

CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. 1 on S.B. No. 153

The purpose of this bill is to authorize the Board of Land and Natural Resources to waive geothermal resources royalty payments from a lessee in situations where such a waiver will encourage initial or continued production of geothermal resources.

Major geothermal exploration and development programs were initiated in Hawaii in the late seventies when projections for oil prices made geothermal power appear economically attractive. However, current oil price reductions have made geothermal power appear less cost-effective under current royalty provisions. This bill authorizes the Board of Land and Natural Resources to adjust royalty requirements as an incentive for companies to proceed with plans to develop geothermal resources.

Your Committee has amended the bill by providing that the Board of Land and Natural Resources shall submit a written report to the Legislature of all geothermal royalty dispositions in accordance with section 171-29, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 153, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 153, S.D. 1, H.D. 2, C.D. 1.

Representatives Andrews, Crozier, Hagino, Kihano, Nakata, Shon, Tajiri, Kamali'i and Pfeil,
Managers on the part of the House.

Senators Matsuura, Aki, Hee, Mizuguchi and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 2 on S.B. No. 702

The purpose of this bill is to extend Act 275, Session Laws of Hawaii 1984, relating to the study of and coordination of efforts to prevent and mitigate pesticide contamination and to amend the activities under the Act for more clarity, manageability, and appropriateness.

Act 275, Session Laws of Hawaii 1984, requires the office of environmental quality control to undertake certain activities concerning the contamination of water resources by pesticides. The Act is to terminate on June 30, 1985. The Act reflects the legislature's concerns over the seriousness of contamination and the lack of sufficient knowledge about and coordination among agencies to mitigate the problem.

Implementation of the Act has revealed the magnitude of the issues and factors which must be addressed to prevent and mitigate pesticide contamination and the necessity for stronger coordination among agencies. Implementation, however, has also revealed certain problems and inelasticities in the language of the enabling Act.

This bill reaffirms the legislature's commitment to the principles and objectives of the Act, but also seeks to improve implementation by necessary amendments. Thus, your Committee acts favorably on the extension of the office's authority under Act 275 from June 30, 1985 to June 30, 1987 and the amendments proposed by the bill, as received, with the following changes.

The proposed amendments to section 341-4, Hawaii Revised Statutes, in the bill, as received, have been amended as follows:

- (1) The proposed amendments to subsection (a) have been deleted. Thus, subsection (a) remains as is under current law.
- (2) The proposed new subsection (b)(1), requiring development of a comprehensive environmental quality action plan, has been deleted.
- (3) The proposed new subsection (b)(4), requiring coordination of research efforts, has been deleted.

(4) Subsection (b)(4) in the current law, concerning recommendations for long-range programs, has been retained. The bill, as received, proposed to repeal that subsection.

(5) Subsection (b)(5) in the bill, as amended, has been refined. The new language makes it clear that the office shall recommend administrative policies, objectives, and actions, as well as legislative bills. The new language also requires submittal of the recommendations directly to the legislature, as well as the governor.

Your Committee has also deleted the appropriations section from the bill, as received. Appropriations to implement this bill are included in the general appropriations bill. In addition, your Committee has made other technical, non-substantive amendments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 702, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 702, S.D. 2, H.D. 2, C.D. 1.

Representatives Andrews, Crozier, Cachola, Kihano, Metcalf, Nakata, Shon, Isbell and Pfeil,
Managers on the part of the House.

Senators Yamasaki, B. Kobayashi, Matsuura, Mizuguchi and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 3 on H.B. No. 268

The purpose of this bill is to amend H.R.S. §571-52 to prohibit any employer from refusing to hire, discharging or taking any other disciplinary action against an employee whose wages are assigned to satisfy a child support obligation. It also declares that the penalty for any violation of the section is established by H.R.S. §710-1077(1)(g).

Cooperation of all employers is essential if child support enforcement is to be successful. However, many employers are still reluctant to comply with the wage assignment law. Imposing a penalty is one effective method to gain compliance. This in turn ensures that children will be able to receive timely and regular payments made on their behalf.

Your Committee has made non-substantive amendments for clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 268, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 268, S.D. 1, C.D. 1.

Representatives Tungpalan, Tom and Hemmings,
Managers on the part of the House.

Senators Chang, Toguchi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 4 on H.B. No. 188

The purpose of this bill is to make it unlawful for any person engaged in sports fishing to use throw nets with stretched mesh of less than two inches after December 31, 1999, and to make it unlawful for any person to sell or offer to sell such nets after December 31, 1989.

The original intent of this bill was to prevent the depletion of desirable fishes in certain areas of the State, believed to be caused by the use of throw nets with less than two inches in stretched mesh size. By making the use of such throw nets unlawful, sub-adult fishes would be given a greater opportunity to escape through larger net holes and reach their full maturity cycles.

The effect of H.B. 188, S.D. 1, is to allow the sale of throw nets less than two inches in stretched mesh size until December 31, 1989, and to allow its continued use through December 31, 1999.

Your Committee finds that a local retailer has a two year supply of throw nets of less than two inches in stretched mesh size and requires sufficient time to deplete its present stock in order to avoid economic hardship.

Your Committee has weighed the original intent of this bill against the need to provide relief to those businesses with an oversupply of throw nets less than two inches in stretched mesh size and agrees that relief should be provided to avert possible economic losses. However, your Committee is concerned that such retail outlets inform potential purchasers of such throw nets of the limited time available for the legal use of such nets. Such information may be made by posting notices or by providing verbal warnings to that effect.

Your Committee has taken these factors into consideration and makes the following amendments to H.B. No. 188, S.D. 1:

(1) page 1, section 1, line 10, (1), change "until December 31, 1999;" to "until December 31, 1994"; and

(2) page 3, section 2, §188-30 (a), line 14, change "After December 31, 1999" to "After December 31, 1994"; and

(3) page 3, (b), line 19, change "After December 31, 1989" to "After July 1, 1988".

Your Committee on Conference is in accord with the intent and purpose of H.B. 188, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. 188, S.D. 1, C.D. 1.

Representatives Apo, Crozier, Hagino, Nakata and Kamali'i,
Managers on the part of the House.

Senators Aki, Soares and Young,
Managers on the part of the Senate.

Conf. Com. Rep. 5 on H.B. No. 1162

The purpose of this bill is to include surviving immediate family members as persons to be given notice of parole or final unconditional release of a criminal offender at least ten days prior to release or parole.

Currently, only the victim is notified of the parole or final unconditional release of a prisoner or parolee. Under this measure, surviving immediate family members of a deceased victim are provided notice of release of an offender. In response to a written request by a victim or surviving immediate family member, notification shall be given at least ten days prior to parole or final unconditional release.

Your Committee, upon further consideration has made the following amendments to H.B. No. 1162, H.D. 1, S.D. 1:

(1) References throughout the bill to "prisoner" or "parolee" as provided in the present statute are retained. Your Committee finds that the use of "prisoner" or "parolee" to be common in the penal code and a shift to the word "offender" may cause unnecessary confusion.

(2) On page 2, line 7 and page 2, line 15, your Committee clarified that the victim must submit a written request for notification.

(3) For the sake of clarity, the words "victim" and "witness" were interchanged on page 3, line 4 of the bill.

(4) Certain technical, nonsubstantive changes were made to conform with recommended drafting style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1162, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1162, H.D. 1, S.D. 1, C.D. 1.

Representatives Tom, Hashimoto, Menor, Metcalf and Liu,
Managers on the part of the House.

Senators Chang, Toguchi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 6 on H.B. No. 1386

The purpose of this bill is to amend Section 11-206(c), Hawaii Revised Statutes, to specify the use of campaign contributions by a candidate after a general or special election.

The Campaign Spending Commission presently has regulations permitting the donation of campaign contributions to community organizations or youth, recreational, or social groups. This bill will specify that the scope of permissible uses of campaign contributions shall be limited to donations to any community group which fosters the candidate's community relations, including but not limited to, educational, youth, recreational, charitable, scientific, or literary organizations. It also clarifies that campaign contributions may be used for ordinary and necessary expenses incurred in the candidate's performance of official duties.

Your Committee finds that authorizing donations only to community groups that foster the candidate's community relations is too limiting. A candidate may wish to contribute to a charitable organization which may not foster his community relations. As the bill presently reads, this would not be an allowable use of campaign contributions. Your Committee recommends that the bill be amended to allow a candidate to contribute to any community service, educational, youth, recreational, charitable, scientific, or literary organization. In addition, your Committee amended the bill to allow a candidate to contribute to other types of organizations as deemed appropriate by rules adopted by the campaign spending commission.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1386, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1386, S.D. 1, C.D. 1.

Representatives Tom, Menor, Metcalf, Taniguchi and Liu,
Managers on the part of the House.

Senators Chang, Aki and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 7 on S.B. No. 1886

The purpose of this bill as received by your Committee was to make technical, nonsubstantive amendments to section 27-22.5, Hawaii Revised Statutes, relating to the administration of county/state hospitals. The original purpose was to authorize the Director of Health to contract with private individuals or corporations for the collective administration or lease of all facilities of the county/state hospitals division in the County of Hawaii.

Your Conferees agree that the State needs more options than are currently available in order to arrive at the most efficient method of administering its hospitals. Therefore, your Committee has amended the bill by providing the Director of Health with the authority to contract with private individuals or corporations for the administration or lease of the facilities of the county and state hospitals division in the County of Hawaii. Your Committee has deleted the original condition that the administration or leasing must encompass all of the facilities on a collective basis, and believes that the increased flexibility provided by this bill will better enable the State to resolve hospital administration problems on the Big Island.

Your Conferees wish to note that certain important services such as laundry, payroll, nutrition, and laboratory consultation services are currently provided by the larger Big Island hospitals to the smaller ones. Your Conferees feel that the quality and viability of the smaller hospitals must be maintained regardless of who administers or leases the larger ones, and it is with this understanding that this amendment was agreed upon.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1186, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1186, S.D. 2, H.D. 1, C.D. 1.

Representatives Bunda, Kiyabu, Hashimoto, Kihano, Leong, Levin, Lindsey, Souki, Tajiri, Isbell and Liu,
Managers on the part of the House.

Senators Yamasaki, B. Kobayashi, Machida, Mizuguchi and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 8 on S.B. No. 1224

The purpose of this bill is to prohibit the use of bullpen traps which exceed two thousand feet in length; allow bullpen traps to remain in place for not more than sixteen hours; and, to make it unlawful for any person to capture or attempt to capture aquatic life with a bullpen trap within one thousand yards from shore except for certain areas off the island of Molokai.

Your Committee has amended page 2, lines 1-7 of this bill by deleting the proposed subsection (d) in its entirety and substituting two new subsections (d) and (e). The new subsection (d) makes it unlawful to capture or attempt to capture aquatic life with a bullpen trap within one thousand yards from the shoreline, except as provided by the new subsection (e). The new subsection (e) makes it lawful to capture or to attempt to capture aquatic life with a bullpen trap in the area seaward from five hundred yards from the shoreline of the island of Molokai west of Kaunakakai wharf and in the area seaward from two hundred yards from the shoreline of the island of Molokai east of Kaunakakai wharf. The new subsection (e) further authorizes the Department of Land and Natural Resources to designate other areas of similar characteristics where bullpen traps may be used within one thousand yards from the shoreline.

Your Committee has further amended the bill by making a technical change on page 1, line 17.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1224, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1224, S.D. 1, H.D. 1, C.D. 1.

Representatives Apo, Metcalf, Shon, Tam and Pfeil,
Managers on the part of the House.

Senators Aki, Young and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 9 on S.B. No. 90

The purpose of this bill is to clarify: that fishing vessel charter service operations for the taking of marine life in or outside the State must obtain commercial marine licenses; that a commercial marine license is required for taking fish inside and outside of the State, for selling within the State, and for landing in the State for transshipment and sale elsewhere; and that a commercial marine license may be issued to a vessel with the fee determined by the number of persons on the vessel contributing to the taking of marine life for commercial purpose.

As received by your Committee, this bill does not provide for any increase in the fees for commercial marine licenses. After due consideration, your Committee has amended page 3, lines 19-21 of the bill to increase the fee for marine licenses for any person who has resided in the State for one year or longer from \$10 to \$25 and to increase the fee for marine licenses for all others from \$20 to \$50.

Your Committee has further amended the bill to clarify its effective date as July 1, 1985.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 90, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 90, S.D. 1, H.D. 1, C.D. 1.

Representatives Apo, Crozier, Kihano, Kim, Nakata, Oshiro, Shon, Isbell and Kamali'i,
Managers on the part of the House.

Senators Aki, Young and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 10 on S.B. No. 93

The purpose of this bill is to clarify the provisions contained in Section 189-3, Hawaii Revised Statutes, which require every commercial marine licensee, unless exempted to submit a monthly catch report to the Department of Land and Natural Resources. The bill would also allow the Department to enter into cooperative agreements with governmental agencies such as the Federal National Marine Fisheries Service for the exchange and use of fish catch data for the management of marine life.

Your Committee has amended the bill on page 1, lines 13 and 14 to maintain the existing language indicating that a written certificate of exemption may be issued by the Department exempting certain marine licensees from submitting monthly catch reports. Your Committee believes that specifying a written certificate be issued will minimize any uncertainty regarding the identity or right of specific marine licensees to be exempted from the monthly catch report requirements.

Your Committee has also made technical amendments as follows:

(1) On page 1, line 9, to delete the comma proposed to be added after the word "that." The addition of the comma would not be in accordance with recommended drafting style.

(2) On page 3, line 6 to delete the proposed subsection (c) designation of the last paragraph of the existing language of Section 189-3. Your Committee finds that the provisions of the last paragraph of Section 189-3 properly relate to the existing subsection (b) and should not be placed under a new subsection (c) designation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 93, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 93, H.D. 1, C.D. 1.

Representatives Apo, Hagino, Metcalf, Shon and Kamali'i,
Managers on the part of the House.

Senators Aki, Matsuura and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 11 on H.B. No. 488

The purpose of this bill is to permit long term health care facility and hospital patients to be visited by certain animals.

Under this bill, animals of the kind commonly kept as household pets may be brought into long term health care facilities and hospitals for the purpose of patient visitations. Such visitations would be made under guidelines established by the institution, which also may require, at its discretion, the production by the animal's owner of documentation from a veterinarian attesting to the animal's good health.

Your Committee finds that animals have been found to be therapeutically valuable for patients, especially for the elderly and mentally ill, and, therefore, that such visitations should be permitted for patients in long term health care facilities, but should not be permitted for patients in hospitals because of various health concerns.

Your Committee has amended H.B. No. 488, H.D. 1, S.D. 1, page 1, Section 2, line 11 by deleting the words "and hospitals" to reflect the above view.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 488, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 488, H.D. 1, S.D. 1, C.D. 1.

Representatives Bunda, Hashimoto, Hirono, Lindsey, Morgado and Cavasso,
Managers on the part of the House.

Senators B. Kobayashi, Solomon and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 12 on H.B. No. 266

The purpose of this bill is to amend the law providing for a wage assignment for child support to: 1) authorize that the assignment will continue in effect throughout the obligor's employment and shall be terminated when appropriate; 2) to mandate that an employer who refuses to honor or otherwise fails to comply with an order of assignment shall be liable to the obligee for the full amount of all sums ordered to be withheld; and (3) to allow wage assignments for children over the age of majority.

Your Committee amended the bill by clearly stating that the primary responsibility for the termination of a wage assignment initiated by an obligee who has retained private counsel or is proceeding pro se belongs to the obligee, with secondary responsibility to the department or agency. Further, if the obligee fails to terminate the assignment when appropriate, the obligee, the agency or the department shall fully reimburse the obligor for any overpayment.

Your Committee has made nonsubstantive, technical amendments to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 266, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 266, H.D. 1, S.D. 1, C.D. 1.

Representatives Gaulty, Tom, Cachola, Kihano, Leong and Cavasso,
Managers on the part of the House.

Senators Chang, Kawasaki and George,
Managers on the part of the Senate.

Conf. Com. Rep. 13 on H.B. No. 49

The purpose of this bill are: (1) to continue the cost-effective, long term, essential home care services to Medicaid-eligible patients, through the Nursing Home Without Walls program; and (2) to expand such services to the neighbor islands.

Under present statutes, the Nursing Home Without Walls Demonstration Project is set to expire on June 30, 1985. This bill re-enacts the project for another two years, and allows it to continue as a demonstration project until June 30, 1987. Your Committee amended the title from "Program" to "Demonstration Project" to reflect that the project will continue to operate under federal guidelines as a Demonstration Project during the two-year period. Brackets to delete the definition of "Demonstration Project" in Section 2 of the bill have therefore been removed and the definition of "Program" removed.

Under present statutes, total expenditures for the project could not exceed 75% of the Medicaid cost to maintain the project's approved number of patients at their appropriate level of institutional care. Your Committee has amended the bill by placing the ceiling on costs at 100% of the average statewide cost of institutional care for the counties of Hawaii, Maui and Kauai to allow for the special complexities and costs involved in the expansion of the program to the neighbor islands.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 49, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 49, H.D. 2, S.D. 2, C.D. 1.

Representatives Gaulty, Souki, Crozier, Leong, Levin, Lindsey,
Takamine, Isbell and Liu,
Managers on the part of the House.

Senators Yamasaki, Abercrombie, Holt, Mizuguchi and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 14 on H.B. No. 101

The purpose of this bill is to establish a new office, the Office of Community

Services (OCS), within the Department of Labor and Industrial Relations for administrative purposes and to merge within it the Office of Progressive Neighborhoods Program (PNP), the Hawaii Office of Economic Opportunity (HOEO), the Refugee Assistance Office (RAO), and the State Immigrant Services Center (SISC).

This bill serves to facilitate and enhance the development, delivery, and coordination of effective programs for those in need through research-oriented activities and to provide assistance to governmental and private agencies in the human services field. In addition, the merging of the various agencies would integrate related human service programs presently in the Office of the Governor and assign them to a single department whose purposes and functions are compatible.

Your Committee upon further consideration has made the following amendments to H.B. No. 101, H.D. 1, S.D. 2:

(1) Deleted the words "established by the legislature", on page 3, line 2, with regards to the programs, policies, and priorities for which the newly established office would fix responsibility and accountability, replacing the deleted language with "of the office";

(2) Deleted the requirement that the appointment of the executive director be subject to the advice and consent of the Senate;

(3) Deleted language which set the salary of the executive director a \$46,800 a year, instead setting the salary level at that no less than that of a second deputy;

(4) Clarified the membership composition of the advisory council for community services, explicitly providing that one member from each client group previously served by OCS, PNP, RAO, and SISC be included;

(5) Provided that nothing contained in the new chapter shall terminate any existing contracts between departments and agencies of the State or counties and private organizations for the development or administration of programs or services to disadvantaged, refugees, and immigrants;

(6) Repealed Section 202-9, Hawaii Revised Statutes, with the understanding that functions, powers, and authority there established in the State Immigrant Services Center are transferred to the Office of Community Services, as provided in the new chapter, reflecting the Committee's strong concern that there be no reduction in services to immigrants and the Committee's hope that the level of these services will be enhanced;

(7) Deleted sections 6 and 10 of the bill, appropriately renumbering subsequent sections; and

(8) Made other technical, non-substantive amendments.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 101, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 101, H.D. 1, S.D. 2, C.D. 1.

