulated under Section 403-53, Hawaii Revised Statutes, which prohibits the offering of services except at authorized branch bank locations.

This bill would create an exception which would authorize banks to offer certain cash withdrawal or extensions of credit through credit cards at locations such as hotels, airlines or automobile rental facilities. Your Committee heard testimony that this service, which is directed primarily toward travelers but would be serviced by local banks, is offered in most of the states.

Your Committee has made several technical corrections to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2935-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2935-82, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 487-82      Water, Land Use, Development and Hawaiian Affairs; and  
Energy, Ecology and Environmental Protection on H.B. No.  
2624-82

The purpose of this bill is to allow, when determined to be justified, an extension of time to complete an Environmental Impact Statement (EIS) as part of the Conservation District Use Application (CDUA).

Your Committees find that the present 180 day time limit for CDUA processing oftentimes places an undue burden on the applicant. This is because of the requirement of an acceptable EIS prior to the consideration of the application itself.

Your Committees find that the EIS procedure itself may extend beyond the 180 day decision making period of the entire CDUA process. This, in turn, forces the applicant to withdraw his application and start from "scratch" or forces the Board of Land and Natural Resources to disapprove the application. Either action would be unfair to the applicant.

Your Committees further find that the extensions proposed is vague as to time period. Testimony presented suggests that an additional 180 day period could be justified.

Your Committees have therefore, amended the bill by inserting after the word "extended" on line 14 of page 2 the phrase "a maximum 180 days."

Your Committees on Water, Land Use, Development and Hawaiian Affairs and on Energy, Ecology and Environmental Protection are in accord with the intent and purpose of H.B. No. 2624-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2624-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Blair, Kawakami and Takamine.

SCRep. 488-82      Finance on H.B. No. 2247-82

This bill is the income tax conformity bill which the department of taxation is required to submit annually to the legislature under section 235-2.3, Hawaii Revised Statutes. The bill conforms the Hawaii income tax law to the federal Internal Revenue Code as the Code existed on December 31, 1981 with certain exceptions. The bill includes many of the provisions contained in the Economic Recovery Tax Act of 1981, but it does not contain the sometimes controversial tax cuts and bracket changes contained in that Act.

Your Committee finds this bill of particular importance this year to both the department of taxation and the taxpayer. The individual taxpayer is the most affected by the efforts to maintain close conformity with the Internal Revenue Code. Tax forms are difficult



enough for individuals without numerous avoidable differences between state and federal forms. Many of our taxpayers have entered All Savers programs and many more will enter the new Individual Retirement Account program. If the State does not adopt the new provisions in this area, taxpayer compliance will be a problem because of the different tax treatment of these provisions since the federal will exempt such amounts while the State continues to tax them.

Furthermore, failure to adopt the new provisions for Individual Retirement Accounts presents an acute problem. Individuals will have to keep two sets of books for a long period of time, as long as forty years, since these accounts cannot easily be terminated before age fifty-nine and one-half. The creation of Individual Retirement Accounts and the expansion of Keogh plans under this bill will also assist in providing needed long-term money for mortgage loans through banks and savings and loan associations.

Tax exempt contributions are allowed to deferred compensation plans by state and county employees. The plan is now being prepared under Act 7, of the 1981 Special Session.

Conforming amendments are made to the child care credit which will alleviate some of the problems caused by Reaganomics as the credit is increased for persons with incomes under \$10,000. Net operating losses businesses are allowed have been expanded to allow a carryover of fifteen years instead of five years which will be particularly helpful to our ailing sugar and pineapple industries.

The elderly are also affected by this bill since the amount exempted from taxation on the sale of a residence is increased by \$25,000 to \$125,000 which is particularly important in Hawaii's inflated housing market.

The department of taxation will also be affected by failure to adopt this bill. The extensive technical amendments to the Internal Revenue Code as well as the more publicized changes have an impact on the department's plans to computerize the income tax program. The department relies on federal computer information which therefore necessitates a close match between the federal and state laws.

Your Committee feels this bill should be passed early in this regular session to allow our taxpayers to file correct income tax returns, particularly those with All Savers certificates and our elderly who sold their residences during the last half of 1981. Otherwise they will be forced to file an amended return. Not only will this create additional paper work for taxpayers, but the department must also cope with these additional returns.

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 under-scoring 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 on Finance is in accord with the intent and purpose of H.B. No. 2247-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2247-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 489-82      Finance 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 and 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 accounts are not unreasonable.

Your Committee has amended this bill to correct drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2176-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2176-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 490-82      Energy, Ecology and Environmental Protection on H.B. No. 2667-82

The purpose of this bill is to exempt certain curricular and extracurricular activities which occur on school campuses from the noise control rules of the Department of Health.

Your Committee finds that participation in extracurricular social and athletic events and instruction in technical trades and music afford students the opportunity to expand their experiences. These activities allow students to participate in a variety of educationally and socially enriching experiences in a campus environment. These activities, however, may be louder than the allowable levels established by law. Consequently, many of these school-related activities are in danger of being prohibited.

Your Committee believes that school children must be provided the opportunity to participate in a variety of worthwhile school activities. This bill will establish an equitable balance between the conflicting needs of noise control and certain school activities which are essential for the well-rounded development of our students.

H.B. No. 2667-82 has been amended as follows:

1. Section 342- , subsection (a), has been amended by requiring that the exemption from noise regulations be limited specifically to school-related activities which have been authorized by the school principal or the principal's designated representative.

2. Section 342- , subsection (a), paragraphs (1), (2), (3), and (4), have been amended by deleting from each of the paragraphs the phrase "during or after normal school hours which have been authorized by the principal or head of the school."

3. Section 342- , subsection (a), paragraph (1), has been further amended by adding the phrase "chorus, or other musical groups."

4. Section 342- , subsection (a), paragraph (3), has been further amended by rewording the paragraph to read as follows:

"(3) Social events, including but not limited to dances, concerts, theatrical or musical plays, carnivals, bazaars, and pep rallies; and"

5. Section 342- , subsection (a), paragraph (4), has been further amended by providing a slightly changed definition of "athletic events" for the purposes of paragraph (4).

6. Section 342- , subsection (b), has been amended by including the provision that any school which exceeds applicable noise standards must file a plan for noise abatement with the Department of Health.

7. Section 342- , subsection (c), has been deleted in its entirety. Responsibility for noise control in schools will remain within the purview of the Department of Health rather than the Department of Education as was proposed in the original version of the bill.

8. Section 342- , subsection (d), has been deleted in its entirety. Because of the noise abatement plan provision inserted in subsection (b), your Committee believes that the requirements of subsection (d) are no longer necessary.

9. For purposes of consistency, subsection (e) has been changed to read subsection (c).

10. Other technical, nonsubstantive changes have also been made to this bill.

Your Committee on Energy, Ecology and Environmental Protection is in accord with the intent and purpose of H.B. No. 2667-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2667-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 491-82            Consumer Protection and Commerce on H.B. No. 3072-82

The purpose of this bill is to provide that holders of a wholesale liquor dealer's license may sell "samples of liquor" back to the manufacturer. The bill amends Section 281-31, Hawaii Revised Statutes, to accomplish this purpose.