Representatives Takamine, Grauly, Bunda, Cachola, Crozier,
Lardizabal, Leong, Nakata, Anderson and Jones,
Managers on the part of the House.

Senators Yamasaki, Abercrombie, Holt, Machida and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 15 on S.B. No. 1408

The purpose of this bill is to amend the spouse abuse criminal statute to 1) require the police to prepare a written report if there are reasonable grounds to believe that physical abuse exists; 2) require the abuser to leave the premises for a cooling off period of twelve hours; 3) require the arrest of an abuser who refuses to comply with an order from the police; and 4) require a person convicted under this section to serve a minimum jail sentence of forty-eight hours and to undergo domestic violence counseling and treatment.

Your Committee is concerned with effectively addressing and combatting family

violence. The ramifications of family violence spread far beyond the confines of the family. Children who are the victims of, or are witnesses to, violence learn to view it as accepted and normal behavior. They may perpetuate the violence as adults.

Presented with this problem, your Committee, upon further consideration, amended the bill to broaden its applicability to family and household members. "Family and household members" is defined in the bill as "spouses, former spouses, parents, children, and persons jointly residing or formerly residing in the same dwelling unit". Your Committee believes that extending the protection of this criminal statute to family and household members will assist in mitigating family violence and its effect on the community.

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

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1408, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1408, S.D. 2, H.D. 1, C.D. 1.

Representatives Tom, Hashimoto, Metcalf, Taniguchi and Liu,
Managers on the part of the House.

Senators Yamasaki, Chang, Mizuguchi, Young and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 16 on H.B. No. 28

The purpose of this bill is to amend the rules of evidence to permit videotaped testimony of a child victim to be used in the prosecution of a child abuse or sexual offense case.

Presently, the rules of evidence do not allow the videotape of a child's testimony and therefore relieve the child of having to testify in court.

For a child victim, testifying in court can be a traumatic experience. This bill attempts to minimize the potential harm to a child who is called to testify. The bill permits videotaped testimony where the child is interviewed in a non-adversarial setting prior to trial. The bill also authorizes the child's testimony to be taken in another room and televised by closed circuit television into the courtroom during a trial.

Your Committee, upon further consideration made several amendments to the bill.

The rule will be applicable to children under sixteen years of age. Your Committee finds that under sixteen years of age would be more appropriate in applying this rule. Although the "threshold age" for certain sex crimes such as rape and sodomy is fourteen, child abuse in the first and second degree establish sixteen as the "threshold" age for those offenses. As this rule is designed to apply to child abuse cases, your Committee amended the age to be consistent with the age set forth in child abuse crimes.

Subsection (b)(6) of the rule is amended to require that the person conducting the interview be present and available to testify at the trial and that other persons who were present at the interview be available to testify. Your Committee finds that it is unnecessary to require everyone who was at the interview to be present at the trial and available to testify. Unless an issue is raised regarding the manner in which the interview was conducted, these persons may never be called upon to testify.

Subsection (b)(7) is amended to allow discovery of the recording by the defendant or defendant's attorney. Your Committee believes that discovery of the recording by defendant or defendant's attorney is made available pursuant to Rule 16 of the Hawaii Rules of Evidence.

Subsection (d) is amended to provide that persons necessary to operate the equipment and such other persons as the court determines necessary shall be present in the room where the child is testifying. Further, the bill is amended to give the attorneys a choice of whether or not they desire to be in the room with the child. Your Committee believes it is important that the people permitted in the room are closely monitored by the court. While cognizant of the need to protect

the child victim, your Committee wishes to avoid a situation where a child is coached in giving testimony. If the attorneys are present in the room during the examination of the witness, the defendant and the defendant's attorney shall be allowed spontaneous communication during the taking of testimony.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 28, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 28, H.D. 1, S.D. 1, C.D. 1

Representatives Tom, Hirono, Metcalf, Taniguchi and Liu,
Managers on the part of the House.

Senators Chang, Cayetano and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 17 on H.B. No. 89

The purpose of this bill is to provide for a mandatory seat belt law in Hawaii.

The following amendments are made to the bill.

Mandatory Seat Belt Use. Throughout this legislative session, testimony has been presented on the merits of mandatory seat belt use. The department of transportation has said that such a policy may be the most effective way of reducing the probability of fatalities and injuries to occupants involved in auto accidents. A study by the National Highway Traffic Safety Administration has concluded that safety belt use is the most cost-effective highway safety measure that is currently available.

The usefulness of seat belts is especially evident for protection against the second crash, the human crash, which occurs a split-second after the vehicle comes to a halt. Seat belts extend the time during which the body stops and distributes the crash force over a larger area of the body.

In reviewing this issue, your Committee has concluded that in any accident the risk of harm to front seat passengers is far greater than that to back seat passengers, and as a result, a higher standard of safety for front seat passengers is required. Data received from the department of transportation support this contention. For the period of 1979 through 1984, 88 per cent of car crash fatalities in Hawaii were front seat occupants. Further, more accidents involve occupants in the front seat and, according to the department of transportation, statistics from the past six years reveal that the chances of fatality or injury to the occupants in a motor vehicle accident are far greater if they are sitting in the front seat.

As a result, and in order to minimize the intrusion of this law upon personal freedoms, your Committee has amended the bill to provide for mandatory seat belt use for front seat occupants of a motor vehicle.

Driver-Passenger Responsibility for Seat Belt Use. In reviewing this concern, your Committee has viewed the mandatory seat belt requirement as the responsibility of individuals to protect themselves from harm. Your Committee has amended the bill to require passengers 15 years of age or older to be responsible for their own use of seat belts and to be cited for any violation of this law. The driver of a motor vehicle shall still be responsible for the driver's own use and for that of passengers under 15 years of age.

Penalties. Your Committee has reviewed both House and Senate proposals for penalties for noncompliance. Your Committee believes that, because the harm and risk is to the individual not wearing the belt and because no harm or injury is caused to another person, the penalty or fine should not be severe.

Moreover, your Committee believes that any fine should be set at less than \$25 in order to avoid a federal rule that would make it unnecessary for manufacturers of cars to provide automatic passive restraint systems if two-thirds of the population of the United States reside in states that have passed mandatory seat belt laws meeting certain federal requirements. Imposing a fine of less than \$25 assures that our law will fall short of those federal requirements.

Your Committee believes that Hawaii's passage of a mandatory seat belt law should not be part of any effort to prevent manufacturers from being required to

install automatic protection systems in all automobiles manufactured after September 1, 1989.

For these reasons, a person who fails to comply will be subject to a fine of \$15.

Insurance Premium Reduction. Throughout the discussions on this bill, testimony has been received that indicates that its passage will result in a substantial reduction in fatalities and injuries. The department of transportation has estimated that a mandatory seat belt law in Hawaii would result in a 57 per cent reduction in motor vehicle fatalities and a 60 per cent to 70 per cent decrease in injuries. When these estimates are applied to 1984 when 140 automobile occupants died and more than 11,852 were injured in Hawaii, it is easy to see the substantial public traffic safety benefits of this law.

Since the reduction of fatalities and injuries resulting from mandatory seat belt use will reduce the number of claims and size of claims against insurers, it can be expected that insurance companies will realize immediate savings and benefits from a mandatory seat belt law.

Your Committee believes that such savings should be passed on to the consumer in the form of a reduction in the costs of their automobile insurance premiums. However, representatives of the insurance industry have said that it would be necessary to review the effectiveness of the law in reducing fatalities and injuries for 3 years before they adequately can gauge the reduction that the consumer should receive. If this is done, consumers would have already lost 3 years of savings they should have received as a result of this law.

In considering this issue, your Committee has reviewed information from the U.S. Department of Transportation which estimated the potential savings from the use of automatic restraint systems such as automatic belts and airbags.

Based on estimates of the potential safety benefits in reduced fatalities as a result of these devices, the department determined the value of insurance savings to be approximately ten per cent and found a potential annual savings for a vehicle's insurance of \$9 to \$17 for air bags and \$10 to \$14 for automatic belts, assuming 70 per cent usage.

The data of the department also showed that mandatory seat belt laws were immediately more effective than automatic belts in assisting in reducing fatalities and injuries. Assuming 70 per cent use for both systems, mandatory seat belt use laws could potentially result in 5,920 to 7,510 fewer fatalities nationally each year while such reductions for automatic belts is estimated at 5,030 to 7,510. Moderate-critical injuries, mandatory seat belt laws would reduce nationally by 100,430 to 124,570, and 86,860 to 124,570 for automatic belts.

Since these estimates indicate relatively similar effectiveness for the reduction of fatalities and injuries for both automatic belts and mandatory seat belt laws, and, if anything, that mandatory seat belt laws would be more effective than automatic belts, your Committee believes that a similar reduction, if not greater, in insurance premiums should be realized for mandatory seat belt use.

Your Committee notes that offering insurance reductions and discounts because of safety measures taken is not new. Hawaii's no-fault insurance law requires a mandatory ten per cent discount for those motorcyclists who attend a department of transportation-approved driver education course. Other states, such as New York, have provided a mandatory discount on premiums for personal injury protection and medical payment coverage on automobile insurance for vehicles equipped with passive restraint systems.

Accordingly, the bill has been amended to provide a ten per cent reduction in premium charges for no-fault benefits and medical payment coverage. According to the insurance commissioner, personal injury protection is synonymous with the definition of "no-fault benefits" as defined under section 294-2(10), Hawaii Revised Statutes. The ten per cent reduction shall apply to all new and renewal policies issued after the effective date of this bill and will be repealed December 31, 1988. According to the insurance commissioner, it is expected that any savings the customer would realize from improved traffic safety would be reflected in the rates and the continuance of the mandatory discount would then be a penalty on the insurer.

Police Warnings. The bill includes a section which will allow law enforcement officials to issue verbal warnings prior to the date the law goes into effect. These

warnings may be given from November 1, 1985 through December 15, 1985.

Effective and Repeal Date. Mandatory seat belt use will commence December 16, 1985. Provisions for a repeal date that appeared in the Senate draft have been deleted.

Report to the Legislature. The department of transportation and the insurance commissioner are required to report annually for the next five years to the legislature relating to public compliance with the law, statistics on traffic accidents and resulting in injuries and fatalities and the effect of this law on insurance rates.

Compatibility with Support for Automatic Crash Protection Systems. A section has been included which would express the legislature's intent that Hawaii's mandatory seat belt law is compatible with support for federal safety standards requiring automatic crash protection and should not be interpreted or applied in any manner to rescind federal automatic crash protection systems for new vehicles.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 89, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 89, H.D. 1, S.D. 2, C.D. 1.

Representatives Taniguchi, Tom, Metcalf, Oshiro and Liu,
Managers on the part of the House.

Senators Yamasaki, Cayetano, Hee, B. Kobayashi and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 18 on H.B. No. 104

The purpose of this bill is to: (1) clarify that only name change orders for persons born in the State need to be reported to the state registrar, and (2) increase the filing fee for a petition for a name change from \$5 to \$10 and make this filing fee non-refundable.

Under present law, the lieutenant governor must, regardless of the petitioner's place of birth, record the name change order with the bureau of conveyances and report the order to the registrar of births within 60 days after signing the order. However, the registrar is empowered only to issue new birth certificates to those born in Hawaii; thus unnecessary paperwork is created for the registrar.

In addition, the measure will increase the filing fee for a name change order. Your Committee finds that the increase is justified considering the costs incurred in processing the order. In addition, the fee will be non-refundable.

Your Committee, upon further consideration has amended the bill by:

(1) Deleting reference to name change by decree. Your Committee finds that changes of name presently are only executed by order and such wording burdens the statutes.

(2) Creating two new subparagraphs to cover situations for persons born in Hawaii, and for those persons born outside the State. Your Committee believes this amendment clarifies the measure.

(3) Making a technical, nonsubstantive amendment.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 104, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 104, H.D. 2, S.D. 1, C.D. 1.

Representatives Tom, Souki, Lardizabal, Menor, Metcalf, Nakata, Tajiri, Tungpalan, Jones and Kamali'i,
Managers on the part of the House.

Senators Chang, Abercrombie and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 19 on H.B. No. 830

The purpose of this bill is to prohibit, subject to minor exceptions, affixing or attempting to affix lights, lamps, reflectors and illuminated devices that are blue or made to appear blue on any motor vehicle, motorcycle, motor scooter, bicycle or moped.

Your Committee is concerned about the increase in the incidence of police impersonators and believes that it is important to be able to prosecute persons who operate vehicles set up to resemble police vehicles or that at night could be mistaken for police vehicles but who are not in the act of impersonating a police officer.

Your Committee agrees that provisions should be adopted to prohibit persons from using blue lights, lamps, reflectors and illuminated devices which enable a more realistic impersonation of a law enforcement official.

Your Committee upon further consideration has made the following amendments to the bill, at section 1, page 1, line 6, to expand the class of persons in violation of the new Hawaii Revised Statutes section proposed by this bill by penalizing persons who operate, knowingly display or knowingly possess a prohibited device on or within a motor vehicle, motorcycle, motor scooter, bicycle or moped:

- 1) the word "operate" has been added between the words "shall" and "affix";
- 2) the phrase "knowingly display or knowingly possess" has been inserted between the words "affixed" and "any"; and
- 3) a comma has been inserted between the words "operate" and "affix" and between the words "affixed" and "knowingly display".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 830, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 830, H.D. 1, S.D. 1, C.D. 1.

Representatives Taniguchi, Tom, Oshiro, Metcalf and Medeiros,
Managers on the part of the House.

Senators Chang, Cayetano and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 20 on H.B. No. 1393

The purposes of this bill are: 1) to provide that up to \$100,000 annually may be granted to the Civil Air Patrol from the airport revenue fund pursuant to Chapter 42, Hawaii Revised Statutes; 2) to specify that the current \$3,000 grant shall be made available to Hawaii-based squadrons and flight units only; 3) to allow the purchase of fuels and oils not otherwise provided to the organization by the federal government; and 4) to allow assistants to the adjutant to perform certain administrative and fiscal duties.

Your Committee finds that the Civil Air Patrol is presently statutorily provided with a grant of \$100,000 annually from the airport revenue fund. However, in recent years, the Hawaii Wing of the Civil Air Patrol has exhibited a lack of careful financial management and has shown little or no accountability for the state grant it receives. In the past, little or no financial controls have been imposed on the \$3,000 grant given to individual squadrons or flight units.

Your Committee concurs with the finding that the Hawaii Civil Air Patrol has not fulfilled a fiduciary responsibility to the State for the state funding the organization receives annually. Because of the way it has managed its funds, your Committee finds that there is a need for stronger legislative oversight of funds granted to this organization.

Your Committee is cognizant that a new wing commander, Colonel John Parrish, has been appointed to head the organization, and he has testified that there will be stronger fiscal controls and more efforts made to hold the Civil Air Patrol accountable. Your Committee believes that the provisions of this bill will better assist the organization in reaching these goals.

Your Committee upon further consideration has made the following amendments to the bill:

- 1) At section 1, page 1, line 5, the words "so much thereof as may be necessary" have been added between the words "annually" and "[is]"; and
- 2) At section 1, page 1, line 5, the word "may" has been replaced with the word "will".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1393, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1393, H.D. 2, S.D. 1, C.D. 1.

Representatives Taniguchi, Takamine, Oshiro, Lardizabal and Anderson,
Managers on the part of the House.

Senators Cayetano, Hagino and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 21 on H.B. No. 519

The purposes of this bill are: 1) to increase from \$3.50 to \$6.00, the maximum amount a towing company may assess vehicles towed from private or public property and stored for a 24 hour period; 2) to include in Section 290-11, Hawaii Revised Statutes, a provision adding a mileage fee of \$2.50 per mile on tows over five miles; and 3) to include in Section 290-11, Hawaii Revised Statutes, a provision limiting the mileage fee to a sum of \$25 for towing mileage over five miles.

Your Committee finds that towing companies, especially on the neighbor islands, have been hesitant to service outlying areas due to the low ceiling on allowable towing charges. Adding a mileage fee of \$2.50 and imposing a ceiling of \$25 was suggested to enable towing companies to receive adequate compensation for services provided to outlying areas.

Your Committee finds that the proposed increases in towing rates and the imposition of a \$25 ceiling on additional towing charges may sufficiently compensate towing companies which tow vehicles over a distance exceeding five miles. However, your Committee believes that towing companies as well as consumers of services provided by such companies could be dealt with more equitably. Therefore, your Committee upon further consideration has made the following amendments to this bill:

1. At page 2, line 1, the figure \$2.50 has been replaced with the figure \$1.00 to reflect a reduced per mile fee for towing mileage over five miles;
2. At page 2, lines 1 to 2, the phrase "but not more than \$25" has been deleted to remove the ceiling on additional towing charges; and
3. At page 2, line 2, a dollar sign has been inserted between the left bracket symbol and the number 3 to accurately reflect the text as set forth in section 290-11, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 519, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 519, S.D. 1, C.D. 1.

Representatives Taniguchi, Oshiro, Takamine and Anderson,
Managers on the part of the House.

Senators Cayetano, Cobb and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 22 on S.B. No. 78

The purpose of this bill is to repeal Part II of Chapter 378, Hawaii Revised Statutes, and to add a new Part II permitting the use of various lie detector tests under certain conditions.

Currently, Part II provides that it is unlawful for an employer to require an

employee or a job applicant to submit to a lie detector test as a condition of employment or continued employment and provides that violation of this part is a misdemeanor and constitutes a criminal offense.

This bill provides civil and criminal penalties for violations of the Part, authorizes the attorney general or the county prosecutors to take civil and criminal actions, and requires employers to inform employees or prospective employees in writing, as well as orally, that the test is voluntary and that the refusal to submit will not result in job termination or jeopardize prospective employment opportunities.

Your Committee has amended the bill by clarifying that the criminal penalty for violating the Part is a fine of not more than \$1,000, or imprisonment for not more than one year, or both. Your Committee has also made a technical, nonsubstantive amendment to correct a drafting error.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 78, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 78, S.D. 1, H.D. 2, C.D. 1.

Representatives Tom, Tungpalan, Takamine, Leong, Metcalf, Nakata and Anderson,
Managers on the part of the House.

Senators Machida, Holt and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 23 on S.B. No. 133

The purpose of this bill is to prohibit aircraft from being operated at any airport owned or operated by the State Department of Transportation unless the aircraft has a certificate of registration issued in accordance with the Department's rules. The bill provides certain exemptions to the registration requirements, sets the annual registration fee at \$5, and provides penalties for failure to register aircraft as required.

Your Committee has amended page 2, line 4 of the bill to provide for a registration fee of \$10 rather than \$5 to be paid by the operator of each aircraft registered under this measure.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 133, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 133, S.D. 1, H.D. 1, C.D. 1.

Representatives Taniguchi, Souki, Kim, Oshiro, Tajiri and Isbell,
Managers on the part of the House.

Senators Cayetano, B. Kobayashi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 24 on S.B. No. 249

The purpose of this bill is to insure the confidentiality of adult probation records by amending section 806-73, Hawaii Revised Statutes.

There are two kinds of adult probation records originated by adult probation officers: (1) the case record, which is a running log of events relative to the offender and includes internal notes and memoranda, and (2) the presentence report. The case record contains confidential information concerning the offender. This information is necessary for the adult probation officer to effectively monitor the offender. The presentence report contains detailed information about the offender, including a personal history, the offender's version of the crime, and an assessment of the offender's contrition.

Records originated by adult probation officers pursuant to duties and powers already established in section 806-73, Hawaii Revised Statutes, are not clearly and expressly confidential. This fact sometimes hampers adult probation officers in the performance of their duties. This bill makes explicit the documents which can be released and to whom they can be released.

Your Committee upon further consideration amended the bill to provide that the presentence report may be released to a psychiatrist, psychologist, or other mental health practitioner who is treating the defendant pursuant to a court order for mental health care. As the bill previously read, it could have been interpreted as permitting the release of the documents to any mental health practitioner when a defendant is under a court order for treatment. Your Committee also deleted the reference to the Department of Health as an agency to which the report can be released, as any Department of Health mental health practitioner who is treating the defendant will be allowed to obtain the report.

Your Committee also made technical, nonsubstantive amendments for clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 249, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 249, S.D. 1, H.D. 1, C.D. 1.

Representatives Tom, Menor, Blair, Metcalf and Pfeil,
Managers on the part of the House.

Senators Chang, Kuroda and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 25 on S.B. No. 1264

The purpose of this bill is to establish new maximum bumper height specifications for passenger vehicles, and to increase the maximum allowable bumper heights for vehicles with a gross vehicle weight rating.

Your Committee finds that S.B. No. 1264, S.D. 1, H.D. 1 proposes to establish new bumper height limitation which attempt to balance the legitimate interests of persons who operate off-road vehicles with the interests of public safety. It is the opinion of your Committee, however, that the bumper height limitations contained in the bill are too restrictive, particularly since the hazard believed to be caused by such vehicles has not been completely established.

Your Committee believes that greater flexibility is required in this bill to permit person to pursue the business of reconstructing vehicles and the opportunity to operate vehicles off the road. Your Committee, therefore, has proceeded to balance these considerations with the overriding public interest in safety by amending S.B. No. 1264, S.D. 1, H.D. 1 as follows:

(1) Increasing the maximum allowable bumper heights for vehicles with a gross vehicle weight rating by amending lines 11 through 13 on page one of the bill to read as follows:

4,500 lbs. and under	[22] 29 inches	[22] 29 inches
4,501 lbs. to 7,500 lbs.	[24] 33 inches	[26] 33 inches
7,501 lbs. to 10,000 lbs.	[28] 35 inches	[30] 35 inches

(2) Providing that for vehicles which have been modified or altered from the original manufacturer's design that the bumper height be measured from a level surface to the bottom of the bumper rather than the "vehicle frame rail where the original bumper brackets were installed";

(3) Removing the exception that this section shall not apply to motor vehicles which, at manufacture, have a bumper height in excess of that provided in this section;

(4) Inserting on line 5 on page two of the bill as received the following language relating to the maximum height for a vehicle's rail frame and the maximum distance between a vehicle's body and its rail frame:

"The vehicle frame rail, measured from a level surface to the bottom of the vehicle frame rail, shall not exceed the attached bumper height. The maximum distance between vehicle body to vehicle frame rail shall not exceed three inches. The distance between the vehicle body to the vehicle frame rail shall be measured from the vehicle body mount seat to the vehicle frame rail mount seat";

and

(5) Requiring, for reasons of safety, that certain vehicles install audible reverse warning devices that would sound when the vehicle is backed up by inserting at the end of Section 1 of the bill the following language:

"Any vehicle that exceeds the Vehicle Equipment Safety Commission-Regulation 12 recommended bumper height, based on the GVWR, shall be equipped with an audible reverse warning system. The audible reverse warning system is not required on any open cab vehicle with a distance of less than four feet from the rear of the driver's seating position to the rear most part of the vehicle body."

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1264, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1264, S.D. 1, H.D. 1, C.D. 1.

Representatives Oshiro, Nakasato, Lardizabal, Tungpalan and Anderson,
Managers on the part of the House.

Senators Cayetano, Cobb, Toguchi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 26 on H.B. No. 329

The purpose of this bill is to provide mandatory penalties for driving with a suspended or revoked license that was ordered because of a conviction for driving under the influence of intoxicating liquor (DUI) or refusal to submit to a blood or breath test.

Your Committee finds that the threat of license suspension is an effective deterrent to drunk driving. It believes that persons who receive a license suspension or revocation due to a conviction for DUI or refusal to submit to a blood or breath test deserve harsh penalties if they continue to drive.

Upon further consideration, your Committee has amended H.B. No. 329, H.D. 1, S.D. 2 by:

(1) Replacing the word "and" with the word "or" on page 1, line 7 of the bill. In making the amendment, your Committee's intent is to subject those convicted of either DUI or refusing to submit to a breath or blood test to the provisions of the bill.

(2) Requiring a minimum imprisonment of three consecutive days.

(3) Providing that violators of the section shall be subject to a fine of not less than \$250 but not more than \$1,000.

(4) Adding Section 3 to the bill to clarify that persons penalized under the provisions of this bill will not have an opportunity to ask the court to apply the lighter penalties provided in section 286-132, Hawaii Revised Statutes, for driving while their license is suspended or revoked. In addition, your Committee made certain technical, nonsubstantive amendments for clarification.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 329, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 329, H.D. 1, S.D. 2, C.D. 1.

Representatives Tom, Blair, Hashimoto, Hirono, Metcalf and Liu,
Managers on the part of the House.

Senators Chang, Cayetano and George,
Managers on the part of the Senate.

Conf. Com. Rep. 27 on H.B. No. 1257

The purpose of this bill is to amend the election statutes to improve the administration of elections in Hawaii.

This bill proposes the following amendments:

1. Section 11-18, H.R.S. is amended to allow a challenge as provided in

Section 11-25 where there is a questionable change of registration due to a change of residence.

2. Section 11-21(e), H.R.S. is amended to provide that a challenge to the registration of a voter may be made in accordance with Section 11-25, H.R.S.

3. Section 11-25, H.R.S. is amended to allow a person whose right to vote is challenged on election day to first be given the opportunity to make the relevant correction pursuant to Section 11-21, H.R.S.

4. Section 11-112, H.R.S. is amended to allow consolidation of offices, candidates, questions, or issues on the same ballot unless prohibited by the state constitution.

5. Section 11-119, H.R.S. is amended by adding a new subsection (b) which would require that the exact wording to be printed on the ballots be submitted to the chief election officer not later than 4:30 p.m. on the sixtieth calendar day prior to the election.

6. Section 11-139, H.R.S. is amended to allow a blind, disabled, or illiterate voter to receive assistance in casting a ballot. The amendment further provides that the voter's employer or employee's agent or agent of the voter's union cannot render assistance and that two precinct officials who are not of the same political party may render assistance.

7. Section 12-42, H.R.S. is amended to clarify the term of office of candidates running for state office in special or special primary elections. This bill provides that the term for such a candidate begins as of the day of the special election or of the succeeding special general election, whichever is applicable. This bill further provides that a candidate for state office who is unopposed after nomination in a special primary election begins his or her term of office on the day of the special general election.

8. The bill adds a new subsection (e) to Section 13D-3, H.R.S. which requires each county clerk to add in the general county register any person who on November 6, 1982 was registered to vote only for the board of trustees of the office of Hawaiian affairs.

9. Section 15-9(b), H.R.S. is amended to require that return envelopes of absentee ballots which arrive after the closing of the polls be time stamped.

Your Committee, upon further consideration, recommended that the proposed subsection (c) to Section 11-112, H.R.S. be deleted. Your Committee raised a concern that the bill will allow for consolidation of ballot items at the discretion of the chief election officer. However, there are no safeguards contained in the bill to ensure the ballot is fair and will not confuse or mislead voters.

In addition, your Committee made technical, nonsubstantive amendments to conform with recommended drafting style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1257, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1257, S.D. 1, C.D. 1.

Representatives Tom, Apo, Hashimoto, Metcalf and Liu,
Managers on the part of the House.

Senators Chang, Young and George,
Managers on the part of the Senate.

Conf. Com. Rep. 28 on H.B. No. 165

The purpose of this bill is to broaden the authority of the Department of Health to provide satisfactory community residential facilities to certain clients of the mental health system.

Under existing statutory provisions, mental health residential treatment system applicants are provided a range of alternatives to institutional care which are based on principles of residential, community-based treatment. These alternatives, however, are only available to those individuals returning to a condition requiring

hospitalization, and such individuals must be placed in individual apartments or houses which are shared by three to five persons.

Under this bill, individuals who have not previously been hospitalized are also eligible for residential, community-based treatment. Furthermore, qualified mental health residential treatment system applicants need no longer be placed only in individual apartments or houses which are shared by three to five persons.

This bill amends the existing statutory provisions which provide the program elements of the residential, community-based mental health treatment system by deleting the language which describe, limit, and specify the kinds and scope of services, facilities, and living arrangements to be provided, and provides for the addition of more program elements, if appropriate.

The intended effect of the deletions of the language is to give the Department of Health more flexibility in administering the provisions of the law by permitting it to implement the basic statutory provisions by the adoption of rules. This is authorized by section 334-9, Hawaii Revised Statutes.

Your Committee finds that it would be preferable for the time being to retain the existing statutory language, and that, with the two amendments to the statute noted below, the Department will have sufficient flexibility in administering the program.

Your Committee, therefore, has amended the bill to retain the present statutory provisions dealing with the four program elements which relate to the residential, community-based mental health treatment system. However, your Committee has retained the amendments in the bill which: (1) make residential alternatives available not only to those returning to a condition requiring hospitalization, but also to those individuals who have not previously been hospitalized, and (2) delete the requirement that the individual apartments or houses under the specified program element must be shared by three to five persons.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 165, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 165, S.D. 1, C.D. 1.

Representatives Bunda, Hashimoto, Kihano, Shito and Liu,
Managers on the part of the House.

Senators B. Kobayashi, Matsuura, and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 29 on H.B. No. 776

The purposes of this bill are to: (1) establish mandatory registration as the regulatory scheme for family child care homes; (2) simplify the procedure for registration of these homes; (3) establish minimum requirements for health and safety of children in family child care homes; (4) require the Department of Social Services and Housing (DSSH) to maintain a registry of family child care homes and make the information available to the general public upon request; (5) provide for the visitation and inspection of family child care homes to determine compliance with minimum requirements; (6) provide guidelines for the development of standards to assure the reputable and responsible character of applicants and their employees; (7) provide for the establishment of child care systems; (8) delineate a program of incentives for registration; (9) require providers of child care and their employees to report suspected child abuse/neglect cases; and (10) clarify the exclusions contained in the act.

Your Committee has amended H.B. No. 776, H.D. 2, S.D. 1 by:

- 1) amending the definition of "child care facility" to reflect that a facility caring for three or more children would come under the purview of chapter 346;
- 2) amending the definition of "family child care home" by specifying "three or more children", in order to be consistent;
- 3) amending the exclusions section to exclude those caring for two or less children, for consistency;

4) providing for a fine of up to \$500 for a violation of any provision of chapter 346;

5) eliminating the DSSH director's discretion to grant exemptions from the law.

Your Committee believes that multi-service organizations which promote recreation, health, safety or social group functions should not be subject to licensure. Your Committee therefore amended paragraph 5 of the exclusions section to reflect that multi-service organizations, such as the YMCA and YWCA, in addition to community associations which are excluded under current law, are excluded from coverage of the act.

Under current law, children participating in programs described in paragraphs 4 and 5 of the exclusions section must be between the ages of five to seventeen.

Your Committee is aware that children under age five may be enrolled in public and private schools and therefore create a problem for providers of before and after school care. Your Committee amended the language of paragraphs 4 and 5 to read: "eligible pupils in public and private schools through age seventeen" to resolve the problem.

While administrative rules for family day care homes need to be developed by the Department of Social Services and Housing as a result of this legislation, your Committee wishes to clearly establish the legislative intent to strike a proper balance between realistic costs on one hand and the availability and quality of child care on the other.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 776, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 776, H.D. 2., S.D. 1, C.D. 1.

Representatives Grauly, Cachola, Hashimoto, Leong and Liu,
Managers on the part of the House.

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

Conf. Com. Rep. 30 on H.B. No. 436

The purpose of this bill is to amend chapter 346, Hawaii Revised Statutes, by: (1) providing personal care services to medical assistance recipients whose physical disabilities are of a degree that would require placement in an intermediate care facility if the personal care services were not provided; (2) expanding the definition of "personal care services" to include assistance with medication which is ordinarily self-administered, as well as assistance with mobility and transfer activities; and (3) providing that the ceiling for payment for personal services be sixty-five per cent of the average monthly medical assistance payment for a recipient in an intermediate care facility.

Your Committee amended section (e) of the bill to clearly reflect that recipients of personal care services are not precluded from receiving chore services and other medical services necessary to keep the recipients out of institutions. Your Committee believes that the personal care services program is a cost-effective way of assisting persons with serious physical disabilities and enables them to carry on with their lives with dignity and pride.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 436, H.D. 2, S.D. 2 as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 436, H.D. 2, S.D. 2, C.D. 1.

Representatives Grauly, Souki, Cachola, Crozier, Leong, Takamine,
Isbell and Liu,
Managers on the part of the House.

Senators Yamasaki, Abercrombie and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 31 on S.B. No. 149

The purpose of this bill is to provide the Land Use Commission (LUC) with new decision making criteria which emphasizes greater conformity between LUC decisions and identified areas of statewide concern. This bill also authorizes the LUC to conduct a five year review of land classification in this State, limits the review to County general and development plans, and allows the LUC to initiate amendments toward greater conformance between land use district boundaries and these plans. In addition, the bill provides that boundary amendments involving areas of fifteen acres or less, except those involving conservation districts, should be processed by the counties, and that all parties participating in hearings involving petitions for changes in district boundaries involving conservation districts and areas greater than fifteen acres may enter into stipulations as to the findings, conclusions and conditions of reclassification regarding the proposed boundary change.

Your Committee concurs with the Department of Planning and Economic Development that improvements should be made to the existing land use district boundary process and that this measure will: (1) reduce the time and cost to an applicant, facilitate processing of applications and reduce duplication; (2) protect the State's interests; (3) increase emphasis on long-range planning; and (4) provide for a smooth transition from the current system to an improved system. Your Committee believes this measure will address the concerns of applicants while providing sufficient safeguards to protect the use and condition of the land.

Your Committee finds that the intent of the provisions amending State land use district boundaries of areas fifteen acres or less, except in conservation districts, as provided for in Section 205-3.1, is to consolidate such boundary change petitions with the consideration of the existing county general plan, development and community plans, and zoning or such other proceedings of the respective county and not to require a separate proceeding pursuant to Section 205-4.

Your Committee has amended the bill by requiring that the Department of Planning and Economic Development: (1) conduct a five year review of land classification in this State instead of the LUC; (2) focus its efforts in reviewing land use district boundaries on the Hawaii State Plan, the County general plans, and development and community plans, and (3) submit a report of its findings to the LUC. Subsequent to the LUC's review, the Department may, and is strongly encouraged to, initiate boundary amendments it deems appropriate to conform the land use district boundaries to these plans. Your Committee also amended the five year boundary review procedure to conform with the provision of the contested case procedure of the LUC.

This bill also clarifies provisions of Section 205-4(j) by specifying that the LUC may, but shall not be required to, approve the stipulations of the parties. Your Committee has also made technical and nonsubstantive changes to the bill for clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 149, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 149, S.D. 1, H.D. 1, C.D. 1.

Representatives Andrews, Say, Apo, Crozier, Tajiri and Pfeil,
Managers on the part of the House.

Senators Aki, Hagino, Holt, Matsuura and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 32 on S.B. No. 1358

The purpose of this bill is to specify, but not limit, the items allowed to be recovered as costs by the prevailing party from a losing party in a lawsuit.

Under the traditional application of the present law, only a portion of the actual expenses incurred by the successful party have been awarded by the courts. With the advancement of technology, litigation has become more complex and more expensive. Yet the items permitted to be taxed as costs against the losing party have not changed to meet the rising expenses. Parties have to make serious financial sacrifices to properly prepare for the litigation of a case. This bill would alleviate the problem by authorizing the recovery of costs for intrastate travel

expenses for counsel and witnesses, deposition transcript originals and copies, and other incidental expenses, such as copying costs, intrastate telephone charges, and postage.

Upon further consideration, your Committee amended the bill to provide that in determining whether and what costs should be taxed, the court may consider the equities of the situation. By permitting the court to examine the equities of the situation, your Committee intends that the court review the merits of the claims, the reasonable necessity of the items sought to be taxed for the prosecution or the defense, the relative hardship of costs are taxed against the losing party, and other relevant factors.

Your Committee does not believe that this bill will "open the floodgates" and allow the court to tax all costs relevant to the litigation against the losing party. Because case law has interpreted the present statute very narrowly, the only cost which is clearly allowable is the reimbursement of witness and sheriff's fees. The bill will give litigants the opportunity to receive reimbursement for additional out-of-pocket expenses. Your Committee expects that the court will continue to carefully scrutinize the proposed costs and only tax those costs which are reasonable, keeping in mind that excessive cost taxation will discourage meritorious litigation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1358, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1358, S.D. 1, H.D. 2, C.D. 1.

Representatives Tom, Kihano, Blair, Hirono, Kim, Lardizabal, Metcalf, Takamine, Kamali'i and Liu,
Managers on the part of the House.

Senators Chang, Cayetano and George,
Managers on the part of the Senate.