Your Committee has amended the bill to state that wholesale dealers may sell draught beer in quantities not less than five gallons at one time to any person for private consumption if that licensee files an affidavit with the county liquor commission stating that there is no class 4, retail dealer, licensee to sell that wholesaler's brand of beer.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3072-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3072-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Chun.

SCRep. 492-82            Consumer Protection and Commerce and Housing on H.B. No. 1653

The purpose of H.B. No. 1653 is to clarify the percentage of votes required to make amendments to the declaration and bylaws of apartments owners' associations under Chapter 514A, Hawaii Revised Statutes.

Your Committees heard testimony noting various ambiguities in the present voting requirements in Sections 514A-11(11) and 514A-82(11), Hawaii Revised Statutes, including the fact that no specific provisions exist for the percentage of votes required to amend the declaration. Similarly, present law is not explicit as to whether the 75 percent requirement for bylaw amendments means 75 percent of the entire membership of the association, or 75 percent of those present and voting at a meeting once a quorum is established. Lastly, it is not clear whether amendments can be made by a ballot procedure conducted by mail.

This bill would address the inadequacies of the present statutory provisions by (1) allowing a declaration to be amended by the vote of not less than 65 percent of the apartment owners present at a meeting or by 65 percent of all owners if voting is by proxy, and (2) allowing the bylaws to be amended by a vote of not less than 75 percent of the apartment owners present at a meeting or by a majority of all owners if voting by proxy.

While in agreement with the general intent of the bill to clarify statutory language which is presently unclear, your Committees believe that the declaration, which is a superior document to and controlling of the bylaws, should require a higher degree of consensus for amendments thereof in relation to the bylaws. Your Committees have therefore amended the bill as follows:

(1) Section 1 of the bill has been amended to specify that amendments to the declaration will require not less than approval of 75 percent of all apartment owners. Such votes may be taken at an association meeting in person or by proxy or by mail.

(2) Section 2 of the bill has been amended to provide that the bylaws may be amended by the approval of not less than 60 percent of all apartment owners. Testimony on the bill generally agreed that the present requirement of seventy-five percent for bylaw amendments, if interpreted to mean seventy-five of the entire association membership, is too strict. Large associations, in particular, have difficulty even obtaining a quorum at annual meetings. As in the case of amendments to the declaration, votes may be taken at an association meeting or by mail.

To implement the changes noted above, your Committees have added a new section 3 to the bill amending Section 514A-81, Hawaii Revised Statutes, to delete the requirement

that the bylaws be annexed to and made a part of the declaration. Otherwise, it might be argued that, as a result of this incorporation, the stricter requirement for amending the declaration superseded the specific provision relating to the bylaws.

Nothing in this bill requires personal attendance at association meetings to vote on amendments to the declaration and bylaws. Apartment owners may continue to vote in person or by proxy as presently provided by statute. Further, nothing in this bill would prevent an association, if it so desires, from specifying a higher percentage than is required by this bill to amend the declaration or bylaws. The bill merely specifies a floor below which votes would not be valid.

Your Committees on Consumer Protection and Commerce and Housing are in accord with the intent and purpose of H.B. No. 1653, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1653, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Aki, Ige and Segawa.

SCRep. 493-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 2560-82

The purpose of this bill is to increase the farm loan ceiling, 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. The average truck farmer, for example, requires \$60,000 for initial development needs. The existing purposes also restrict the use of funds to initial development needs and do not take into consideration subsequent needs to support the farm before its revenues become self-supporting. In this category, for example, are operating costs to support the farm before it generates revenues and becomes viable during its second or third year, and relief funds for losses due to natural disasters and unforeseen economic conditions.

Your Committee adopted the recommendation of the Department of Hawaiian Home Lands to amend Sections 213 and 214 of the Hawaiian Home Commission Act to increase the farm loan ceiling to a more realistic level and to expand the purposes under which loans can be made. Specifically, H.B. No. 2560-82 is designed to increase 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 due to natural disasters and depressed economic conditions.

Your Committee has amended this bill to correct typographical errors.

In summary, this bill will expand the Department's agricultural financial assistance program to encourage more active farming and ranching enterprises and expand opportunities for homesteaders to be viable in these endeavors.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2560-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 494-82      Finance on H.B. No. 2358-82

The purpose of this bill is to establish a statewide program, managed by the Attorney General, which would provide technical and financial assistance to state and county law enforcement agencies to combat organized crime.

Your Committee recognizes that organized crime in Hawaii has grown and flourished in recent years. Current efforts in this area by county agencies are hampered by a lack of sufficient funding.

Your Committee has amended this bill to raise the appropriation to \$1,000,000 and by deleting the provision for matching county funds or for reimbursement by counties.

Your Committee has also made technical amendments to the bill of a non-substantive nature.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2358-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2358-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 495-82      Finance 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 finds that the delegation of authority to the Chairman of the Board of Agriculture to approve such loans is necessary to expedite action on applications for small loans because the Board of Agriculture usually meets only once a month.

Your Committee also finds that under language currently in section 155-9, Hawaii Revised Statutes, a person could conceivably exceed the maximum amount of a loan provided for by obtaining a loan in a particular class as a sole proprietor and also obtaining additional loans in the same class through a partnership or corporation. This bill would take the sum of loans made both as an individual and through a partnership or corporation, if the individual has more than twenty per cent legal or equitable interest in the partnership or corporation, and apply this amount towards determining the amount of loans outstanding for the individual.

Your Committee has amended this bill to correct drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2367-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2367-82, H.D. 1.

Signed by all members of the Committee.

SCRep. 496-82      Finance on H.B. No. 2407-82

The purpose of this bill is to prohibit the issuance 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 heard testimony 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.

Your Committee has amended this bill to clarify the definition of applicant.

Your Committee has further amended this bill by specifying that certification be as to taxes owed under judgment and by adding a proviso which waives the requirement for a certificate from the Internal Revenue Service if the Internal Revenue Service does not furnish a certificate within five working days.

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

Signed by all members of the Committee.

## SCRep. 497-82      Transportation on H.B. No. 2814-82

The purpose of this bill is to define a newspaper of general circulation as one with a minimum readership of 50,000 and one with a distribution to all counties of the State.

Under the present statute, it is not clear what is meant by general circulation, as a result often abandoned vehicles up for public auction are not always well publicized to interested parties.

Your Committee on Transportation and the Honolulu Police Department believe the definition is essential in assuring that interested parties are given a fair opportunity to bid for a vehicle up for auction.

Your Committee, for purposes of specificity, has further amended this bill to define "all counties" as those which have a population over 250,000.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2814-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2814-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives  
D. Hagino and Nakasato.

## SCRep. 498-82      Health on H.B. No. 2682-82 (Majority)

The purpose of this bill is to effect changes in Chapter 323D, Hawaii Revised Statutes, health planning and resources development program that is administered by the state health planning and development agency.