Conf. Com. Rep. 33 on S.B. No. 615

The purpose of this bill is to allow a court to award reasonable attorney's fees to the private party who prevails in an action for injunctive relief against another private party who allegedly has been or is undertaking any development work without obtaining the necessary permits and approvals for development.

Your Committee finds that as a result of the volume of development in this State, it is difficult for the State or counties to enforce development permit and approval requirements under the law. It is sometimes left to the initiative of private parties to assert positions of public interest in development issues. However, the high costs of raising these issues in litigation limits the ability of private individuals or parties to undertake such initiatives.

To protect a developer from a judgment proof plaintiff, the bill provides that upon the filing of certain claims for injunctive relief, plaintiffs must post a bond of at least \$2,500. This bond is to be used to pay for attorney's fees and costs if the party undertaking the development prevails. This bond should serve to ensure that meritorious claims will be asserted in court.

The bill provides protection to developers who proceed in good faith with a development project after receiving a statement from the appropriate government body that a permit or approval is not necessary. However, concern was raised regarding the necessary proof for such a claim by a developer who does not get a permit or approval prior to starting the development. Therefore, your Committee amended the bill to require that upon written notice to the developer, the developer has 30 days in which to send to the party seeking the injunction a copy of a written statement which should have been received prior to the start of the development that is the subject of the civil action.

Your Committee further amended the bill by restructuring portions of the bill for style and clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 615, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 615, S.D. 1, H.D. 2, C.D. 1.

Representatives Andrews, Say, Tom, Apo, Metcalf and Kamali'i.
Managers on the part of the House.

Senators Chang, Cayetano and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 34 on S.B. No. 460

The purpose of this bill is to specifically authorize the Hawaii criminal justice data center to use fingerprinting as part of their identification system currently in effect. The bill enlarges the class of persons to be included in this identification system by adding those persons to whom penal summons have been issued for a criminal offense and who have been convicted or granted a deferred acceptance of guilty or nolo contendere plea or a conditional discharge. It also requires the Hawaii criminal justice data center, in addition to collecting, to record and compile information relating to crime. The bill appropriates \$8,000 and designates the department of the attorney general as the expending agency for the purposes of the bill.

Your Committee recognizes a void in the comprehensive criminal justice information system. Currently, the criminal history system does not have stored in its data base cases where penal summons have been issued or where a deferred acceptance of guilty plea or a nolo contendere plea has been rendered. This bill will account for these people and will assure positive identification through the utilization of fingerprint identification techniques.

Your Committee has amended the bill by deleting the \$8,000 appropriation section as well as the section requiring the department of the attorney general to expend those moneys, and renumbered the sections of the bill accordingly.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 460, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 460, S.D. 2, H.D. 2, C.D. 1.

Representatives Tajiri, Tom, Kim, Leong, Metcalf, Tungpalan, Kamali'i and Liu,
Managers on the part of the House.

Senators Yamasaki, Chang, Kuroda, Mizuguchi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 35 on S.B. No. 459

The purpose of this bill is to replace the existing advisory committee of the Hawaii criminal justice data center with a formal criminal justice data interagency board, consisting of eleven members, appointed by the governor. The board, scheduled to sunset on June 30, 1989, is given the responsibility of promoting interagency cooperation and coordination in the development and management of a fully integrated state criminal justice information reporting and retrieval system. To accomplish this purpose, this bill appropriates \$7,000 to be expended by the department of the attorney general.

Your Committee, upon further consideration, has amended the bill by deleting the appropriation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 459, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 459, S.D. 2, H.D. 2, C.D. 1.

Representatives Tom, Kim, Leong, Metcalf, Tajiri, Tungpalan, Kamali'i and Liu,
Managers on the part of the House.

Senators Yamasaki, Chang, Kuroda, Mizuguchi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 36 on H.B. No. 1285

The purpose of this bill is to require national criminal history record checks for all operators, staff or employees, or prospective operators, staff, or employees of child care, detention and correction/treatment facilities in the State.

Your Committee has made various amendments to the bill as received by:

- 1) substituting "shall" for "may" in referring to the department of social services and housing's rule making authority in protecting the welfare of children in child placing organizations, child caring institutions and foster boarding homes;
- 2) clarifying that standards to assure the reputable and responsible character of operators and employees of child caring institutions, child placing organizations and foster boarding homes shall be developed;
- 3) deleting the specific references to chapters 707, 708, 709, 710, 711 and 712 and instead requiring that any crime, other than a minor traffic violation involving a fine fifty dollars or less, be reported to the department of social services and housing (DSSH);
- 4) providing that a certificate of approval may be denied if the criminal history record of the operator, employee or new employee poses a risk to the health, safety or well-being of the children in care;
- 5) requiring that operators and employees be fingerprinted to comply with FBI rules on criminal history record checks;
- 6) requiring that new employees be fingerprinted within five working days of employment;
- 7) requiring the criminal history record checks be conducted on staff members of the HYCF and the detention or shelter facilities under the family court to comply with federal law and regulations; and
- 8) various technical, non-substantive amendments for the purpose of style, clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1285, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1285, H.D. 2, S.D. 1, C.D. 1.

Representatives Graulty, Souki, Hashimoto, Hirono, Kim, Levin, Tajiri,
Anderson and Liu,
Managers on the part of the House.

Senators Chang, Kuroda and George,
Managers on the part of the Senate.

Conf. Com. Rep. 37 on S.B. No. 461

The purpose of this bill is to create a civil penalty for shoplifting.

Currently, a store owner may sue in civil court only for actual damages. However, the economic loss to the store owner includes the time and money spent on the apprehension and processing of a shoplifter and the subsequent reporting of the incident to the police. In addition, further time and money are spent if the store owner is forced to sue in civil court to recover damages. This bill places the economic burden of shoplifting on the shoplifter and not on the honest consumers who are forced to pay a higher price for their merchandise because of shoplifters.

Your Committee amended the bill to provide for a flat civil penalty of \$75, which represents the time and money spent in the apprehension of the shoplifter, reporting the incident to the police, and attempting to recover actual damages by a written demand for payment. If the store owner is forced to sue in civil court to recover his damages, the court can award not only the \$75 flat civil penalty, but also an additional civil penalty of not less than \$50 nor more than \$500.

Your Committee made other technical, nonsubstantive amendments to the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 461, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 461, S.D. 1, H.D. 1, C.D. 1.

Representatives Tom, Hashimoto, Metcalf, Taniguchi and Medeiros,
Managers on the part of the House.

Senators Chang, A. Kobayashi and Young,
Managers on the part of the Senate.

Conf. Com. Rep. 38 on S.B. No. 253

The purpose of this bill is to amend H.R.S. §§586-3 and 4 to: 1) permit a family or household member to apply for an order for protection on behalf of a minor or an incapacitated person, and 2) extend the protection of the order to the applicant's family or household members.

The current law, providing that orders for protection may only be made on behalf of minor children, is too restrictive. It does not offer assistance to those disabled and elderly persons who are not capable of completing a petition and attending the court hearing in person. They are presently without recourse to an order for protection.

Furthermore, under the present law, the Court is limited to granting protection to the applicant and the applicant's children or relatives who are residing with the applicant at the time of the filing of the petition. Since relatives who were not living with the applicant at the time of the filing of the petition, and relatives who never lived with the applicant, may need the same protection against harassment and abuse, the distinction between these two types of relatives is artificial and irrational. For instance, the statute does not afford protection to the children who were sent to stay with relatives prior to the parent's filing for an order for protection against the abusive parent. The bill would remedy this situation.

Upon further consideration, your Committee amended the bill to clarify that the petition for relief may be made on behalf of a person who is incapacitated as defined in the guardianship statute, section 560:5-101(2), Hawaii Revised Statutes, or who is physically unable to go to the appropriate place to complete or file the petition. As the bill previously read, it appeared that an "incapacitated person" was someone who lacks the capacity to understand; it did not consider other factors. That interpretation would have been too limited to achieve the purposes of the bill.

Your Committee also made a technical, nonsubstantive amendment to correct spelling.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 253, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 253, S.D. 1, H.D. 1, C.D. 1.

Representatives Tom, Blair, Hirono, Metcalf and Jones,
Managers on the part of the House.

Senators Chang, Aki and George,
Managers on the part of the Senate.

Conf. Com. Rep. 39 on H.B. No. 1231

The purpose of this bill is to require the counties to establish and implement the regulation of sewerage and wastewater treatment systems by July 1, 1987. In addition, this bill requires the Department of Health (DOH) to administer and control sewerage and wastewater systems until July 1, 1987 or until such time as the counties receive funding to assume the administration of this program.

Your Committee finds that Chapter 57 of the Administrative Rules of the Department of Health was adopted by the Department in 1983 as a replacement to Chapter 38 which required the State to regulate individual wastewater systems and private wastewater treatment works. The intent of Chapter 57 was to provide for the

eventual transfer of the State's regulatory responsibilities over private and individual sewerage systems to the various counties of the State of Hawaii. To date, however, the respective counties have maintained that none are in the position to accept this responsibility without adequate assistance in funding. Consequently, program control over private and individual sewerage systems remains uncertain and poorly managed. This has resulted in an undesirable business climate for both the development industry and the consumer. Further, without the proper safeguards and controls in place, the potential for adverse consequences to the environment as well as to the general public remains a distinct possibility.

Your Committee finds that this bill, as presently drafted, allows the Department of Health to maintain its current program of regulation in accordance with DOH Administrative Rules Chapter 57. Whereas, a definite date for the overall transfer of authority of individual and private sewerage system has yet to be determined, your Committee finds that this industry should be regulated in a sound and comprehensive manner. To this end, your Committee has recommended the following amendments:

A new SECTION 1 has been added to this bill to allow for the reassignment of individual and private sewerage treatment control responsibilities from the State to a county on the date that the expenditure of start-up funds is made by the State to such county.

SECTION 2 has been amended to clarify that a county may implement its program of individual and private sewerage systems effective July 1, 1987, provided that a county shall implement this program immediately upon the receipt of start-up funds for this purpose.

SECTION 4 has been added to this bill to provide a definition of "individual wastewater systems" and "private wastewater treatment works".

SECTION 5 has been added to require the Director of Health to administer and regulate individual wastewater systems and private wastewater treatment works until such time that each county assumes complete administration of this program. This section also requires that all plans for the development of individual wastewater systems or private wastewater treatment works be submitted to the Director of Health for review. In addition, the Director is required to inspect and review any individual or private sewerage system following its construction but prior to its operation.

SECTION 5 further authorizes the Department to exercise its professional judgment in its assessment of individual and private sewerage systems. This provision affords the Department the necessary flexibility to impose variable or more stringent standards on a case by case basis as individual situations may warrant in order to better ensure the protection of public health.

SECTION 7 has been added to this bill to provide that the Department of Health shall administer this program pursuant to the provisions set forth within the section.

Technical non-substantive amendments have been made throughout this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1231, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1231, H.D. 2, S.D. 1, C.D. 1.

Representatives Andrews, Bunda, Tajiri, Hagino, Honda and Isbell,
Managers on the part of the House.

Senators B. Kobayashi, Solomon and George,
Managers on the part of the Senate.

Conf. Com. Rep. 40 on S.B. No. 462

The purpose of this bill is to reestablish specific and uniform beginning and ending dates for the terms of board and commission members appointed pursuant to section 26-34, Hawaii Revised Statutes.

This bill specifies a beginning date of July 1 and an ending date of June 30. A person whose nomination to a board or commission is confirmed by the Senate can

begin serving a full term from July 1. If a starting date of January 1 were used instead of July 1, the board or commission member would lose several months of the term while the appointment was considered in the confirmation process of the Senate. In addition, the member's predecessor would have to serve as a hold over member.

The bill provides for hold over members during the transition period so that all terms will uniformly end on June 30 within four years of this bill's enactment.

Your Committee amended the bill to provide for the same effect for terms of the members of the statewide Health Coordinating Council. This was done so that a change to January 1 - December 31 beginning and ending dates could be effected as it was expected that the law in this area would be conformed to the current practice as evidenced by the original version of this bill. As a July 1 - June 30 term is now proposed by this bill, the changes made to the terms of members of the Council have to be adjusted to coincide with a January 1 - December 31 term.

Your Committee further amended the bill to allow the chairpersons of the Board of Agriculture, the Board of Land and Natural Resources, and the Hawaiian Homes Commission to have terms commencing on January 1 and expire on December 31 instead of a term coinciding with the term of the governor as proposed by the bill as received. This amendment reestablishes prior law and allows these chairpersons, who are considered part of the Governor's cabinet, to serve fully and actively until the end of the Governor's term which is the first Monday in December. Because of a need or period to wind down the activities of the Boards, and because these Board chairpersons are considered cabinet members and should serve fully under the Governor until the Governor is no longer in office, an expiration date of December 31 is more appropriate for these three Board chairpersons.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 462, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 462, S.D. 1, H.D. 1, C.D. 1.

Representatives Yoshimura, Takamine and Hemmings,
Managers on the part of the House.

Senators Chang, Aki and George,
Managers on the part of the Senate.

Conf. Com. Rep. 41 on S.B. No. 1413

The purpose of this bill is to afford the public more participation in the open meetings of the government.

This year marks the tenth anniversary of Hawaii's Sunshine Laws, Chapter 92, Hawaii Revised Statutes. To make government as open to the public as possible to protect the public interests, strengthening of the Sunshine Law is necessary.

Specifically, the bill amends various sections of Chapter 92, Hawaii Revised Statutes, as follows:

(1) Section 92-3: A provision was added to require the board to give an opportunity for interested persons to submit written testimony, and at the discretion of the board, present oral testimony.

(2) Section 92-4: Two provisions were added to mandate that a majority of the board vote to close the meeting, and if so voted, the reason for the closed meeting be publicly announced and the vote of each member be recorded.

(3) Section 92-5: Three provisions were added a) to protect in a closed meeting personal information about applicants for vocational and professional licenses; b) to require that closed meetings with the board's attorney be limited to questions pertaining to the board's legal responsibilities, to legal issues, and to matters relating to actual, threatened, or proposed lawsuits which may involve the board; and c) to prohibit the board from making a decision or deliberating toward a decision in matters not reasonably related to the open meeting exceptions.

(4) Section 92-7: A provision was added to require the board to give the public notice of an executive meeting, if known in advance, and the reason for it.

(5) Section 92-12: A provision was added to authorize and set standards for the initiation of a suit in court for any violation and to provide the court the discretion to award reasonable attorney fees to the prevailing party.

Upon further consideration, your Committee made the following amendments to the bill:

(1) Section 92-3: This section was revised to require the board to hear oral testimony but allow the board to establish its own rules governing oral testimony. The amendment will give the board the authority to reasonably administer the presentation of oral testimony. By this amendment, your Committee does not intend to provide rule-making powers pursuant to Chapter 91, Hawaii Revised Statutes, to any board which does not already have that power.

(2) Section 92-5: a) This section was amended to permit the board to consult with its attorneys on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities. The amendment would limit the situations in which a board could call an executive meeting with its attorney. b) The section was also amended to insure that a board would not deliberate toward or make a decision in an executive meeting on matters not directly related to the open meeting exceptions.

(3) Section 92-7: This section was amended to require a board which is unable to complete its agenda to continue consideration of items of reasonably major importance to a reasonable day and time.

Your Committee also made technical, nonsubstantive amendments to conform with recommended drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1413, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1413, S.D. 1, H.D. 1, C.D. 1.

Representatives Yoshimura, Tom, Hashimoto, Metcalf, Taniguchi and Medeiros,
Managers on the part of the House.

Senators Chang, Abercrombie, Toguchi, Aki and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 42 on S.B. No. 610

The purpose of this bill is to increase the amount of fees notaries public are entitled to charge for their notarial services.

Notary public fees have not increased in almost ten years. This bill establishes fee schedules that are comparable to charges prevalent in other communities. The fees continue to be differentiated according to the service and function provided by the notary. In particular, the notary services for duplicate originals for oaths and acknowledgments are given lower fees because the work performed and responsibility undertaken in notarizing a pair of identical documents is somewhat less than notarizing a pair of dissimilar documents.

Your Committee amended the bill to provide for increased fees for each type of notary services.

Your Committee made several technical, nonsubstantive amendments to conform with recommended drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 610, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 610, S.D. 1, H.D. 1, C.D. 1.

Representatives Tom, Takamine, Blair, Hirono, Lardizabal, Metcalf, Nakata, Oshiro, Jones and Kamali'i,
Managers on the part of the House.

Senators Chang, A. Kobayashi and Cobb,
Managers on the part of the Senate.

Conf. Com. Rep. 43 on S.B. No. 1353

The purpose of this bill is to provide the chairperson of the Board of Agriculture the authority to suspend, cancel or restrict the use of certain pesticides when such usage is deemed to have unreasonable adverse effects on the environment.

Under this bill, determination of unreasonable adverse environmental effects exist when residues of pesticides are detected in drinking water at levels exceeding ten percent of any applicable maximum contaminant level, and when a special local need registration is requested for any pesticide for which any use has been suspended or canceled by the United States Environmental Protection Agency.

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

1) Making language changes to clarify that a determination of whether unreasonable adverse effects exist may be made in circumstances other than the two circumstances enumerated in the measure.

2) Deleting references to specific contaminant levels as one trigger for governmental response. As amended, the bill would require a review process whenever residues of a pesticide is detected without regard to the level of contamination.

3) Clarifying the language regarding special local needs registration of a pesticide for which any use has been suspended or canceled by the U.S. Environmental Protection Agency.

4) Adding a new Section 3 to the bill to amend the definition of "unreasonable effects on the environment" as set forth in Section 149A-2, Hawaii Revised Statutes. The amendment broadens the definition by making "unreasonable risk" to man or the environment as the criterion rather than actual injury or unreasonable adverse effects.

Your Committee notes that Section 149A-33(3), Hawaii Revised Statutes, provides the Department of Agriculture the authority to establish, as necessary, specific standards and guidelines which specify those conditions which constitute unreasonable adverse effect on the environment. Your Committee suggests that the Department of Agriculture consider reviewing and reevaluating these standards and guidelines periodically in consultation with the University of Hawaii in light of current local concerns involving the use of pesticides.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1353, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1353, S.D. 1, H.D. 1, C.D. 1.

Representatives Andrews, Honda, Nakata, Tajiri and Kamali'i,
Managers on the part of the House.

Senators Solomon, Hagino, Hee, Mizuguchi and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 44 on H.B. No. 229

The purpose of this bill is to improve and strengthen the laws regulating commercial employment agencies.

Under the present statutes, only employment agencies are licensed. This bill provides licensure for principal agents or individuals and requires each agency to have a licensed agent or individual as a requirement for obtaining its agency license. A provision is made for inactive status should the principal agent not engage in the business. Also, in order to regulate branch operations, the bill requires an employment agency to maintain separate employment agency branch office licenses.