Your Committee finds that due to impending federal funding cuts, the state health planning and development agency must be able to use discretion in the allocation of its resources. So that this may be accomplished, certain functions of the state health planning and development agency that are mandatory at present must be made permissive. Discretion in resource allocation will be possible, also, with clarification of the state health planning and development agency's authority to make a non-final decision on a certificate of need application within ninety (90) to one-hundred fifty (150) days after the beginning of agency review.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2682-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 499-82      Water, Land Use, Development and Hawaiian Affairs on  
H.B. No. 1882 (Majority)

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 Committee received testimony in support of this bill from the Department of Land and Natural Resources. 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 Department also stated that the Hawaii State Functional Plan on Water Resources recommends that a State agency be designated to protect instream uses of water and that as competition for limited available water increases, an agency responsible to protect instream uses of water is urgently needed.

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 Committee has made the following amendments to the bill:

The definition of "instream flow requirement" has been amended to incorporate similar definitions of the same concept which were presented elsewhere in the chapter.

The phrase "the public" has been added to Section 4(1) to clarify its intent.

The phrase "to be set or modified for" has been added to Section 4(1)(C) to clarify its intent.

Section 4(1)(F) has been amended to indicate that the Department may consult with and consider the recommendations of concerned private persons. However, the Department is not obligated to do so.

Section 4(1)(H) has been deleted, and a new Section 7 has been added providing for judicial review pursuant to H.R.S. chapter 91 for all orders or actions of the board undertaken pursuant to this chapter.

The terminology used in Section 4(2) has been amended to clarify its intent and to make it more consistent with Section 4(1). The phrase "interim instream flow standard" has been substituted for "reservation", and "petition" has been substituted for "application". Also, your Committee has deleted the provision of Section 4(2)(C) which requires persons petitioning the board to provide information about non-instream water demands, and has added a requirement that any other information requested by the board be "relevant and reasonable". While your Committee supports the intent of shifting some of the burden for data collection onto the petitioner, thereby facilitating the board's decision-making process, your Committee finds that the preparation of a petition should not be beyond the resources of the average private citizen. Your Committee finds that petitioners should not, for example, be required to purchase stream monitoring equipment in order to prepare the petition.

Section 4(2)(E) has been amended from 270 to 180 days with a 180-day extension allowable. The board's adoption of interim instream flow standards depends on the number of petitions before the board and on its manpower capabilities to collect additional data. A more flexible schedule of 180 days with an extension requested by the petitioner may assure adequacy in the board's review of the petition and adoption of the standards.

Your Committee had made stylistic changes to Section 4(3) and has incorporated Section 4(4)(C) into Section 4(3) in order to clarify the meaning of the two paragraphs.

Your Committee has made stylistic changes to Section 4(4) to clarify its intent, and has deleted subparagraph (B) since it duplicated the provisions of Section 4(3)(A).

Lastly, your Committee added a new Section 6 providing penalties for persons who violate the rules or procedures adopted by the board pursuant to this chapter.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1882, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1882, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker,  
Hashimoto, Kawakami, Takamine and Monahan.  
(Representative Isbell did not concur.)

SCRep. 500-82

Finance on H.B. No. 2559-82

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

The Department of Transportation contracted with Hawaiian Dredging and Construction Company in 1973 for a construction project on Interstate Route H-2, Waiakakalaua Stream Bridge. Due primarily to errors in designs and plans, the State was found to be respon-



sible for 129 days of delay in the project causing a delay of almost sixteen months beyond the time originally established in the contract.

The office of the Attorney General believes 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. The State is seeking reimbursement from the Federal Highway Administration of 90 per cent of the settlement amount. The State is pursuing the possibility of contribution by engineer at fault.

Your Committee has amended this bill to provide for the lapsing of the appropriation on June 30, 1983.

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

Signed by all members of the Committee.

SCRep. 501-82      Finance on H.B. No. 2366-82

The purpose of this bill is to authorize the Department of Agriculture to receive funds, subject to the approval of the Governor, from private or governmental sources to carry out projects, agreements, contracts, or other transactions necessary in the conduct of business related to the Department's objectives and goals.

Your Committee finds that the Department of Agriculture has been the recipient of such funds, although there is presently a lack of specific language in the Hawaii Revised Statutes authorizing the Department to do so, in carrying out business relating to its objectives and goals. This bill proposes to insert such enabling language.

Your Committee has amended this bill to correct chapter references and other technical drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2366-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2366-82, H.D. 1.

Signed by all members of the Committee.

SCRep. 502-82      Finance on H.B. No. 2238-82

The purpose of the bill is to repeal sections 346-53(c) and 346-55, Hawaii Revised Statutes, which were adopted as early as 1939 to provide the Department of Social Services and Housing with the basis for the provision of assistance for children under the federal Aid to Families with Dependent Children (AFDC) program.

The bill is intended to eliminate outdated and duplicate provisions. HRS §346-53(c) and §346-55 have been replaced with the adoption of HRS §346-7, Acceptance of Grants-in-Aid or Outright Grants and §346-14 (6) relating to cooperation with the federal government in carrying out the purposes of the Social Security Act for receipt of financial assistance from the federal government. These new provisions adequately provide the basis to participate in the federal program. The repeal of sections of the statutes which relate specifically to the Aid to Families with Dependent Children program will eliminate the need to revise the state statutes each time there are changes in the federal law.

Your Committee has amended this bill to correct drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2238-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2238-82, H.D. 1.

Signed by all members of the Committee.

SCRep. 503-82      Finance on H.B. No. 2477-82

The purpose of this bill is to clarify the hazardous waste management responsibilities of the Department of Health.

This bill will amend chapter 342, Hawaii Revised Statutes, by including language that explicitly authorizes the Director of Health to regulate and issue permits for facilities that treat, store, and dispose of hazardous waste. The bill will also authorize the Director of Health to impose financial responsibility requirements on facilities that treat, store, and dispose of hazardous waste.

These proposed changes are needed to give the State the option to manage its own hazardous waste program that would be equivalent and consistent with the federal Environmental Protection Agency (EPA) hazardous waste management program authorized under the Resource Conservation and Recovery Act of 1976.

These proposed changes are consistent with EPA recommendations and will facilitate and clarify the proper administration of chapter 342, Hawaii Revised Statutes.

Your Committee has amended this bill to make technical corrections.

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

Signed by all members of the Committee.

SCRep. 504-82      Energy, Ecology and Environmental Protection on H.B. No.  
2050-82 (Majority)

The purpose of this bill as received by your Committee was to require the Director of the Department of Health to adopt a policy for the prevention of significant deterioration of the air quality of the state. The measure recognizes a policy balancing the need for preventing the significant deterioration of the quality of air with the necessity of economic growth.

The purpose of the bill has been amended to create a purpose and findings section which states that it is a matter of compelling state interest to protect and preserve the health and environment of the people of this state by preventing the significant deterioration of the state's superior air quality.

The bill is further amended by deleting the language in lines 4 through 16 of page 1 and lines 1 through 3 of pages 2 of the bill and including the same language under section 342-22(10) of the Hawaii Revised Statutes. That section requires the Director of the Department of Health to establish ambient air quality standards for the state as a whole or for any part thereof. The additional language specifies the limitation of the allowable increases for air pollutants in the state.

Your Committee is aware that it is establishing a standard for the maximum allowable deterioration of the air quality of the state. Existing air quality is, for the most part, better than the state ambient air quality standards. The provision does not nullify the intent of the bill because the policy for the prevention of significant deterioration is meant to prevent or regulate the deterioration of air quality until the ambient air quality standard is reached.

Your Committee has further amended the measure to correct technical and grammatical errors contained in part II of Chapter 342. In addition, your Committee has included notice to the public for application for a permit to control air pollution.

Your Committee on Energy, Ecology and Environmental Protection is in accord with the intent and purpose of H.B. No. 2050-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2050-82, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
(Representatives Kawakami, Matsuura, Morioka, Sakamoto, Takamine,  
Monahan and Narvaes did not concur.)

SCRep. 505-82      Energy, Ecology and Environmental Protection 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 \$50,000. 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 of special management area minor permits issued to date and to recommend amended criteria, as appropriate.

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 amount for minor construction. Raising the amount to \$50,000 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 made a technical correction to effectuate the purpose of the bill.

Your Committee on Energy, Ecology and Environmental Protection is in accord with the intent and purpose of H.B. No. 2813-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2813-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 506-82      Consumer Protection and Commerce 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 of service. Your Committee heard testimony that 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.

This bill would allow the Commission to vary its regulations of utilities based on whether the utility enjoys a monopoly in its field of commerce, in order to provide relief for smaller competitive businesses.

While in agreement with the concept of the bill, your Committee has amended it to allow the Commission to vary its regulation based on the economic size of the utility with \$2,000,000 in annual gross revenues being the threshold figure.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2889-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2889-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 507-82      Youth and Elderly Affairs and Judiciary on H.B. No. 2145-82

The purpose of this bill is to strengthen the existing provisions under Chapter 349 of the Hawaii Revised Statutes in regard to the rights of residents of long-term care facilities by:

- (1)      Requiring the Executive Office on Aging to report violations under section 349-14 to the police or to the prosecuting attorney.
- (2)      Providing that every separate retaliatory act and every day during which

such an act continues shall be a separate offense; providing for the imposition of consecutive sentences; and providing that no sentence of suspended sentence or probation shall be imposed.

Section 349-14 presently provides that no resident seeking advocacy assistance pursuant to Chapter 349 or making a complaint regarding a facility or any of its employees shall be subjected to any retaliatory action by the facility or its employees for seeking such assistance or making such a complaint. Any violation of this provision is to be determined by the Executive Office on Aging and constitutes a misdemeanor.

Your Committees heard testimony from the Department of Social Services and Housing in support of this bill as it would aid in assuring that residents of long-term care facilities be allowed to freely exercise their rights as residents of such facilities.

The Executive Office on Aging also testified in support of this bill, which would require the Office on Aging to report any violation of section 349-14 to the police or prosecuting attorney for action in accordance with normal criminal proceedings. This amendment to section 349-14 would clarify and make constitutionally valid the procedure for enforcement of this section in those instances where the Office on Aging would have to protect a resident from retaliatory acts.

The Hospital Association of Hawaii submitted testimony suggesting that the language used in this bill is vague, particularly regarding the definition of the term "retaliatory act".

After careful consideration of the testimony received, your Committees have amended this bill as follows:

- (1) Insertion of language defining the term "retaliatory act" for the purposes of Chapter 349 as follows: "...retaliatory act' shall include, but not be limited to, actual or threatened physical injury, psychological abuse or neglect, sexual abuse, negligent treatment, maltreatment, or any form of discrimination as reprisal for seeking advocacy assistance or making a complaint."
- (2) Deletion of language prohibiting the imposition of a sentence of suspended sentence or probation (p. 2, lines 4-5) as it would impose too harsh a penalty for violation of section 349-14.

Your Committees have also made other technical, non-substantive amendments for purposes of style and clarity.

Your Committees on Youth and Elderly Affairs and Judiciary are in accord with the intent and purpose of H.B. No. 2145-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2145-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 508-82      Finance on H.B. No. 3136-82

The purpose of this bill is to clarify existing statutory provisions which authorize the Aloha Tower Development Corporation to redevelop the Aloha Tower complex and to authorize the Aloha Tower Development Corporation to borrow funds from the State's general fund.

This bill will eliminate concerns of the State Bond Counsel regarding the Aloha Tower Development Corporation's authority to issue revenue bonds. Further, this bill will facilitate interim financing of the Aloha Tower Complex by allowing the Aloha Tower Development Corporation to borrow funds from the State's general fund. Borrowing from the general fund will be limited to cover only interim financing up to a total sum of \$500,000.

Your Committee has amended this bill by rewriting Section 7 of the bill generally to clarify the terms of the loan to be made and to require interest payment therefor. Your Committee has also made technical amendments to the bill of a non-substantive nature.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3136-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3136-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 509-82      Employment Opportunities and Labor Relations on H.B.  
No. 3198-82

The purpose of this bill is to have all information gathered for statistical purposes by the Department of Labor and Industrial Relations be categorized by sex.

Currently, the Department of Labor and Industrial Relations does not require breakdowns of data by gender. Testimonies presented to the committee stated that without the cataloging of information by sex, no reliable information on the disparity or equality of employment patterns, wages received, or sectors involved in the hiring of men and women in the State of Hawaii can be made available.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 3198-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Nakasato and Waihee.

SCRep. 510-82      Finance on H.B. No. 3139-82

The purpose of this bill is to permit a facility which provides for the recovery of energy or material resources, to qualify as a project under Part IV of chapter 39A, Hawaii Revised Statutes. A processing enterprise would qualify as a project for which the issuance of special purpose revenue bonds may be authorized.

Your Committee finds that such a project will be beneficial, both economically and from the land use perspective. Oahu for example, must find a way to dispose of its solid waste without using scarce land.

Your Committee has amended this bill by authorizing the issuance of 170,000,000 in special purpose revenue bonds to assist Combustion Engineering/Amfac, a partnership.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3139-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3139-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 511-82      Finance 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 program provide coordination among county, state, and federal agencies.

Your Committee has amended this bill by raising the appropriated amount from \$500,000 to \$1,200,000. Your Committee has made further technical amendments.

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

Signed by all members of the Committee.

SCRep. 512-82

Health on H.B. No. 2942-82

The purpose of this bill is to amend Chapter 468E of the Hawaii Revised Statutes to provide that all speech pathologists and audiologists employed by a local or state government agency on December 31, 1984, shall be considered in compliance with the licensure requirements under this Chapter without having to take the written examination, and may continue to practice after December 31, 1984, as long as they remain employed by the government agency as speech pathologists or audiologists.