Currently, an employment agency pays a single fee for licensure. This bill provides for separate application, examination, reexamination, license renewal, and restoration fees. A biennial license renewal period is also adopted to lessen the administrative cost of maintaining the program.

The bill provides for automatic suspension of an employment agency's license effective immediately upon the expiration or cancellation of the required bond. Under present administrative procedure, the director is required to conduct a formal hearing to prevent the licensee from operating after the expiration or cancellation of a bond and this procedure may take several weeks. In the meantime, there is nothing to prevent a licensee from continuing to engage in business and exposing the consuming public to potential losses.

The bill currently contains a provision prohibiting an employment agency from requiring the employer to withhold from the applicant's actual earnings from employment any fee or service charge that has been negotiated by contract between the applicant and the employment agency unless specifically requested by the applicant. Your Committee feels that further clarification is necessary by inserting new language to state that this request be authorized by an applicant's full signature. Therefore, your Committee has amended page 11, subparagraph 14, lines 13 and 14 to read as follows:

"such fee or service charge is specifically authorized or requested, by full signature, in writing by the applicant."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 229, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 229, H.D. 2, S.D. 1, C.D. 1.

Representatives Shito, Crozier, Hashimoto, Hirono, Kiyabu, Leong, Metcalf, Oshiro, Takamine, Anderson and Medeiros,
Managers on the part of the House.

Senators Cobb, Cayetano and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 45 on H.B. No. 557

The purpose of this bill is to amend section 294-10(b), Hawaii Revised Statutes, by changing the method of determining the medical-rehabilitative tort threshold.

This bill also provides for the following: an increase in no-fault benefit amounts; an increase in the liability and uninsured coverage amounts under the no-fault law; and a new optional "underinsured" motorist coverage provision.

Currently, the threshold is subject to change each year based upon the no-fault claims experience for the preceding year. In essence, current law mandates that the Insurance Commissioner set a new threshold at a level below which 90% of all medical-rehabilitative claims for the previous year would fall. The 90% cut-off was constructed to permit only seriously injured claimants to bring a tort action arising out of a motor vehicle accident. Further, this bill would require a threshold that is calculated by using an indexing feature tied to the Honolulu consumer price index for medical care expenses as determined by the U.S. Bureau of Labor Statistics.

Your Committee finds that increasing the no-fault benefit amounts and the liability and uninsured coverage amounts under the no-fault law would affect those least able to afford additional insurance. Accordingly, your Committee, has made amendments which would take into consideration the concerns of these individuals.

Your Committee, upon further consideration, has made the following amendments:

- (1) On page 2, line 17, the threshold level has been amended to \$5,000;
- (2) On page 3, line 20, the monthly earnings loss has been amended to \$900;
- (3) On page 4, lines 10 and 11, the brackets around "\$800 per" have been deleted and the following proposed language has been deleted: "\$1,000 a";
- (4) On page 4, line 12, the brackets around "\$1,500" have been deleted and the following proposed language has been deleted: "\$3,000";
- (5) On page 5, line 13, the liability coverage has been amended to \$35,000;
- (6) On page 5, lines 19 and 20, the brackets around "\$10,000" have been

deleted and the following proposed language deleted: "\$25,000"; and

(7) On page 6, lines 18 and 19, the brackets around "set forth in section 287-7" and the following proposed language has been deleted: "of not less than \$50,000,".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 557, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 557, H.D. 1, S.D. 1, C.D. 1.

Representatives Shito, Andrews, Apo, Bunda, Hashimoto and Medeiros,
Managers on the part of the House.

Senators Cobb, Cayetano and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 46 on H.B. No. 995 (Majority)

The purpose of this bill, as received, is to allow the Board of Massage to waive for good cause the requirements established for massage apprenticeship applicants, and to require said Board to prepare an annual report to the Legislature summarizing the application waivers granted.

Your Committee is of the opinion that Native Hawaiians, as aboriginal people, have special innate talents which should be recognized as unique, and therefore exempted from stringent licensing requirements. As a result, your Committee believes that the bill should focus on the special talents of Native Hawaiians for therapeutic massage, and exempt this group of individuals from apprenticeship requirements.

Your Committee, therefore amended this bill by returning it to the form proposed by the House in H.B. No. 995, H.D. 2, and by deleting the provisions that would have:

(1) Allowed the Board of Massage to waive for good cause the requirements set for apprentices; and

(2) Required the Board to make an annual report to the legislature of the waivers which are granted.

Thereafter, your Committee amended the bill by adding provisions that would:

(1) Define "Native Hawaiian" as any individual whose ancestors were native to the Hawaiian Islands prior to 1778; and

(2) Waive the apprenticeship requirements and other examination requirements for apprentices established by the Board for Native Hawaiian license applicants.

As amended by your Conference Committee, this bill would exempt Native Hawaiians from apprenticeship requirements for massage therapist licenses. In short, this bill would allow Native Hawaiians who have learned from a kupuna the traditional Hawaiian art of massage, commonly referred to as "lomilomi", to become massage therapists. However, there is an apparent misunderstanding as to the nature of the exemption, your Committee emphasizes the fact that Native Hawaiians as a group of people are being exempted from regulations related to apprenticeship requirements, and it is not the practice of "lomilomi" which is being exempted from regulations related to massage.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 995, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 995, H.D. 2, S.D. 1, C.D. 1.

Representatives Shito, Apo, Bunda, Hashimoto and Medeiros,
Managers on the part of the House.

Senators Cobb, Cayetano, Kawasaki, McMurdo and A. Kobayashi,
Managers on the part of the Senate.
(Senator Kawasaki did not concur.)

Conf. Com. Rep. 47 on H.B. No. 453

The purpose of this bill is to amend section 279E-3, Hawaii Revised Statutes, relating to the Metropolitan Planning Organization (MPO) by: 1) changing the composition of the Policy Committee; 2) determining who among the MPO Policy Committee members is eligible to be elected chairperson; and 3) easing quorum requirements.

Your Committee is concerned about the difficulty the Oahu Metropolitan Planning Organization has encountered in obtaining a quorum for its Policy Committee meetings, and therefore has agreed to amend the Policy Committee's quorum requirements, the composition of the Committee, and its voting procedures to allow for the streamlining of its procedures.

Your Committee upon further consideration has made the following amendments to H.B. No. 453, H.D. 1, S.D. 1:

- 1) At page 1, line 6, the word "five" has been deleted and the word "thirteen" has been inserted between the words "[nineteen]" and "members";
- 2) At page 1, line 6, the word "nine" has been bracketed, and the word "five" has been inserted after the word "nine";
- 3) At page 1, line 7, the word "five" has been bracketed, and the word "three" has been inserted between the words "five" and "members";
- 4) At page 1, line 9, the word "five" has been bracketed, and the word "three" has been inserted following the word "five";
- 5) At page 1, line 11, the end bracket symbol following the word "house" has been deleted;
- 6) At page 1, lines 8 to 9, and lines 10 to 11, the phrases "who are residents of the county and who are" have been deleted from present statutory language and respectively replaced with ", one of whom shall be the chairperson of the senate committee with primary responsibility for transportation issues, and the other two of whom shall be" and ", one of whom shall be the chairperson of the committee of the house of representatives with primary responsibility for transportation issues, and the other two of whom shall be".
- 7) At page 1, line 11, the phrase "one member appointed by the governor; and one member appointed by the mayor of the city and county of Honolulu" has been inserted following the word "house";
- 8) Page 1, lines 11 to 16, have been deleted;
- 9) Page 2, lines 1 to 3, have been deleted;
- 10) At page 3, line 1, brackets enclosing the phrase "at least five members" have been removed and brackets have been placed around the word "five";
- 11) At page 3, line 1, the words "any member" have been deleted and the word "three" has been inserted between the words "[five]" and "members";
- 12) At page 3, line 10, the bracket preceding the word "where" has been removed;
- 13) At page 3, lines 12 to 13, brackets have been placed around the phrase "seven legislative members and five city or county council members of the";
- 14) At page 3, line 13, brackets have been placed around the words "and the";
- 15) At page 3, line 13 the phrase "six members of the MPO" has been inserted between the end bracket symbol and the word "policy";
- 16) At page 3, line 13, the phrase ", of whom at least three shall be legislative members and at least three shall be county members." has been inserted between the words "[and the]" and "decision";
- 17) At page 3, line 14, the word "The" has been inserted prior to the word

"decision";

18) At page 3, line 14, the word "must" has been bracketed and the word "shall" inserted between the words "must" and "be";

19) At page 3, line 14, a bracket has been inserted prior to the word "entire";

20) At page 3, lines 15 to 17, the sentence has been deleted and the following has been inserted in its place "members present."

21) At page 3, line 20, the words "upon its approval" have been replaced with "January 1, 1986" to reflect the new effective date of this Act.

Your Committee has also made minor grammatical and syntactical amendments to the bill to conform the bill to recommended bill-drafting style.

Your Committee in amending section 1 of the bill relating to the composition of the Policy Committee intends that flexibility be provided in the naming of Policy Committee members.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 453, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 453, H.D. 1, S.D. 1, C.D. 1.

Representatives Taniguchi, Oshiro, Kim, Yoshimura and Anderson,
Managers on the part of the House.

Senators Cayetano, B. Kobayashi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 48 on S.B. No. 854

The purpose of this bill is to require a safety inspection every six months of all non-exempt motor carrier vehicles having a gross vehicle weight rating of 10,000 pounds and all motor carrier vehicles having a gross vehicle weight of 10,000 pounds or less which transport passengers in the furtherance of a commercial enterprise, including car rental transport vehicles.

Under current law, those motor carrier vehicles weighing less than 10,000 pounds are given a safety inspection only once each year, whereas heavier motor carrier vehicles are inspected every six months. Because of the frequency of use of commercial motor carrier vehicles and the large numbers of passengers transported by them, your Committee believes that these vehicles should be given and pass a safety inspection two times each year. Car rental transport vehicles are examples of heavy use commercial carriers that require more frequent inspections to ensure passenger safety.

Your Committee has amended subsection (e) by changing the term "car rental customer transport vehicles" to "car rental transport vehicles", which is the term used in subsection (a).

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 854, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 854, S.D. 1, H.D. 1, C.D. 1.

Representatives Taniguchi, Onouye, Oshiro and Hemmings,
Managers on the part of the House.

Senators Cayetano, Toguchi and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 49 on S.B. No. 932

The purpose of this bill was to: (1) provide that upon the transfer of title of real property from a vendor to a vendee under an agreement of sale, any liens or claims upon the property recorded subsequent to the agreement of sale would be extinguished; (2) delete the date restriction limiting the exemption from usury for agreements of sales made from May 30, 1980 to June 30, 1985 and restrict, after

July 1, 1987, the maximum rate of interest that could be charged upon extension at maturity or renegotiation of an agreement of sale for the purchase of real property; and (3) delete the date restriction limiting the exemption from usury for purchase money junior mortgage liens made from June 18, 1982 to June 30, 1985.

Under current statute, any claim or lien against the vendor, that is filed or recorded after the filing or recordation of the agreement of sale, attaches to the real estate covered by the agreement of sale and would not be removed by the mere transfer of title to the vendee. In this respect, the vendee would receive title to property subject to claims or liens that were against the vendor. This bill provides for an automatic extinguishment of a claim or lien on the real estate if the buyer has satisfied the agreement of sale as defined in the bill. In order to protect the holder of the claim or lien, the bill further provides for an automatic transfer of the claim or lien to the proceeds received in satisfaction of the agreement of sale in the same priority which it held immediately prior to its extinguishment.

Your Committee has amended the bill by deleting the provision that after July 1, 1987, upon extension at maturity or renegotiation of an agreement of sale, the maximum rate of interest charged thereafter on the agreement of sale shall not be more than four percentage points above the highest rate of interest charged on any mortgage on the property sold under the agreement of sale or four percentage points above the contracted rate of interest in the agreement of sale, whichever is greater.

Your Committee has also amended the bill by making technical changes which have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 932, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 932, S.D. 1, H.D. 1, C.D. 1.

Representatives Shito, Hashimoto and Metcalf,
Managers on the part of the House.

Senators Cobb, Chang and Kuroda,
Managers on the part of the Senate.

Conf. Com. Rep. 50 on S.B. No. 201

The purpose of this bill was to improve and clarify the statutes relating to the practice of psychology by changing the name of the Board of Certification for Practicing Psychologists to the Board of Psychology, substituting the word "license" for the word "certificate", clarifying the limitations on persons exempt from the licensing requirements, clarifying the licensing requirements, and deleting gender references.

Your Committee finds that the measures proposed in this bill are necessary to modernize and strengthen the laws regulating the practice of psychology in Hawaii and are therefore in the public interest.

Your Committee has amended the bill by providing that a person who holds a doctoral degree from a training program approved by the American Psychological Association (APA), or holds a doctoral degree from a regionally accredited institution of higher education and also meets the experiential requirements for inclusion in the National Register of Health Service Providers in Psychology, may apply for a license to practice psychology, as long as the other requirements of section 465-7, Hawaii Revised Statutes, are met. The purpose of this amendment is to strengthen the educational criteria for licensure by insuring that the institution which grants the doctoral degree in psychology is, at the minimum, regionally accredited.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 201, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 201, S.D. 1, H.D. 1, C.D. 1.

Representatives Shito, Bunda, Hashimoto, Menor and Liu,
Managers on the part of the House.

Senators Cobb, B. Kobayashi and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 51 on H.B. No. 40

The purpose of this bill is to eliminate the "drop dead" provisions in chapters 408 and 478, Hawaii Revised Statutes, that provide for the reversion of certain interest rates on July 1, 1985, as follows. In the case of loans governed by chapter 408, Hawaii Revised Statutes, the rates would revert to the maximum rates in effect prior to May 31, 1980. In the case of credit cards, interest rates would revert to the rates existing prior to May 30, 1980 and, for other interest rate ceilings under chapter 478, Hawaii Revised Statutes, to the ceilings in effect before June 28, 1982.

This bill also provides the following: (1) deletes all limitations on interest rates in chapters 407, 408, 409 and 410, Hawaii Revised Statutes; (2) deleted provisions which would exempt from the usury law any loan made pursuant to chapters 407, 408, 409 and 410, Hawaii Revised Statutes; and (4) deleted provisions which would provide that no interest would be charged on interest.

Your Committee concurs that these interest rate ceilings should not be reimposed. In addition, your Committee believes that existing interest rate ceilings should be eliminated as they apply to regulated lenders, retail installment sales, transactions of merchants, and credit cards and that provision should be made for the recomputation of interest for renegotiated agreements of sale. Your Committee finds that interest rates should be controlled by the marketplace rather than by arbitrary ceilings set by law.

Your Committee, upon further consideration, has made the following amendments:

- (1) The bill has been amended back to the original house language;
- (2) Section 478-8(e)(2), Hawaii Revised Statutes, is amended to read as follows:

(2) "Agreement of sale made after May 30, 1980 under which a vendor agrees to sell real property to a vendee but retains legal title to the real property and in which the rate of interest is clearly stated[.]; provided that upon extension at maturity or renegotiation of any agreement of sale made on or after the effective date of this Act, the maximum rate of interest charged thereafter shall not be more than four percentage points above the weekly average yield on United States Treasury securities adjusted to a constant maturity of three years, as made available by the Federal Reserve Board at the time of extension or renegotiation. As used in this paragraph, agreement of sale includes subagreement of sale or other subsequent subagreement of sale made [during the period from [June 18, 1982] to midnight on June 30, 1985.] on or after the effective date of this Act; or"

- (3) A severability and saving clause has been added as sections 4 and 5 respectively.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 40, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 40, S.D. 1, C.D. 1.

Representatives Shito, Andrews, Bunda, Metcalf and Medeiros,
Managers on the part of the House.

Senators Cobb, Kuroda and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 52 on S.B. No. 224

The purpose of this bill was to amend Chapter 514A, Hawaii Revised Statutes as it relates to requirements for condominium sales to owner-occupants.

Act 189, Session Laws of Hawaii 1980, among other things, created Part IV of Chapter 514A which generally requires a developer of a condominium project to designate at least fifty percent of a residential condominium project for sale to prospective owner-occupants and to sell such units to qualified owner-occupants. In furtherance of this purpose, Section 514A-102, Hawaii Revised Statutes, requires a developer to publish in a newspaper not less than twice in each of two

successive weeks an announcement containing certain information regarding a proposed condominium project, including the following: (1) the location of the project; (2) a fair and reasonable estimate of: the total number of apartments included in the project; the number of apartments designated as residential units; the number of floors in the project; the number of bedrooms and square feet of each residential unit; the price and amount of monthly maintenance fees for each unit; and the amount of lease rent for each unit.

This bill would reduce the number of times the required announcement is required to be published from twice to once in each of two successive weeks and eliminate the need to publish specific information regarding the number of floors in the project, the number of bedrooms and square feet of each unit, the price and monthly maintenance fee for each unit and the amount of lease rent for each unit. As a substitute for this information, the developer would be required to publish the price range of the units, the approximate size of the units and whether the units are fee simple or leasehold.

However, the developer would be required to provide each prospective purchaser with all the information contained in the present statute. Moreover, if the proposed condominium project is a conversion of existing rental units, the last tenant occupying each unit converted must be provided with the information required to be provided to each prospective purchaser.

This bill also amends Section 514A-106, Hawaii Revised Statutes, which currently requires a financial institution to notify a potential owner-occupant of a condominium unit within thirty days after receipt of an application for credit for the purpose of purchasing a unit designated for owner-occupants, of the action taken on the application. The bill would increase the time period for notification to forty-five days.

A further amendment to Part IV of Chapter 514A proposed by this bill would exempt the following types of condominium projects from the requirements of Part IV: (1) small projects where the developer sells or intends to sell the units to family members; and (2) projects where the developer builds or converts two houses on a single lot.

The provisions of this bill implement the recommendations of the Real Estate Commission contained in a report prepared in response to H.R. No. 390 adopted in 1983 and H.R. No. 144 adopted in 1981 requesting the Real Estate Commission to provide information to the Legislature on the administration of the statutes relating to sales to owner-occupants.

Upon further consideration, your Committee has amended this bill to delete the "drop dead" clause contained in Act 189, Session Laws of Hawaii 1980. This amendment is necessary as all of the provisions of the Hawaii Revised Statutes amended by this bill were created by Act 189 and would be repealed on December 31, 1985, absent the amendment. Your Committee finds that the owner-occupant statutes serve a useful purpose and should be extended indefinitely as amended by this bill.

Your Committee has further amended the bill by making technical amendments which have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 224, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 224, H.D. 1, C.D. 1.

Representatives Shito, Hashimoto, Apo, Metcalf and Jones,
Managers on the part of the House.

Senators Cobb, Young and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 53 on H.B. No. 347

The purpose of this bill is to replace the existing statutes which govern the creation and operation of non-profit corporations with a new chapter to be referred to as the "Hawaii Non-profit Corporation Act".

Under present law, non-profit corporations are governed by and subject to "all

general laws enacted in regard to corporations," pursuant to section 416-19, Hawaii Revised Statutes. Passage of the Hawaii Business Corporation Act (Act 167, Session Laws of Hawaii 1983), a companion bill to this Hawaii Non-profit Corporation Act, necessitates passage of a statute governing non-profit corporations.

Your Committee received testimony from the Department of Commerce and Consumer Affairs that an extension till July 1, 1987, would be required in order to incorporate the Hawaii Business Corporation Act (HBCA). Further, the Department reassured your Committee that this would be the last time that an extension of the HBCA and Model Professional Corporation Act would be requested, notwithstanding a change of administration or directorship. It is your Committee's firm intent that no further extension of the effective date of July 1, 1987 be granted for any of the model corporation acts.

Your Committee, upon further consideration, has amended the bill by adding a new section 4 which changes the effective date of Act 167, Session Laws of Hawaii 1983, Hawaii Business Corporation Act (HBCA), to July 1, 1987. Accordingly, the July 1, 1987 effective date would permit the Department to examine the potential effects of this bill and HBCA on department operations.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 347, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 347, H.D. 1, S.D. 1, C.D. 1.

Representatives Shito, Souki, Blair, Bunda, Kim, Metcalf, Oshiro, Tajiri, Anderson and Medeiros,
Managers on the part of the House.

Senators Cobb, Chang and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 54 on H.B. No. 1

The purpose of this bill is to provide for the operating and capital improvement appropriations for agencies in the executive branch for the fiscal biennium 1985-87.

The executive branch requested \$2,994 million for the fiscal biennium 1985-87, \$1,481 million for fiscal year 1985-86 and \$1,513 million for fiscal year 1986-87. Further, in his State of the State address, the Governor recommended an additional \$10 million be added in each fiscal year for various programs.

The capital improvements general obligation bond request for the fiscal biennium 1985-87 amounted to \$239.4 million.

This bill in its amended form provides an additional \$13.6 million in general funds in fiscal year 1985-86, and another \$6.8 million in fiscal year 1986-87. It also adds \$25.1 million to the general obligation bond request for capital improvements.

BUDGET APPROACH

Throughout its deliberations, your Committee sought a balance between maintaining a reasonable measure of spending discipline while taking major steps toward stimulating Hawaii's business climate, improving and building our educational system, and impacting social concerns such as child abuse.

Your Committee is aware that this general appropriations bill has been reviewed during a time when several revenue enhancement and tax relief measures are under consideration by the legislature. The appearance of such measures after a decade of the status quo represents a demarcation from the past. Thus in the funding of government services in the next biennium, your Committee is committed to a new direction for funding in economic development, education, and human services.

ECONOMIC DEVELOPMENT

Your Committee expanded government's role as a catalytic agent in the promotion of economic activity in the State. It has directed funding toward opening up

potential industries and markets, stimulating product development and promotion, and enhancing the general business climate in the State.

Tourism. Your Committee recognized the importance of tourism by increasing the promotion and marketing budget of the Hawaii Visitors Bureau by \$1.7 million for each year of the biennium, bringing its total advertising budget to approximately \$2.2 million. This significant increase will impact on the Bureau's ability and effectiveness to promote Hawaii as a tourist destination.

Beyond the overall promotion of tourism in Hawaii, your Committee is highlighting certain areas such as Molokai for special promotion and development through a \$100,000 appropriation. In addition, a study on the benefits and costs of tourism on the State has been requested to allow for the fullest development of tourism without inflicting major problems on our island life.

Marketing support has been provided the Hawaii Visitors Bureau through instituting a yearly visitor expenditure pattern report. This information is expected to guide the Hawaii Visitors Bureau in attracting more tourists to the island through effective use of their advertising budget.

High technology development corporation. In 1983, the Legislature established the high technology development corporation to promote Hawaii as a high technology center and develop support facilities for companies locating in Hawaii. Your Committee has increased the funding for marketing and project development on a statewide basis.

Pacific international center for high technology research. Funding for the Pacific international center for high technology research has been increased by \$1 million for each year of the biennium and specifically earmarked for research studies. This research undertaken by the center will open the door to advancements in high technology applications which will benefit the economic growth of the State.

International services. Your Committee provided funds to forward the development of Hawaii as an international business center among foreign business communities. Marketing and promotional programs to educate business people on the advantages of doing business in Hawaii will be undertaken.

Agriculture. This year your Committee provided strong support toward revitalization of our agriculture industry. Agriculture is a major economic force in our State and funding in this budget will strengthen the marketing of agricultural products. Over \$400,000 has been provided for marketing support to pineapple, papaya, and diversified agricultural industries.

Your Committee has recognized the importance of the sugar industry and directs the department of agriculture to assist the independent sugar growers by making low interest loan funds available to sugar growers who require interim financial assistance.

EMPLOYMENT

Job training and preparation are key to developing skilled individuals who can meet the challenges of the future. Your Committee has provided funding support to programs which will ensure a vital and effective labor force.

Transition center. Job counseling assistance for high school students faced with making career choices is a priority concern. The transition center program which has been in several local high schools offering self-assessment, career awareness, career exploration, and job preparation and placement services, is being expanded to Kailua, Nanakuli, McKinley, and Hilo High Schools.

Job training partnership act. Labor force upgrading and retraining is a vital need in continually developing a responsive labor force. Funding has been provided in each year of the biennium for the job training partnership Act (JTPA) to prepare youths and unskilled adults for entry or re-entry into the labor force.

State fire council. Since its establishment in 1978, the state fire council has not been administratively assigned to any of the State's principal executive departments. Your Committee has funded the state fire council and placed it within the department of labor and industrial relations for administrative purposes.

TRANSPORTATION

State highway fund. Your Committee is gravely concerned with the financial condition of the state highway fund. In recent years, the fund's permanent sources of revenues have not been adequate to meet the operating and maintenance costs of Hawaii's roads and highways. As a temporary remedy to this situation, the legislature in previous sessions had reduced moneys for special maintenance of our highways, and allowed for the transfer of general excise tax revenues on the sale of fuel to supplement the ailing highway fund. However, these measures are only temporary solutions, and any deferment of this problem will allow further deterioration of our State's highway system, thus increasing long-run costs and compounding the impact of any solution once chosen.

This year, your Committee has considered a bill to provide various strategies to augment the depleting fund and to extend the period allowing for the transfer of tax revenues, thus providing sufficient revenues to allow the highway fund's solvency through fiscal years 1990-91, while apportioning the costs among all highway users in the most equitable manner possible. In addition, your Committee has thoroughly examined the highway division's program expenditures in an effort to efficiently allocate resources where they are needed most, and reduce expenditures in lower priority areas that unnecessarily deplete the highway fund. As a result, your Committee believes that these proposed increases in revenues with corresponding decreases in operating expenditures will allow the safe transportation of our citizens on our State's highways, and provide for the long-term stability of the state highway fund.

Harbor promotion. Your Committee believes that Hawaii's harbors may be commercially underutilized and has provided funds to permit marketing and promotion of Hawaii's harbors.

Improvement of transportation facilities. Your Committee has provided approximately \$27 million for major repair and maintenance improvements to the state highway system, harbors, and airports.

ENVIRONMENTAL PROTECTION

Monitoring of pesticides and ground water contamination. Your Committee has provided funds to continue the management, control and monitoring of pesticide use and groundwater contamination. This work is critical to maintaining a safe and healthy environment.

Your Committee supports assisting the State's agricultural producers in an effort to reduce crop losses due to insect pests, weeds and diseases, while ensuring a healthy environment. The recent milk and water contamination crises emphasized the need for stringent monitoring and regulatory programs. Your Committee has provided funds for personnel to conduct additional field inspections to address this situation. It is your Committee's belief that, through constructive and cooperative efforts, careful use of pesticides can effect optimal agricultural production without compromising the health and safety of the community.

Hazardous materials. Your Committee has provided funds to support a cooperative agreement between the federal Environmental Protection Agency and the state department of health to provide compliance inspections of generators and handlers of hazardous wastes.

Forest and wildlife resources management. Your Committee is concerned about the protection of forest and wildlife resources from non-native plants and animals. Funds are provided for the preparation of an environmental impact statement to assess eradication methods of marijuana, and for the management of natural area reserves in recognition of the need to maintain and preserve existing state parks.

Aquatic resources. Your Committee has appropriated funds for the establishment of an aquatic education program to educate the public on the importance of recognizing those aquatic species that are appropriate to catch versus those that are not.

HEALTH

Organizational management. In its review of the health program, your Committee

found numerous requests for additional positions in areas which had a large number of vacancies. To ensure efficient management, your Committee directs the department of health to redescribe and redistribute vacant positions to meet specific needs of the various program areas. It recommends that the department conduct periodic reviews of all vacancies and redistribute or redescribe positions, as necessary, within and between programs, to meet its staffing deficiencies.

Deinstitutionalization of the mentally retarded. Re-emphasizing its support in deinstitutionalizing the mentally retarded and the mentally ill, your Committee has expanded its funding support for community services including group homes, transitional living and day activity programs. Your Committee directs the department of health to take the necessary action to accelerate the deinstitutionalization of such patients.

County/state hospitals. Your Committee is disturbed to find that the county/state hospital system has again failed to lapse excess amounts of special fund receipts generated prior to July 1984.

Substantial balances have accumulated from the prior year in the county/state hospital administration program, and a significant amount of the current balances are in excess of the program's requirements, including contingencies. Therefore, your Committee has again required, through special provisions in this bill, that such special fund balances lapse into the general fund.

Hepatitis B screening and treatment. The hepatitis B virus infection continues to be a persistent problem among certain sectors of our population, especially the institutionalized population. Funds for the purchase of vaccine to immunize the affected high risk population groups and for reporting and follow-up procedures have been provided.

Congenital metabolic diseases. Your Committee has provided funds to re-establish the department of health's authority to regulate the testing of newborns for congenital metabolic diseases (i.e., phenylketonuria (PKU) and hyperthyroidism). These funds will be used to support one full-time position to carry out promotion, education, coordination, monitoring, and follow-up activities.

Case management--frail and elderly. The continued success of the case management coordination project for the frail and elderly on Maui has prompted your Committee to fund this program for the next biennium.

Emergency medical services. Your Committee has provided funds for expanded emergency medical services in the Waialua area to ensure greater service accessibility.

Purchase of service. The purchase of service program in the department of health represents the most extensive use of private agencies in carrying out government functions. Your Committee has provided \$1.1 million for the prevention and early identification of child abuse. Your Committee believes that the alleviation of child abuse rests in providing a strong network of preventive services. This year's funding forms the basis of such a network.

SOCIAL PROBLEMS

Child protective services. Events over the last year and a legislative auditor's report have demonstrated the urgency in providing direct intervention and treatment services for child abuse and neglect. Your Committee took a major step toward supporting the child protective services system by the addition of supervisors, case workers, paraprofessional workers and clerical support for child protective services units. The Legislature will continue its monitoring of this important area through the review of the department of social service and housing's reorganization of the child protective services units.

Funds were also provided to establish a statewide computerized file of known perpetrators, a registry of abused and neglected children, and a risk matrix to help child protection workers determine priorities in case handling. Your Committee has also provided \$260,000 to be used in each year of the biennium for eight deputy attorneys general to work specifically on child protection activities.

Purchase of service--child abuse and neglect. In addition, your Committee, through the purchase of service system, has provided \$1.3 million in each year of

the biennium for child abuse treatment and direct intervention services.

Foster care. Foster care parents are faced with ever increasing costs to support their foster children. Your Committee has provided additional funds to meet the cost of increased care. Your Committee has also established a state adoption program to support foster parents who wish to adopt foster children in their care. This program will facilitate the adoption of many hard to place children who should not be returned to their natural parents.

Public welfare. Your Committee recognizes the need for a more sophisticated welfare information system to ensure that eligibility standards are being met and to reduce the percentage of determination errors to within acceptable federal standards. Federal funds have been matched with state funds for a Hawaii automated welfare information system to accomplish these goals.

Health care payments. Hawaii's Medicaid program is the largest monetary payment program in the State with a projected budget of \$211.7 million in fiscal year 1986-87. To ensure that an accurate and reliable cost projection methodology be established to maintain control over soaring medical costs, the department of social services and housing has adopted the prospective payment systems (PPS) which should allow for more accurate budgetary estimates. Your Committee feels, however, that more effort should be applied toward forecasting health care payments, and has provided additional technical staff to improve planning and fiscal accountability.

In addition, a new division has been established within the department that will oversee the state's health care payment program. By separating the medical care office from the public welfare division, your Committee has sought to emphasize the importance of prudent management in this costly program.

Long-term care services. Your Committee recognizes the cost of caring for the elderly and disabled who need long-term care. Additional planners were provided to the department of social services and housing and the executive office on aging to support long-term care planning. Funding was expanded to the neighbor islands for the "nursing home without walls" project to enable individuals to be cared for in their homes.

FORMAL EDUCATION

Lower Education.

Intermediate schools. Your Committee focused on the intermediate schools as it is a major transition period between the structured environment of the elementary schools and student independence at the secondary level. Statistics reveal that the number of alienated students increases during this period and that students in this age group are more prone to becoming involved in conflicts with the law.

Your Committee has provided the critical funding support to alleviate some of the problems experienced by the intermediate school. Each intermediate school has been given an additional instructional or administrative support position to meet its unique needs. In addition, your Committee has provided for remedial programs for intermediate school students scoring below average on standardized tests.

School priority fund. The school priority fund was designed to provide schools some flexibility in meeting their individual needs and to supplement the regular instructions program. Your Committee has increased the cash portion of the school priority fund and has allowed the schools to expand the use of their instructional resource augmentation (IRA) teachers to grades seven and eight.

Textbooks and classroom equipment. Textbooks and classroom equipment form part of the foundation of a solid educational system. Funds have been provided for these basic supplies.

Early provisions for school success. To maximize school success throughout the child's learning process, early identification and treatment of development difficulties are crucial. The early provisions for school success (EPSS) program is an essential component in ensuring each child's achievement to his fullest potential. However, your Committee has found that the department of education is providing EPSS services to all kindergarten children, and is redirecting the department to concentrate on those children who have been identified as having developmental

difficulties. In addition, your Committee has provided \$2.5 million in fiscal year 1985-86 for the program with the understanding that it is to be limited to the target group.

Gifted and talented program. Your Committee established a new component of the gifted and talented program in the intermediate school. Elementary schools have a solid program but the support for the gifted and talented diminishes in the intermediate years. Your Committee feels it is important to continue to strengthen the program through the secondary years.

Speech pathologists and therapists. Your Committee has consolidated all speech pathologists and therapists into one program. Such consolidation will integrate the speech pathologists, who conduct the student evaluations with the therapists, who provide direct services to the students, resulting in a more efficient delivery of services.

Athletics. Concern for the safety of participants in athletic activities has led your Committee to provide funds to upgrade and replace athletic equipment. Furthermore, funds were provided for bus transportation for athletic events.

Repair and maintenance of school structures. Your Committee provided \$40 million for the repair and maintenance of school structures to ensure the health and safety of students. This appropriation will give students a more conducive learning environment.

Higher Education.

Your Committee has provided the University with the legislative support necessary to make significant progress towards becoming a leading institution of higher learning. In determining the optimum allocation of state funds for higher education, your Committee has followed many of the objectives outlined in the University's strategic plan, thus assuring that the best interests of the University are addressed.

Student enhancement computer program. Funds for faculty and computer equipment to respond to the demands of advanced technology have been provided. It is important that the University provide students the fullest educational opportunity to be competitive in the job markets of the future.

Pacific and Asian legal studies. Your Committee is committed to excellence in law with an emphasis on Pacific and Asian legal studies. Therefore, it has provided funds for a Professor of Law to establish a Pacific and Asian legal studies program.

Research projects. Your Committee recognizes the applicability of university research projects to assist in resolving some very practical issues facing the State. To this end, funding was provided for the pesticide hazard assessment project, water resources research, and the North Hawaii pasture and diversified crop program.

Expanded programs. New programs, such as the visitor industry research, the North Hawaii food service and hotel operations training program, an expanded training program for dental hygienists, and the establishment of a research-demonstration agricultural experiment station on Molokai have been included in this year's budget.

Computerized operations. This year, your Committee funded phase II of the university of Hawaii's computerized registration and record system. Upon completion of this phase, the university will have a modern and efficient registration system. In addition, your Committee has provided \$1.4 million in the first fiscal year and \$.9 million in the second fiscal year to implement a library automation system.

Supportive educational projects. Educational equipment is essential in maintaining the quality of our higher education system. In order to support and benefit the students, an additional \$2.9 million in fiscal year 1985-86 and \$2.6 million in fiscal year 1986-87 have been provided. In addition, funds have been provided for the purchase of library books to build collections in newly developing research and instructional areas.

Improvement projects. Your Committee has also recognized the great need for

repair and maintenance work by funding various projects throughout the university system. The results of these projects will result in an environment conducive to learning.

Tuition related support. Your Committee has made a conscious effort to ensure that a portion of the revenues from tuition increases has been allocated for direct support to the University. Therefore, the biennium budget of the University includes additional amounts of funding in all areas of operations to reflect this support.

CULTURE AND RECREATION

Waikiki Aquarium. Funding for improvements to the Waikiki Aquarium of \$5.5 million in fiscal year 1985-86 and \$10.0 million in fiscal year 1986-87 have been provided. This represents a major step toward the development of a full-scale aquarium.

Performing and visual arts. Your Committee has serious concerns regarding the accountability of funding for purchases of service contracted by the state foundation on culture and the arts. Your Committee strongly recommends the foundation to develop a responsible funding plan and solicit additional proposals from all eligible private and public agencies before assessing requests for proposals during the next biennium.

PUBLIC SAFETY

Corrections. Your Committee has added 115 non-supervisory adult corrections officers to the security force and provided personnel and equipment to improve medical and dental programs at a majority of the state corrections facilities. Personnel and equipment for recreation, vocational education, and community service programs have also been provided.

Your Committee has directed the corrections division to study electricity consumption for possible implementation of energy conservation measures and to investigate cost-effective alternatives for providing medical care. Your Committee has also requested the corrections division to analyze the continuing overtime expenditure problem.