Chapter 468E was amended during the Regular Session of 1981 by Act 242, which extended the licensure requirements to speech pathologists and audiologists employed by a local or state government agency with December 31, 1984, set forth as the compliance date. The Act did not include a "grandfather" clause for those individuals currently in government employ who do not meet the qualifications for licensure.

Your Committee heard testimony from the Board of Speech Pathology and Audiology that although state and local agencies have made an effort to hire speech pathologists and audiologists who are eligible for licensure or are working towards meeting the requirements for licensure, the present minimum qualifications for government employment are much lower than the licensure requirements and therefore a number of current employees are ineligible for licensure. While recognizing that licensure represents a way of assuring that speech pathologists and audiologists receive adequate professional training and are competent to practice, the Board also expressed sympathy for the intent of this bill and recommended that the effective date of employment be changed to September 1, 1981, as this bill does not require current employees to take any action to meet the licensure requirements. The effect of this proposed change would protect current employees while at the same time minimizing the possibility of hiring other individuals who cannot meet the requirements of licensure.

The Hawaii Speech-Language-Hearing Association also expressed sympathy for the intent of this bill, but suggested that July 7, 1981, the effective date of Act 242, be used as the effective date of employment in order to protect against the hiring of less than qualified persons. The Association also recommended that the written examination not be waived and expressed concern that the language conditioning the license on the person remaining in government employ as a speech pathologist or audiologist would be confusing to the consumer.

In view of the fact that the Board of Speech Pathology and Audiology has since July 7, 1981, developed rules and regulations to enable persons in government employ to be licensed, the Association felt that these proposed rules would be a better compromise between the needs of the current employees and the licensure requirements.

Both the Hawaii State Teachers Association and the Hawaii Government Employees Association testified in support of this bill. The University of Hawaii, however, expressed opposition to extending licensure to persons who are not properly qualified, which in effect would contradict the purpose of regulation.

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

- (1) Addition of "agency" after "local or state government" on line 4.
- (2) Deletion of "December 31, 1984" on line 7, and insertion of "July 1, 1982" in lieu thereof.
- (3) Deletion of "as" on line 7 and insertion of "and who is" in lieu thereof.
- (4) Deletion of language from "and" on line 10 through the end of line 13, and insertion of language to provide that such person shall be deemed in compliance as long as he or she remains in the employ of the government agency and practices speech pathology or audiology only for such agency, with the addition of a provision that the person may continue to practice but shall be required to meet the licensure requirements within three years after termination of employment from the government agency.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2942-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2942-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 513-82      Health and Consumer Protection and Commerce 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 generic drugs:

- (1) Addition of a new definition of "principal labeler" under section 328-2.
- (2) Addition of a new section setting forth the responsibility of the principal labeler of a drug when a drug is being recalled.
- (3) Amending subsection (b) of section 328-16 to include the name of the principal labeler in the information required for a drug dispensed pursuant to this subsection to be exempted from the requirements of specific portions of section 328-15.
- (4) Amending subsection (a) of section 328-92 to require that a dispenser, as well as a person under his direct supervision, assume certain responsibilities with respect to drug product selection pursuant to this section; and to allow substitution if it is not prohibited by the prescriber, the price of the substitute equivalent drug product is less than the price of the prescribed drug product, and the consumer consents.
- (5) Amending subsection (b) of section 328-92 to require that no substitution shall be allowed in regard to a prescription or refill that is ordered orally and where the prescriber or his authorized employee orally orders "do not substitute".
- (6) Amending section 328-93 to require that the prescription label contain the name of the principal labeler of the drug and the name of the prescribed drug product which such drug is equivalent to; and to require the dispenser to record on the prescription form the brand name or the name of the principal labeler of the drug product dispensed.
- (7) Amending subsection (a) of section 328-96 to require the formulary to provide that the equivalent drug products of at least three qualified manufacturers are substitutable for each other with respect to the listing of all drug products under subpart (4) of this subsection.

Your Committees heard testimony from the Department of Health and the Hawaii Society of Hospital Pharmacists in support of the intent of this bill. Although in favor of the amendment to section 328-92(a), the Department expressed concern that broadening and legalizing the dispensing capabilities of pharmacists by allowing persons under their direct supervision to dispense drugs would require some means to ensure the proper training of such persons as well as maintaining adequate direct supervision of their activities. The Department also testified that the other amendment proposed for section 328-92(a) (p. 3, lines 11-15) is unnecessary in that the subsection already contains such information.

With respect to the amendment to section 328-96(a) (p. 5, lines 10-14), the Department suggested that the language used may cause operational problems for the formulary as some drugs are patented for a period of seventeen years and therefore have no substitute, and others have less than three qualified manufacturers.

After careful consideration of the testimony received, your Committees have amended this bill as follows:

- (1) Deletion of the amendment to section 328-16(b) on page 2, lines 4-20.
- (2) Addition of an amendment to section 328-91 to define "agent" as a person acting under the direct supervision of a dispenser.
- (3) Insertion of "or his authorized agent" after "dispenser" under section 328-92(a) (p. 2, line 23); and deletion of language from "or a person under the direct supervision of the dispenser" to "shall" (p. 2, line 23 and p. 3, lines 1-2) as an agent does not have the authority to fill a written or oral prescription for a drug product.
- (4) Deletion of the proposed language amending section 328-93 (p. 4, lines 9-12); retention of "its manufacturer" and insertion of "or distributor, and the



statement "Equivalent to (Brand name of drug product prescribed)", deletion of "or" (p. 4, line 14) and insertion of "and" in lieu thereof; insertion of "or commonly accepted abbreviation" after "name" (p. 4, line 14) and "distributor or the" (p. 4, line 15).

- (5) Deletion of language amending section 328-96(a) on page 5, lines 10-14, and deletion of that portion of the subsection setting forth the four additional categories of drug products that the formulary is required to list, as this has not proven to be effective and is already provided for in the subsection.
- (6) Addition of an amendment to section 328-96(c) to provide for the establishment of fees to be charged to persons who receive the formulary.

Your Committees have also made other technical, non-substantive amendments for purposes of style and clarity.

Your Committees on Health and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2057-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2057-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 514-82      Consumer Protection and Commerce and Judiciary 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.

Under present law, Section 294-6(d), Hawaii Revised Statutes, provides that civil suits may be filed as a result of motor vehicle accidents where acts are alleged or where punitive damages are sought.

Your Committees note that a recent decision in the Circuit Court of the Third Circuit has interpreted Section 294-6(d), Hawaii Revised Statutes, to allow civil suits, but only on the issue of punitive damages.

This bill would reiterate the intent of the exemption that in certain instances, including those listed in subsection (d), the abolition of tort liability shall not be in effect, and that all issues of tort claims may be alleged and recovered in civil suits, including general and punitive damages.

Your Committees have amended the bill for clarity to include the recovery of special damages.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 2385-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2385-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 515-82      Consumer Protection and Commerce and Housing on H.B. No.  
3117-82

The purpose of this bill is to enact a new part in Chapter 416, Hawaii Revised Statutes, which would provide guidelines for the establishment of limited equity housing cooperatives.

Your Committees note that the concept of limited equity housing cooperatives developed as a response to the high costs 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 Committees also note 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 non-profit 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 10 percent per 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-occupant.

Your Committees believe that this concept may be utilized to provide affordable housing to residents of this State and are therefore in agreement with the intent of the bill.

Your Committees have made the following amendments in order to allow the implementation of the concept:

1. The provisions contained in the bill have been set out in a separate chapter to facilitate regulation by the Department of Regulatory Agencies,
2. Appropriate amendments to conform the proposed bill to existing statutes.
3. Amendments have been added to qualify cooperatives established under this bill for assistance from the National Consumer Cooperative Bank.
4. A requirement that bylaws be enacted and the contents thereof has been added.
5. A provision exempting limited equity housing cooperatives as non-profit corporations from State securities regulation has been added.
6. A necessary exemption from the general prohibition against non-profit corporations issuing stock has been added.
7. Clarifying amendments have been added.

Your Committees on Consumer Protection and Commerce and Housing are in accord with the intent and purpose of H.B. No. 3117-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3117-82, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 516-82      Consumer Protection and Commerce on H.B. No. 2939-82

The purpose of this bill is to clarify the scope of certain exceptions to the definition of "standard bar."

Under present law, standard bar means any establishment licensed to sell liquor for consumption on the premises. Among these exceptions to this definition are licensed premises in which music is played for dancing by the patrons.

This bill would create an exception to the foregoing exception to the definition of standard bar, thus placing establishments whose operations consist of catering to private parties or organizations, back into the definition of standard bar.

Your Committee notes that the original intent behind the enactment of the standard-nonstandard bar distinction 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 of the community through excessive noise of late night activity was one of the bases upon which the distinction was made.

Your Committee therefore agrees with the intent of the bill to clarify the original legislative intent of the statute. In order to make more specific language effecting that intent, your Committee has amended the bill to provide that only those premises which have music for dancing after 11 o'clock p.m. shall be considered nonstandard and those

which play music but not after 11 o'clock p.m. shall be standard premises. Your Committee feels that this amendment more clearly expresses the legislative concern for residents in the area of the licensed premises.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2939-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2939-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 517-82            Consumer Protection and Commerce on H.B. No. 3007-82

The purpose of this bill is to raise the liability limits of hotels for losses incurred by guests for property delivered to the hotel's safe or vault.

Your Committee finds that the present liability limits were set by amendment in 1978 and are comparable to limits set in other states. Your Committee has therefore decided to defer action on this issue and instead address a concern which was raised.

Your Committee notes that the use of the word "bedroom" as it appears in Chapter 486K, Hawaii Revised Statutes, is not defined and may therefore lead to possible confusion. Your Committee has therefore amended the bill to add a new definition of bedroom to Section 486K-1, Hawaii Revised Statutes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3007-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3007-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 518-82            Transportation on H.B. No. 2975-82

The purpose of this bill is to amend Section 286-108.5 subsection (g) of the Hawaii Revised Statutes to exempt drivers of motor carrier vehicles, employed by the union from meeting the requirements of the Driver Improvement Program as spelled out in Chapter 286-108.5.

It was the intent of this section that all drivers of carriers over 10,001 pounds GVWR be required to participate in the Driver Improvement Program to propagate road safety and ameliorate driver skills.

In order to preserve the intent of this Chapter as well as to avoid imposing unrealistic financial burdens upon the labor unions, whose sole purpose is to provide a dispatching service and who lacks the facilities to effectively conduct a Driver Improvement Program, the following amendments were proposed and agreed upon by the Department of Transportation-Motor Vehicle Safety Office and representatives from the Hawaii Transportation Association, Operating Engineers, and General Contractors Association.

Your Committee has amended Section 1 of the bill, incorporating the proposed changes by, further, defining "organization" to exclude only those labor unions with a job placement center.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2975-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2975-82, H.D. 1.

Signed by all members of the Committee except Representatives D. Hagino, Nakasato and Ikeda.

SCRep. 519-82            Judiciary on H.B. No. 2371-82

The purpose of the bill is to require the court to impose the maximum sentence for assault in the first degree on any person convicted of that crime when the assault is committed by a person imprisoned in a correctional institution. The bill further provides that any sentence so imposed shall be consecutive rather than concurrent with any

existing team.

The Honolulu Prosecutor's office, the Hawaii Crime Commission, and the Chamber of Commerce testified in support of the bill.

Your Committee finds that from 1976 to 1980, there were 151 cases of assaults on correctional officers by prisoners.

Your Committee is in agreement that correctional officers must be provided with protection in the performance of their duties, and believes that the imposition of the maximum sentence on persons convicted of assault in the first degree will serve as a deterrent to such assaults.

The bill has been amended to carry out the intended purpose of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2371-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2371-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 520-82      Employment Opportunities and Labor Relations on H.B. No.  
2897-82

The purpose of this bill is to amend the Workers' Compensation law requiring employers to report injuries for which workers' compensation are being paid on an annual basis rather than semi-annually. The bill would also amend the Workers' Compensation law so that self-insured employers would pay their Special Fund charges by September 30, instead of June 30. Finally, the bill would allow six temporary clerical positions in the Disability Compensation's records and maintenance section to be converted to three permanent full-time positions.

The concept of this bill was recommended by the Workers' Compensation Program Commission. The Commission felt that these measures would increase the efficiency of the Disability Compensation's records and maintenance section by allowing insurance companies and self-insured employers more time to submit their reports. The bill would accomplish this intent by making the dates for payments and reports from these companies to be more in alignment with their own internal calendars.

The commission also found that the volume of these cases involving the Disability Compensation's records and maintenance section has increased and that additional permanent staff is necessary to handle this increased load. While your Committee agrees with the intent of this section (3) of H.B. No. 2897-82, it finds that this section has fiscal implications and therefore cannot be considered. Your Committee feels that these additional positions can be properly considered by the Committee on Finance when it revises the governor's supplemental budget. Thus your Committee has amended this bill by striking Section 3 from the bill.

For the purposes of consistency, your Committee has also amended the bill by renumbering sections 4 and 5 to sections 3 and 4 respectively.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2897-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2897-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 521-82      Employment Opportunities and Labor Relations on H.B. No.  
2929-82 (Majority)

The purpose of this bill is to entitle a "hanai child or other person toward whom the employee ... assumed the duties and responsibilities of a parent" the same rights as other children enumerated in Section 386-2 HRS.

This bill was recommended by the Workers' Compensation Program Commission. The Commission felt that the unique tradition of hanai warranted legislation that would

protect the rights of these children.

The system of hanai is a unique and integral part of Hawaii's tradition. Under current law such children are not entitled to the rights which other adopted or natural-born children enjoy.

The Department of Labor testified in favor of this bill. They cited first, the uniqueness of the tradition, and second, the negligible impact this bill would have on the present workers' compensation system because of the low incidence of claims involving hanai children. Similar testimony was heard from representatives of the AFL-CIO.