The problems of overcrowding in the State's correctional facilities have led your Committee to provide \$11.5 million to construct an additional 248-room medium security facility at Halawa and to provide funds for improvements to various correctional facilities statewide. Funding was also provided for the conversion of a military site at Waiawa to an educational facility for minimum security inmates.

Your Committee has also included funding for repair and maintenance of plumbing and electrical systems, roof repairs and fumigation at various correctional facilities.

INDIVIDUAL RIGHTS

Department of commerce and consumer affairs. With over 77,000 licensees and over 30,000 registered businesses, your Committee is concerned that the department of commerce and consumer affairs does not have sufficient resources to effectively monitor each area.

Your Committee is directing the department to review its present organizational structure for the purpose of providing timely and appropriate responses to consumer concerns. To support this action, your Committee has provided positions and funds which will allow for improved communication with the public and more efficient use of existing resources.

Recent failures in the industrial loan industry have called your Committee's attention to the urgent need to enhance the bank examiner's supervisory and enforcement activities. Therefore, your Committee has provided additional resources to strengthen the monitoring functions of the banking services division. Your Committee is optimistic that these resources will provide much-needed support to the division's activities.

An appropriation has been made for a comprehensive study of Hawaii's insurance laws to simplify, clarify and update the laws which have not been revised since 1955. The study has been requested in H.B. 1059, H.D. 1, S.D. 2, and will explore the standards required of insurance companies to do business to prevent insolvency.

GOVERNMENT-WIDE SUPPORT

Grants-in-aid to counties. Your Committee has recommended to continue grants-in-aid funding to counties at the current level of approximately \$19 million annually. The State provided funding of about \$9 million to the City and County of Honolulu, \$3 million to Maui county, \$4 million to Hawaii county, and \$3 million to Kauai county.

Informational processing and resource management. Throughout the budget, your Committee noted departmental requests for computer equipment and other related cost items. However, upon closer examination, your Committee found a lack of inter- and intra-departmental planning and coordination. Your Committee is of the opinion that the departments do require computer support in order to effectively carry out many of their functions. However, it is disturbing that independent systems are being established without some coordination for future integration. Therefore, your Committee directs the department of budget and finance to develop a strategy for assisting the various state departments in planning and establishing integrated computer systems. Your Committee has appropriated a lump sum amount for computer purchases centrally budgeted to be allocated later to the various departments. In addition, funds for a local area network were appropriated to connect the data processing capabilities of all state agencies in the state capitol complex.

Legal service. Your Committee recognizes the critical need to maintain high standards of legal services available to state agencies and departments. Continued funding was provided for temporary deputy attorney general positions. Your Committee is aware of administrative problems in the department of the attorney general and requests that a management audit or budget review be conducted by the Legislative Auditor to aid in correcting these problems. Where possible, the budget of the attorney general was adjusted to more accurately reflect the true means of financing for various deputies and clerical staff.

Your Committee feels that the proper management of the litigation fund is an essential responsibility of the attorney general, but because of the department's lack of commitment to properly administer these funds, your Committee has deleted litigation funds in the second year of the biennium. During the next fiscal year, your Committee strongly recommends that the attorney general project the litigation and special deputy expenses for the fiscal year 1986-87 which would truly reflect the litigation needs of all general-funded departments. This would also promote the necessary communications between these departments and the attorney general to collectively resolve all litigation matters encountered by the State. If proper justification is provided for such expenditures, your Committee will recommend adequate funding in the second year of the fiscal biennium.

Risk management system. A review of the recommendations from the risk management study by a private consultant was conducted. Your Committee supports the recommendation to consolidate insurance purchases by various state agencies into one central program. Your Committee is encouraged by the efforts of the department to establish a comprehensive risk management and insurance program.

State boundary determination. The state and federal governments are in dispute over the boundaries of the State of Hawaii. Your Committee supports the objectives of the public lands management program which concern eventual resolution of this dispute. Your Committee has therefore provided funds for conducting the legal and historical research necessary for the legal challenge expected from the federal government.

PURCHASES OF SERVICE

This year, for the first time, the state's entire purchase of service program was reviewed. It is your Committee's view that the purchase of service concept is appropriate when government cannot provide a similar service at a cost effective level or when extraordinary needs require swift response. This year your Commit-

tee used the purchase of service approach to meet the needs of child abuse and neglect. Approximately \$2.0 million for prevention and treatment services was provided through the purchase of service program.

However, your Committee is concerned about the growing cost of the program and directs the departments to re-evaluate their use of purchase of service, especially the development of requests for services.

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

Representatives Kiyabu, Cachola, Crozier, Kihano, Kim, Lardizabal, Leong, Nakata, Oshiro, Souki, Tajiri, Takamine, Anderson, Isbell and Kamali'i,
Managers on the part of the House.

Senators Yamasaki, Fernandes-Salling, Hagino, Hee, Holt, B. Kobayashi, Machida, Matsuura, McMurdo, Mizuguchi, Solomon, Henderson and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 55 on S.B. No. 539

The purpose of this bill was to regulate alarm businesses which install, maintain, and repair burglar alarm systems.

This bill establishes a new chapter prescribing minimum standards of conduct and responsibility for alarm businesses and users of the alarms. This bill contains provisions which:

- 1) Define terms necessary for the functioning of the chapter;
- 2) Require maintenance of records and reports;
- 3) Require the posting of the name, address, and telephone number of the business monitoring the alarm;
- 4) Require audible systems to have automatic termination of the signal within fifteen minutes;
- 5) Prohibit automatic telephone dialers to be programmed for police or emergency telephone numbers;
- 6) Prohibit intentional activation of an alarm unit except to report an unauthorized intrusion or for testing purposes;
- 7) Allow consumers to obtain restitution from violators of the chapter; and
- 8) Impose a fine of up to \$2,500 for any unlawful act or practice.

Your Committee upon further consideration has made the following amendments to S.B. No. 539, S.D. 1, H.D. 1:

- 1) Added a new section to the chapter which provides for bonding requirements for alarm sales businesses of \$5,000 for the first five years;
- 2) Added language to require that alarm repairs businesses share information on false alarms with the police for comparative statistical purposes;
- 3) Made a distinction between "alarm sales business" which sell, lease, or install alarms and "alarm repairs business" which maintain, service, repair, alter, replace, or move alarm systems; and
- 4) Made clarifying language changes which have no substantive effect.

Your Committee on Conference is in accord with the intent of S.B. No. 539, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 539, S.D. 1, H.D. 1, C.D. 1.

Representatives Shito, Andrews, Metcalf, Taniguchi and Medeiros,
Managers on the part of the House.

Senators Cobb, Chang, Kawasaki, McMurdo and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 56 on S.B. No. 309

The purpose of this bill was to remove motorcycles and motor scooters from the requirements of Chapter 294, Hawaii Revised Statutes, the Motor Vehicle Accident Reparations Act, and to delete proportionate reimbursement among insurers and self insurers in Section 294-34(c), Hawaii Revised Statutes.

This bill would allow persons to operate motorcycles and motor scooters on public streets without the necessity of obtaining and maintaining no-fault motor vehicle insurance. However, in order to afford protection to the general public from the negligent or reckless operation of motorcycles and motor scooters, the bill would require insurance coverage for bodily injury to others in the amount of \$25,000 and property damage insurance in the amount of \$10,000. Persons operating a motorcycle or motor scooter without such insurance would be subject to a fine of up to \$1,000, imprisonment for thirty days, or suspension of driver's license for one year, or any combination of the above penalties.

In effect, the bill would allow persons to operate motorcycles and motor scooters without insurance coverage for personal injuries to themselves, or for their wage loss or medical expenses. Further, an owner or operator of a motorcycle or motor scooter who is involved in an accident with an insured motor vehicle would not be able to collect no-fault benefits from the insurer of the insured motor vehicle.

Your Committee recognizes the problem faced by owners and operators of motorcycles and motor scooters with respect to high no-fault insurance premium rates. This bill is intended to afford some measure of relief to such persons.

This measure also amends Section 294-23, Hawaii Revised Statutes, to delete the provisions dealing with proportionate reimbursement among insurers.

Your Committee upon further consideration has amended the bill as received by deleting the words "owner or" from page 4, line 16; page 5, line 8; page 8, line 6; and page 9, line 17. The purpose of the amendments are to clarify that owners of motorcycles and motor scooters are not to be denied applicable no-fault benefits when injured in a motor vehicle accident while not operating a motorcycle or motor scooter.

Your Committee also made a technical nonsubstantive change to correct a typographical error.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 309, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 309, S.D. 1, H.D. 1., C.D. 1.

Representatives Shito, Apo, Hirono and Liu,
Managers on the part of the House.

Senators Cobb, Abercrombie, Cayetano, Kawasaki and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 57 on S.B. No. 726

The purpose of this bill is to establish a board of physical therapy within the department of commerce and consumer affairs and to transfer the licensure function of physical therapists from the department of health to this board of physical therapy.

This bill creates a new chapter which establishes a board of physical therapy and specifies the jurisdiction, composition, powers, and duties of the board. The board would be established on January 1, 1986, by this bill and the rules of the Department of Health would remain in effect until modified or repealed by the board. The board would be replaced effective December 31, 1991.

Your Committee has amended this bill as follows:

1. A proviso has been inserted at the end of paragraph (1) on page 2 to provide that if the care or treatment given by the physical therapist contravenes treatment diagnosed or prescribed by a medical doctor, osteopath, or as determined by the board, the physical therapist shall confer with the professional regarding the manner or course of treatment in conflict and take appropriate action in the best interests of the patient.

2. By adding at the end of section -3(a) a provision to prevent a person whether or not licensed under any law from claiming that the person is performing physical therapy or physical therapy services.

3. By adding a new subsection (b) to section -4 and redesignating the other subsections. The new subsection provides for staggered terms for the members first appointed to the board of physical therapy.

Your Committee notes that the requirement in section -4(d) that the governor fill vacancies from a list submitted by the Hawaii Chapter of the American Physical Therapy Association only applies to the physical therapy members on the board and not to the public member or the member from other professions.

5. The appropriation provision has been deleted.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 726, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 726, S.D. 2, H.D. 2, C.D. 1.

Representatives Shito, Souki, Andrews, Apo, Cachola, Lardizabal, Oshiro, Taniguchi, Isbell and Medeiros,
Managers on the part of the House.

Senators Yamasaki, Cobb, B. Kobayashi, Kuroda and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 58 on S.B. No. 665

The purpose of this bill was to regulate the practice of acupuncture in Hawaii by establishing a Board of Acupuncture within the Department of Commerce and Consumer Affairs.

Your Committee finds that the acupuncture profession should be allowed to regulate and control itself through a Board of Acupuncture. In the past, many abuses and factional disputes that existed on the prior regulatory Board had worked a disservice to the practitioners of the profession by causing dissension and ineffective control of the profession. Now, with the establishment of a new Board of Acupuncture pursuant to this bill, which is the product of a compromise agreement between different factions within the profession, your Committee believes that the profession will rectify its past failures and shortcomings to make a strong and effective regulatory body.

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

1) On page 2, line 6: Added a new definition as follows:

"Earned Degree" means an academically or a clinically obtained degree (not honorary)."

2) On page 2, line 22: Added the phrase "by reason of formal training in acupuncture," after the word "acupuncture", and before the word "shall".

3) On page 3, lines 9 and 10: Added a period after the word "acupuncturist" and deleted the phrase "or qualified private tutor approved by the board in a clinic site approved by the board." and placed that language in section 4(b) in section 5 of the bill as section 5(b)(2) and renumbered the existing section 5(b)(2) in the bill to 5(b)(3).

4) On page 5, line 2 after "one clinical year" inserted "in a clinical internship program supervised by a licensed acupuncturist" for purposes of clarification.

5) On page 3, lines 12-15, deleted section 4(c) and placed that language in section 5 of the bill as section 5(c).

6) On page 3, lines 21-24 and page 4, lines 1-10, deleted section 4(e) and placed that language in section 5 of the bill as section 5(d) and deleted the language "and licensure under this chapter" and added "For purposes of this chapter" to clarify that students who started their training prior to December 31, 1984 shall be licensed under this bill upon meeting the requirements for examination and licensure as provided in chapter 436D, Hawaii Revised Statutes, as it existed prior to December 31, 1984.

7) On page 10, lines 1 and 9: Replaced the word "academic" with the word "earned".

8) On page 10, lines 5 and 10-11: Deleted the clause "within the United States and".

9) On page 10, line 19: Added a new section -14 which contains the following language:

"§ -14 Foreign school curricula and standards. The board of acupuncture shall not recognize and approve an earned doctoral degree from a foreign university or college whose curricula and standards are not equivalent to or higher than institutions in the United States which have been recognized and approved by the board in the study or practice of acupuncture."

10) On page 10 after item 6: Added a new section -15 which reads as follows:

"§ -15 Any action taken by the board which was established by chapter 436D prior to December 31, 1984 not in contravention of this Act shall remain in full force and effect."

11) On page 10, lines 16-18: Deleted the word "No" on line 16; replaced the word "unless" on line 17 with the word "when"; and added the phrase "or a department of education curriculum" after the word "board" on line 18.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 665, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 665, S.D. 1, H.D. 2, C.D. 1.

Representatives Shito, Tajiri, Hashimoto, Kim, Kiyabu, Leong, Nakata, Taniguchi, Anderson and Medeiros,
Managers on the part of the House.

Senators Cobb, Kawasaki, Kuroda, Matsuura and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 59 on S.B. No. 588

The purpose of this bill was to make various amendments to the Horizontal Property Act to allow for more efficient administration of the affairs of associations of apartment owners of condominium projects and to provide greater safeguards for owners of condominium units.

Specifically, this bill would require a yearly audit of the financial accounts of all associations of apartment owners; allow a managing agent to collect ground lease rents from leasehold owners and place the sums collected into the association account and pay the ground lessor from such account; prohibit telephone transfer of association funds between accounts; require every association of apartment owners to purchase and maintain directors' and officers' liability insurance; and require all managing agents to be licensed as real estate brokers.

Your Committee is in general agreement with the provisions of this bill insofar as they provide for more efficient administration of the affairs of a condominium project and increased protection for apartment owners. However, upon further consideration, your Committee has amended S.B. No. 588, S.D. 1, H.D. 1 as follows:

(1) On page 1, line 10: Deleted the words "during the annual" and added the words "at an" before the word "association".

(2) On page 8, line 22: Added after the words "ground lessor;" the clause which reads as follows:

"and that the system of lease rent collection is approved by a majority vote of all apartment owners at a meeting of the association of apartment owners;"

This change allows affected owners to vote on the particular system of lease rent collection they wish to employ; thus, leaving the option or choice in the hands of the majority of the owners.

(3) On page 9, lines 20-22: Recasted the underscored language to read as follows:

"The manager or board of directors shall not transfer association funds between accounts by telephone, including, but not limited to, the general operating account and reserve fund account."

This language specifies clearly the responsible parties who control the accounts and specifically disallows them from transferring funds by telephone.

(4) On page 10, lines 1-7: Deleted Section 5 in its entirety. The intent is to leave the association's authority to purchase director's and officer's liability insurance coverage optional. It is the intent of your Committee that the question of mandatory payment and coverage by the association should be reviewed by the Real Estate Commission and a report of any findings be presented to the 1986 Session of the Legislature.

(5) On page 10, line 12: Inserted after the word "commission" the clause "or a corporation authorized to do business under chapter 406, Hawaii Revised Statutes,". This change allows a trust company licensed under chapter 406 to be a managing agent.

(6) On page 10, line 17: Added a new sentence which reads:

"Any person aggrieved by an act, representation, transaction, or conduct of a managing agent upon the grounds of fraud, misrepresentation, or deceit shall recover by order of the circuit court or district court of the county where the violation occurred first from the bond required by section 514A-84, and if the managing agent is a licensed real estate broker, secondly from the real estate recovery fund established under section 467-16."

(7) Added three new sections which are required to give the Real Estate Commission the power to enforce the "commingling" provisions of section 3 of the bill. These sections amend sections 514A-47, 514A-48 and 514A-49.

(8) Renumbered section numbers to conform with the amendments described above.

(9) Made technical, nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 588, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 588, S.D. 1, H.D. 1, C.D. 1.

Representatives Shito, Andrews, Apo, Metcalf and Medeiros,
Managers on the part of the House.

Senators Cobb, McMurdo and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 60 on S.B. No. 76

The purpose of this bill is to amend the schedule of controlled substances to conform with recent changes in the federal law and to make clear that cocaine,

whether natural or synthetic, is a controlled substance.

Your Committee finds that this measure is necessary for the proper enforcement of the Uniform Controlled Substances Act.

Your Committee has amended the bill by correcting a nonsubstantive technical drafting error on page 9, line 12.

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

Representatives Tom, Apo, Bunda, Metcalf and Jones,
Managers on the part of the House.

Senators B. Kobayashi, Matsuura and George,
Managers on the part of the Senate.

Conf. Com. Rep. 61 on H.B. No. 463

The purpose of this Act is to amend the Hawaii Workers' Compensation law to improve the system's efficiency and cost-effectiveness.

Your Committee recognizes the delicate balance of social and economic considerations underlying our Workers' Compensation law. On one hand, injured workers have a legitimate right to be compensated when they are injured as a result of their employment. On the other, the cost of production for employers must be reasonable in order that economic prosperity is achieved. Accordingly, your Committee has addressed the concerns expressed regarding Hawaii's Workers' Compensation law by diverse segments of our community in a manner that it believes is consistent with the humanitarian and remedial objections of our law.

Each section of this bill is aimed at the causes of the problem including: (1) excessive premium increases due to the failure to consider investment income in setting premium rates for workers' compensation insurance; (2) the absence of sufficient market competition in the underwriting and sales of workers' compensation insurance; (3) the increased frequency of industrial accidents in Hawaii; (4) the lack of effective controls on the utilization of medical benefits and in the availability of other benefits; and (5) the lack of administrative controls by carriers and the Department of Labor and Industrial Relations in handling cases involving extended wage loss. Senate Standing Committee Report No. 806 and Senate Standing Committee Report No. 853 highlight how these causes are addressed in a meaningful way without affecting basic rights of injured workers who are legitimately entitled.

SAFE AND HEALTHY WORK ENVIRONMENT

Your Committee is well aware that statutory changes alone are not enough to reduce the escalating costs of Hawaii's Workers' Compensation system. Indeed, the best method for reducing costs in our Workers' Compensation system is by reducing the occurrences of work-related injuries and illnesses. We believe that a safe and healthy working environment will not only reduce costs but also improve employee morale and lead to a more productive work force. However, government cannot possibly anticipate all the health and safety needs of the thousands of diverse and varied types of employment and working places in our state. Ultimately, the responsibility for insuring a healthy and safe working environment resides with those most directly affected. For these reasons, your Committee strongly urges that employers, insurance carriers, employees and employee organizations work cooperatively to develop programs and strategies designed to reduce work-related injuries and illnesses. Further, your Committee believes that the promotion of a safe and healthy working environment is in the best public interest and requests that our state administration initiate any action necessary to facilitate such cooperative efforts.