The Construction Industry Legislative Organization and the Hawaii Insurer's Council testified that they were in agreement with the intent of this bill but had strong enough reservations about the phrase "or other person" that they oppose it.

After due consideration your Committee has amended this bill by deleting the phrase "or other person".

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2929-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2929-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Nakasato and Waihee.  
(Representative Anderson did not concur.)

SCRep. 522-82      Consumer Protection and Commerce on H.B. No. 2199-82

The purpose of this bill is to make consistent certain terms and provisions within the Landlord-Tenant Code.

Your Committee notes that Act 235, Session Laws of Hawaii 1981, made certain amendments to section 521-64(b) and (c), Hawaii Revised Statutes, by increasing the amount a tenant may deduct from his rent for making repairs of conditions which are health or safety violations from \$200 to \$300, and by requiring a landlord to actually commence repairs within 12 business days of conditions which are health or safety violations, or violations of either the conditions of Section 521-42(a), Hawaii Revised Statutes, or the rental agreement.

Under present law, however, tenants are allowed to deduct only \$200 for repairs necessary to provide sanitary and habitable living conditions or to correct violations of Section 521-42(a) or the rental agreement, and landlords are only required to make a good faith effort to make repairs which are necessary for sanitary or habitable conditions.

This bill would make consistent the amounts deductible from a tenant's rent and require landlords to actually commence repairs for all of the above conditions or violations.

While in agreement with the intent of the bill your Committee has amended it to provide that if the landlord is unable to commence such repairs within three days, the tenant must be notified of the reasons for the delay and the estimate date repairs will commence.

Your Committee has also amended the bill to provide that a month to month tenant must be given at least 120 days notice of the landlord's intention to demolish the rental premises or to convert the premises to a condominium under Chapter 514A, Hawaii Revised Statutes. This amendment would conform to the notice requirement required to be given to tenant/lessees.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2199-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2199-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 523-82      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 indicating that the business practices of certain sensitivity awareness groups may 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.

While in agreement with the intent of the bill to provide refund provisions to persons who cancel initial commitments to attend sessions or seminars, your Committee has amended the bill to place the new provisions in an appropriate section of the Hawaii Revised Statutes dealing with commercial business practices.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2870-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2870-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Waihee.

SCRep. 524-82      Consumer Protection and Commerce on H.B. No. 2936-82

The purpose of this bill is to clarify the current law regarding interest rates allowable on open-end loans.

Current law states that loans made by industrial loan companies subsequent to May 31, 1980, may be at an interest rate of 24 percent. Open-end loans, however, were not specifically covered by any provision with regard to the new interest rate.

This bill adds a provision to Section 408-15, Hawaii Revised Statutes, in which interest up to 24 percent would be allowed on the unpaid balance existing on an open-end account, provided that sufficient notice to the borrower of the increase is given. The borrower will have the option of consenting to the new interest rate, or of paying off the loan in full prior to the effective date of the increase.

Your Committee agrees that this bill will cover this uncertainty caused by the recent increase in allowable interest rates.

Your Committee notes that H.B. No. 2702-82, relating to Industrial Loan Companies also deals with amendments to Section 408-15, Hawaii Revised Statutes, and has therefore combined the substance of both bills into H.B. No. 2936-82.

The purposes of H.B. No. 2702-82 are to provide that loan fees may be retained by industrial loan companies in the event a loan is paid in full prior to the contracted time, and to allow extensions of matured loans made prior to May 31, 1980, at rates in excess of 18 percent.

The purposes of this bill are to provide that loan fees may be retained by industrial loan companies in the event a loan is paid in full prior to the contracted time, and to allow extensions of matured loans made prior to May 31, 1980, at rates in excess of 18 percent.

Present law is silent as to the refundability of loan fees (commonly called "points") in the event of early repayment in full. This bill would make explicit that points are retainable even in the event of early repayment.

Similarly, present law does not contain any provision regarding interest rate limits for loans which were made prior to May 31, 1980, which mature after 1980, and which are to be extended. This bill would specifically provide for a maximum interest rate of 24 percent.

Your Committee notes that interest rates for industrial loan companies were raised from 18 to 24 percent for loans made or contracted to before May 31, 1980. Loans which were made before May 31, 1980 and have become due are not extendable by the lender since the new interest rate on the extended term would be limited to 18 percent. Borrowers are therefore forced to re-contract and re-document their loans at an interest rate in excess of 18 percent and to incur the resulting fees for re-documenting. Your Committee believes that this bill will save borrowers such extra costs by allowing simple extensions of loans at realistic interest rates which lenders are willing to make.

Your Committee has made technical corrections to both bills.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2936-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2936-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 525-82      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.

Your Committee heard testimony from the Department of Regulatory Agencies that last session, the House and Senate Consumer Protection Conference Committee suggested that the Department be guided by the Real Estate Commission's Declaratory Ruling, which allows acquisition agents without either a real estate salesman or broker license to solicit or invite persons to attend a time share presentation. The Conference Committee suggested that the telephone solicitors and outside public contact personnel (acquisition agents) should be treated alike to avoid the question of unequal treatment.

Your Committee feels that this bill will clarify the law and provide statutory basis under which the department may promulgate rules to regulate the activity of outside public contact personnel.

Your Committee has made form and technical amendments for clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3078-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3078-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 526-82      Consumer Protection and Commerce on H.B. No. 2434-82

The purpose of this bill is to require a written application and a public hearing for all requests for transfer of a liquor license.

Your Committee finds that although the interests of the residents and businesses surrounding an existing bar should be protected when a liquor license is transferred, requiring the transferee to follow the same application procedure as the original applicant would be too burdensome a process to impose on all parties involved.

Your Committee feels that the interests of the residents and businesses in a community can also be protected by extending the period of time in which notice must be given by the Liquor Commission and the applicant for a license prior to the public hearing of the application, from twenty-one days, the present requirement, to forty-five days. Your Committee believes that this is a reasonable period of time for all parties concerned to be apprised of the forthcoming public hearing. Accordingly, your Committee has amended this bill as follows:

- (1) Deletion of the proposed amendment to section 281-41, and amending in lieu thereof section 281-57, the provision pertaining to notice requirements for obtaining a license, to require that notice be given forty-five days prior to the date of the hearing.
- (2) Retention of the definition of "standard bar" under section 281-1, as the



proposed amendment to section 281-41 has been deleted.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2434-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2434-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 527-82      Consumer Protection and Commerce on H.B. No. 2398-82 (Majority)

The purpose of this bill is to reinstate the "primary source" provision in the statutes regulating the import, purchase and sale of liquor.

Under present law, wholesalers of liquor are not prohibited from purchasing from sources other than the manufacturer or importer (primary source). Your Committee notes, however, that under present conditions, wholesalers in Hawaii are not able to obtain liquor at competitive prices from sources other than the primary source.

This bill would require liquor wholesalers in the State to purchase liquor from only primary sources. Your Committee heard testimony from the industry that this requirement, which was in force in the past, will actually aid the consumer by allowing wholesalers to provide better service and advertising because of the primary source's support, and will actually promote competition within a certain brand. Based on these representations, your Committee agrees with the intent of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.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.  
(Representative Hirono did not concur.)

SCRep. 528-82      Consumer Protection and Commerce on H.B. No. 3125-82

The purpose of this bill is to amend Chapter 423, Hawaii Revised Statutes, by placing the Hawaii Dental Service (HDS) under the regulatory oversight of the Department of Regulatory Agencies.

In 1961, when the legislature enacted Chapter 423, creating a non-profit dental service corporation, they failed to provide for a supervising or oversight agency. Initially, HDS began as a struggling pre-paid dental service plan with very few subscribers and a minimum percentage of licensed dentists participating in the program. In the early stages of Hawaii Dental Service's operations, regulatory oversight was minimal, the only requirement was to file with the Department of Regulatory Agencies an annual statement of its officers and board of directors. This is the type of regulatory oversight imposed on the smallest non-profit corporations. Neither the insurance commissioner nor the State Board of Dental Examiners was statutorily authorized to monitor or regulate HDS's activities.

Since its founding in 1961, HDS has grown from a small organization of insured union members and their families to the largest and most dominant pre-paid dental plan in the state, with over 300,000 insureds and over 95% of the licensed dentists participating. HDS has become a major force in the state's health care market, yet, despite this preeminent position, HDS is totally unregulated and unsupervised by any outside agency or authority.

To remedy the current lack of regulatory oversight, the proposed legislation will subject HDS to the same administrative regime imposed on the state's largest pre-paid medical services plan, Hawaii Medical Service Association (HMSA). The provisions of Chapter 433, H.R.S., impose an oversight on HMSA that is not as rigorous as on a traditional insurance company, but more stringent than the non-regulation of HDS. HMSA has prospered under the regulatory dictates of Chapter 433, H.R.S., and the Insurance Commissioner has not unduly interfered with the operations of the pre-paid medical service plan.

The amendment to Chapter 423, H.R.S., simply places the HDS under the same authority as is now imposed on HMSA. Thus, the state's largest pre-paid dental service

plan would be placed on regulatory parity with the state's largest pre-paid medical service plan, both under the regulatory oversight of the State Insurance Commissioner and the provisions of Chapter 423 and 433, H.R.S., respectively.

Given the growth, size and importance of the Hawaii Dental Service, the corporation can no longer be justifiably treated as just another non-profit corporation, operating without any regulatory or statutory oversight. The proposed amendment subjects HDS to the same regulatory regime as HMSA, recognizing the dominance of both organizations in Hawaii's health care market.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3125-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 529-82      Consumer Protection and Commerce on H.B. No. 3009-82 (Majority)

The purpose of this bill is to codify the present procedure being followed in the judicial cancellation or foreclosure of agreements of sale.

Present law is silent as to the procedure to be followed to enforce a seller's remedies when a buyer defaults under an agreement of sale. Your Committee notes that the procedure presently followed in the First Circuit Court generally treats an agreement of sale as it would a loan secured by a mortgage. A formal foreclosure action is therefore required with the defaulting buyer is presumed to be the owner of any equity that may exist over and above his obligations.

This bill would codify that practice and treat an agreement of sale as a mortgage for purposes of foreclosure actions. While in agreement with the intent of the bill to create uniformity in judicial procedure in this area, your Committee has amended it for purposes of clarity and to include subagreements of sale within the coverage of the chapter.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3009-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3009-82, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 530-82      Employment Opportunities and Labor Relations on H.B. No. 2174-82

The purpose of this bill is to make several amendments to Chapter 383, HRS, The Hawaii Employment Security Law, to conform to recent federal legislation.

Under present law, Chapter 383 does not conform to new federal regulations. Changes must therefore be made in Chapter 383 so that the federal government does not decertify Hawaii's Employment Security programs. If decertification were to occur employers will lose certain excise tax credits which they now receive.

Subsequent to the introduction of H.B. No. 2174-82, further federal requirements were promulgated. This action warranted the further technical changes to the bill that your Committee has recommended.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2174-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2174-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 531-82      Finance on H.B. No. 3141-82

The purpose of this bill is to allow the Hawaii Housing Authority to issue \$75 million

in taxable revenue bonds to finance the acquisition of the fee title to leasehold properties converted under the Land Reform Act.

The Land Reform Act enacted in 1967 allows the Hawaii Housing Authority (HHA) to condemn residential leasehold property for conversion to fee simple ownership. Lessees wishing to acquire fee simple title to their residential properties are currently experiencing difficulties in obtaining financing at reasonable rates. In addition, lessees who have already converted their properties by entering into agreements of sale with their lessors will be facing the prospect of unavailable financing when their balloon payments become due in a few years. Local lending institutions simply do not have adequate capital resources available to make these loans.

This bill would alleviate this financing problem by establishing a Fee Title Acquisition Loan Program structured like the Hula Mae program. The Authority would be empowered to issue taxable securities, the proceeds of which will purchase newly originated fee title acquisition mortgage loans from private lending institutions. The HHA will thus serve as a conduit between local lenders who will originate the loans and the national capital markets which will provide the funds to HHA for the purchase of the new loans. Local lenders will thus have access to secondary mortgage market funds not otherwise accessible to them.

The Fee Title Acquisition Loan Program will not have any impact on the State's financing abilities nor cost the State of Hawaii any money. All expenses incurred will be paid from program revenues or bond proceeds. In addition, since HHA will be issuing taxable, rather than tax-exempt securities, there will be little effect on the State's ability to raise money from the sale of general obligation or revenue bonds because the investors in the two markets form two distinct groups.

Your Committee reaffirms the legislative commitment to the Land Reform Act by the establishment of a mechanism that would increase resources available to local lenders and thereby assist lessees in financing the acquisition of fee title to their residential properties.

Your Committee has amended this bill to make technical corrections.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3141-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3141-82, H.D. 1.

Signed by all members of the Committee.

SCRep. 532-82      Finance on H.B. No. 2687-82

The purpose of this bill is to establish a Hawaii geothermal development group which shall manage the HGP-A geothermal well in Puna, Hawaii, and engage in activities to encourage the commercialization of geothermal energy in Hawaii. The bill also terminates the Hawaii geothermal group and its enabling statute on June 30, 1990.

One purpose of the bill is to provide a statutory base for the group which is currently managing the HGP-A geothermal well. The statutory establishment of the group would provide members with liability protection and the group would be authorized to manage funds and fulfill the terms of the contract with the U.S. Department of Energy concerning the HGP-A well. The termination date of June 30, 1990 is proposed because that is the date of expiration of the contract with the U.S. Department of Energy.

Your Committee has amended the bill by adding a new item (9) to read as follows, "Establish procedure to receive complaints from affected persons and communities, conduct informational meetings, and consult with interested parties", and to make other technical corrections.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2687-82 as amended herein and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2687-82, H.D. 1.

Signed by all members of the Committee.