THE INSURANCE PROBLEM

Your Committee shares the sentiments expressed in Senate Standing Committee Report No. 853 regarding the insurance crisis confronting employers and busi-

nesses in Hawaii brought about by the skyrocketing costs of workers' compensation insurance coverage in recent years.

Your Committee agrees that a non-profit insurance fund, whose purpose is to sell workers' compensation insurance at the lowest actuarially responsible price in competition with private carriers, is a meaningful alternative to the existing system of providing insurance. Your Committee, however, is also aware that the establishment of such a fund requires careful planning and preparation. Accordingly, your Committee has amended H.B. No. 463, H.D. 2, S.D. 2, to provide that the nonprofit insurance fund created by this Act will be operational upon funding by special appropriation by the legislature. Your Committee has provided funding to hire a consultant who is to work with an interim legislative committee and develop a report to be submitted to the legislature prior to the 1986 session.

In the meantime, to avoid a recurring of the workers' compensation insurance crisis, your Committee has carefully reviewed the concept of establishing a business advocate to help effectively regulate the insurance industry and fully implement Act 263, Session Laws of Hawaii 1983, which mandates that premium rates be set with meaningful consideration of insurer investment income. While persuaded of the merits of this concept, your Committee decided that objectives to be achieved by establishing a business advocate might also be met by strengthening the actuarial and other resources of the Insurance Commissioner and effectuating a program of business advocacy in that office. Your Committee is inclined to take this alternative primarily because the Insurance Commissioner has yet to decide any rate increase request under the provisions of Act 263, Session Laws of Hawaii 1983. Thus, we have amended the bill to provide the Insurance Commissioner additional powers and staff. We have also given businesses the option to intervene, if they do wish to, in rate-making and rate-filing proceedings.

If, however, the legislature's intended objectives are not met, your Committee strongly recommends that the concept of a business advocate be reviewed again and implemented.

Your Committee is not persuaded that insurance carriers have made all reasonable efforts to contain the rising costs of workers' compensation insurance premiums in the State of Hawaii. Nonetheless, this Act makes cuts in statutory benefits that represent a reduction in costs to employers. Your Committee expects that these statutory benefit cuts and the implementation of Act 263, Session Laws of Hawaii 1983, will ultimately result in lower premium costs for the employers and businesses of our state. Accordingly, your Committee requests that our state administration and Insurance Commissioner closely monitor the workers' compensation insurance industry to help insure that such cost reductions are realized and accrue to the benefit of the employers and businesses of our state.

THE PRESUMPTION

Your Committee concurs with the discussion regarding the statutory presumption found in Senate Standing Committee Report No. 806 and Senate Standing Committee Report No. 853.

Much of the debate regarding the statutory presumption has focused on (1) quality and quantity of evidence needed to overcome the presumption; and (2) applicability of the presumption to issues considered under Chapter 386, Hawaii Revised Statutes.

First, for the reasons stated in the above-mentioned standing committee reports, your Committee believes that the present requirement of substantial evidence to overcome the presumption must be maintained. Furthermore, your Committee endorses the definition of substantial evidence as set forth by our Supreme Court in Akamine v. Hawaiian Packing & Crating Co., 53 Haw. 406 (1972), to wit:

"Substantial evidence is relevant and credible evidence of a quality and quantity sufficient to justify a conclusion by a reasonable man that an injury or death is not work-connected." Ibid at 408.

Your Committee believes that this definition correctly defines substantial evidence for purposes of Chapter 386, Hawaii Revised Statutes.

Second, your Committee notes that the statutory presumption applies to the following four items:

- (1) That the claim is for a covered work injury;
- (2) That sufficient notice of such injury has been given;
- (3) That the injury was not caused by the intoxication of the injured employee to injure himself or another;
- (4) That the injury was not caused by the wilful intention of the injured employee to injure himself or another.

FRAUD

In order to insure the integrity of our workers' compensation program, your Committee has amended H.B. No. 463, H.D. 2, S.D. 2, to strengthen the prohibition against fraud within the system.

Your Committee intends that any person who wilfully makes a false statement or representation for the purpose of directly obtaining compensation or payment or for the purpose of avoiding on behalf of any employer or insurance carrier any payment or compensation under chapter 386, Hawaii Revised Statutes, be penalized in accordance with one or more of the enumerated penalties listed in the amendment.

However, your Committee is aware that it would be impossible to prejudge the merits, facts and circumstances of each case. Thus, while a penalty is mandated in each case where a violation is found, the Director and the Appellate Board are given the discretion to fashion a penalty that would be appropriate for that case.

Your Committee believes that any person charged with a violation is afforded due process by the following procedure:

- 1) Proof of wilful misconduct to establish a violation;
- 2) A written complaint filed within two years of the alleged violation;
- 3) Notice of charges specifying the nature of the alleged violation given at least twenty days prior to the hearing;
- 4) A full and fair hearing and a right to appeal the determination to the appellate board as specified under Section 386-87 and the Supreme Court under Section 386-88.

Furthermore, your Committee intends that the determination of fraud be strictly limited to falsehoods that come within the provisions of this Chapter. For example, your Committee agrees with our Intermediate Court of Appeals that misrepresentations made to obtain employment are not covered by Chapter 386, Hawaii Revised Statutes. See Teixeira v. Kauikeolani Children's Hospital, 3 Haw. App. 432 (1982). While your Committee does not condone such misrepresentations or any other falsehoods, it does believe that matters which do not directly relate to the workers' compensation system are better handled in other more appropriate forums.

Finally, the amendment is intended to prohibit the commission of fraud by any person who directly profits from the workers' compensation system; i.e. claimants, employers, insurance carriers, health care providers, and vocational rehabilitation providers.

TEMPORARY TOTAL DISABILITY

Your Committee has amended the provisions of H.B. No. 463, H.D. 2, S.D. 2, relating to temporary total disability as follows:

First, present law provides a two-day waiting period with recapture after five days of disability. H.B. No. 463, H.D. 2, S.D. 2, extended the waiting period to three calendar days and allowed a recapture after five days of disability only in cases where the injured employee had not received or become entitled to any type of full wage loss replacement for the initial waiting period. Your Committee accepted the extension of the waiting period to three calendar days but has eliminated the recapture provision.

Your Committee believes that the basis for eliminating the recapture provision should be clarified. We have heard but are unpersuaded by the arguments made to the effect that the recapture provision of the present law is a disincentive for workers to stretch their absence from work to take advantage of retroactivity. We are aware, however, that Hawaii's workers' compensation benefits are among the lowest in the country and that the elimination of the recapture provision is a reduction of those benefits. Thus, your Committee considers the elimination of the recapture provision to be a real sacrifice on behalf of Hawaii's injured employees to reduce the costs of our workers' compensation system.

Second, your Committee has amended the section requiring a hearing after the rehabilitation unit has certified that an injured worker is not a feasible candidate for rehabilitation services to allow the Director to make a determination of permanent partial disability as well as temporary total disability or permanent total disability.

Your Committee notes that while the above amendments are designed to reduce costs and improve the processing of claims, the best method for containing temporary total disability costs is to make it possible for an injured worker to return to work. Accordingly, your Committee requests that our State Administration and Department of Labor and Industrial Relations work with employers, insurance carriers, employee organizations and other appropriate parties to (1) establish incentives to encourage employers to assist injured workers to return to work; and (2) review Sec. 386-142 and Sec. 378-32(b), Hawaii Revised Statutes, to determine whether those statutory provisions offer adequate protection for the injured worker who desires to return to work but is not given the opportunity by an employer.

VOCATIONAL REHABILITATION

Your Committee agrees with the amendments regarding vocational rehabilitation contained in H.B. No. 463, H.D. 2, S.D. 2.

Your Committee has reviewed and shares the concerns raised regarding the potential for increasing costs if vocational rehabilitation services are not adequately regulated. Much of the discussion has focused on whether a limit should be established on the duration of vocational rehabilitation services. However, your Committee is apprehensive about establishing durational limits on vocational rehabilitation services since such limits may have a tendency to become the minimum length of service and may actually increase rather than decrease vocational rehabilitation in most cases. Instead, your Committee believes the better alternative for controlling vocational rehabilitation costs is to strengthen such items as eligibility criteria, participation requirements and the delivery of suitable vocational rehabilitation services. In this regard, we are informed that the Department of Labor and Industrial Relations in January 1985 promulgated revised regulations to accomplish these objectives.

Your Committee is satisfied that the proposed amendments contained in this Act should help to contain vocational rehabilitation costs in the workers' compensation system. Moreover, your Committee believes that if specific adjustments have to be made to better regulate vocational rehabilitation services, such matters are more appropriately handled through the Chapter 91, Hawaii Revised Statutes, rule making procedures to implement the provisions of this Act.

MEDICAL AND HEALTH CARE

Your Committee is concerned about the increasing costs of medical and health care which currently represents approximately one-third of all benefit payments for workers' compensation. Accordingly, except for technical amendments, your Committee strongly endorses the regulatory scheme outlined in H.B. No. 463, H.D. 2, S.D. 2.

Your Committee also believes that this is an area of our workers' compensation system that requires the cooperation of those most directly involved if increasing costs are to be contained. Government has always been loathe to regulate those who are performing humanitarian services. However, if we are to continue to provide the quality of care required by the humanitarian and remedial character of our workers' compensation law, we must find alternatives to reduce medical and health care costs. Regulation alone is not enough. Accordingly, your Committee requests that our state administration take the initiative to work with the various

health care provider organizations along with interested employer and employee organizations to develop such alternatives.

ATTORNEYS, HEALTH CARE PROVIDERS AND OTHER FEES

Your Committee believes that fees charged by all attorneys and physicians as well as other health care providers for services rendered to prosecute or defend a claim for compensation under this Chapter should be regulated to contain unwarranted costs in the workers' compensation system. However, your Committee is also concerned that such regulation be done by the appropriate entity.

Claimant attorney and witness fees need to be regulated by the Director to protect the claimant against any excessive charges since such fees are enforced as a lien against the compensation awarded the claimant. In addition, the fee schedules for physicians and other health care providers are established by the Director who should appropriately regulate such fees.

Employer attorney and witness fees are not a lien against any award. They are, however, costs that must be borne by the employer either directly through self-insurance or indirectly through the payment of insurance premiums.

Your Committee believes that self-insured employers should be responsible for regulating their own attorney and witness fees. Indeed, one of the primary advantages for being self-insured is to have the ability to develop your own costs containment programs.

However, the same opportunity to control attorney and witness fees does not exist for employers who purchase workers' compensation insurance. Decisions regarding these costs are made by insurance carriers and not individual employers. Thus, your Committee believes that such costs should be regulated by the Insurance Commissioner to insure that they are not excessive.

Your Committee is aware that insurance carriers are required to report attorney and witness fees to the Insurance Commissioner as part of their loss adjustment expenses which are used with other items to justify premium rates. Your Committee strongly encourages the Insurance Commissioner to monitor and review insurance carrier attorney and witness fees as well as other loss adjustment expenses to contain premium rates.

Your Committee has deleted prior amendments proposed to section 386-94 except those relating to the inclusion of all health care providers within the coverage of the section.

DEDUCTIBLE OPTIONS FOR INSURANCE COVERAGE

Your Committee concurs with the amendments made by H.B. No. 463, H.D. 2, S.D. 2, to allow employers to purchase workers' compensation insurance coverage with an option for medical deductibles.

However, your Committee believes that this concept could be expanded to include deductibles for indemnification benefits as well as medicals. Such an expanded concept, in essence, would allow employers to have the option of being self-insured for short periods of time. This option would be especially advantageous for those employers that have injury-free records. We also believe that this option would tend to encourage employers who purchase such coverage to maintain safe and healthy work environments as well as facilitate an injured employer's early return to work.

Accordingly, your Committee requests that our State Administration and Insurance Commissioner review this expanded concept and submit a report on this matter to the 1986 session of the legislature.

OTHER AMENDMENTS

Due Date for Decisions. Your Committee has amended the bill by providing that decisions by the Director are to be rendered within sixty days after the conclusion of the hearing but may be extended without a specific time limit for good cause provided the parties are in agreement. This amendment gives the Director suf-

ficient flexibility to extend the due date when such extension is in the interest of the concerned parties.

Accident Prevention Unit. Your Committee has deleted section 10 of H.B. No. 463, H.D. 2, S.D. 2, and included promotion of safety programs in the section establishing the State Fund. Your Committee believes that the State Fund should have this capability to properly service its employer clients.

Computation of Average Weekly Wages. To avoid increasing costs to businesses, your Committee has deleted the provisions which changes from 25 to 30 the age in which an injured employee's average weekly wage will be computed.

Standing to Intervene in Appeals. To provide pre-paid health plan contractors fair treatment at the Appellate Board level with the objective of reducing unnecessary duplication of medical payments, your Committee has limited intervention for the purpose of protecting past liens only in accordance with the appropriate health provider fee schedule.

Appropriations. Your Committee has appropriated the amounts of \$707,400 for fiscal year 1985-1986 and \$742,770 for fiscal year 1986-1987 for personnel and other related costs to the Department of Labor and Industrial Relations to administer Sections 3, 5 and 7 of the bill.

COST REDUCTIONS

Your Committee concurs with the discussion regarding cost reductions in Senate Standing Committee Report No. 853 and believes that the amendments made by your Committee further increases such reductions. As a result, your Committee intends that future workers' compensation insurance premium rates be lowered to meet the sacrifices made by many participants in the workers' compensation process, including our injured workers.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 463, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 463, H.D. 2, S.D. 2, C.D. 1.

Representatives Tungpalan, Shito, Kiyabu and Isbell,
Managers on the part of the House.

Senators Yamasaki, Abercrombie, Holt, Machida and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 62 on H.B. No. 99

The purpose of this bill is to appropriate funds to the Judiciary for the 1985-87 fiscal biennium.

This bill has been amended to reflect your Committee's determination of the needs of the Judiciary to operate effectively and efficiently.

Your Committee acknowledges the dilemma the Judiciary faces. The Judiciary is responsible for identifying the resources needed to effectively and efficiently operate our state court system. And in presenting its budget to the Legislature, the Judiciary must also be aware of the spending ceiling prescribed by law and imposed on all state departments and agencies. And it must also contend with funding the numerous functions that have been transferred to the Judiciary from other departments and agencies.

In 1983, the Judiciary was directed to continue to improve its capability to perform program analysis and evaluation of performance. This in essence is to form the basis for assisting Judiciary management, and Legislature as well, in making sound budgetary decisions.

Your Committee acknowledges the fine analysis and evaluation of the services purchased from private organizations under the requirements of Chapter 42, Hawaii Revised Statutes. Your Committee directs the Judiciary to continue to improve its program analysis and evaluation capability and extend the effort to all Judiciary operations.

In reviewing the operations of the Judiciary, your Committee was made aware of a planning and statistics office within the Administration Office. Because of increasing legislative demands for more statistical data and analysis for its budget review, your Committee recommends that the Judiciary immediately examine its organization for the purpose of merging the budget preparation component with the planning and statistical effort. The merging of these components under a single office will strengthen the Judiciary's planning-programming-budgeting effort and enhance compliance with the intent and purpose of Chapter 37, Hawaii Revised Statutes. The Judiciary is directed to ensure that its next budget submittal reflects the use of relevant statistical and planning data.

A total of \$44,400,862 in general funds is provided for each fiscal year. In addition, capital improvement projects representing \$13,314,000 in general obligation bond funds have been provided for the 1985-87 fiscal biennium.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 99, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 99, H.D. 1, S.D. 2, C.D. 1.

Representatives Kiyabu, Tom, Cachola, Crozier, Hashimoto, Kihano, Kim, Lardizabal, Leong, Metcalf, Nakata, Oshiro, Souki, Tajiri, Takamine, Taniguchi, Anderson, Isbell, Kamali'i and Medeiros.

Senators Yamasaki, Chang, Fernandes-Salling, Hagino, Hee, Holt, B. Kobayashi, Machida, Matsuura, McMurdo, Mizuguchi, Solomon, Henderson and Soares.

Conf. Com. Rep. 63 on H.B. No. 1393

The purposes of this bill are: 1) to provide that up to \$100,000 annually may be granted to the Civil Air Patrol from the airport revenue fund pursuant to Chapter 42, Hawaii Revised Statutes; 2) to specify that the current \$3,000 grant shall be made available to Hawaii-based squadrons and flight units only; 3) to allow the purchase of fuels and oils not otherwise provided to the organization by the federal government; and 4) to allow assistants to the adjutant to perform certain administrative and fiscal duties.

Your Committee finds that the Civil Air Patrol is presently statutorily provided with a grant of \$100,000 annually from the airport revenue fund. However, in recent years, the Hawaii Wing of the Civil Air Patrol has exhibited a lack of careful financial management and has shown little or no accountability for the state grant it receives. In the past, little or no financial controls have been imposed on the \$3,000 grant given to individual squadrons or flight units.

Your Committee concurs with the finding that the Hawaii Civil Air Patrol has not fulfilled a fiduciary responsibility to the State for the state funding the organization receives annually. Because of the way it has managed its funds, your Committee finds that there is a need for stronger legislative oversight of funds granted to this organization.

Your Committee is cognizant that a new wing commander, Colonel John Parrish, has been appointed to head the organization, and he has testified that there will be stronger fiscal controls and more efforts made to hold the Civil Air Patrol accountable. Your Committee believes that the provisions of this bill will better assist the organization in reaching these goals.

Your Committee upon consideration of H.B. No. 1393, H.D. 2, S.D. 1, made the following amendments:

- 1) At section 1, page 1, line 5, the words "so much thereof as may be necessary" have been added between the words "annually" and "[is]"; and
- 2) At section 1, page 1, line 5, the word "may" has been replaced with the word "will".

In effecting the aforesaid changes, your Committee inadvertently omitted substantive language from the bill by retaining brackets at page 1, line 16 and page 2, line 4. The following language which was deleted in H.B. No. 1393, H.D. 2, S.D. 1, C.D. 1, is retained in H.B. No. 1393, H.D. 2, S.D. 1, C.D. 2:

"for upkeep, replacement or purchase of communication equipment (provided that only such sums shall be expended on communication systems as will be necessary for the procurement or replacement of equipment not otherwise obtainable by grant or gift from any other source);".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1393, H.D. 2, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1393, H.D. 2, S.D. 1, C.D. 2.

Representatives Taniguchi, Takamine, Oshiro, Lardizabal and Anderson,
Managers on the part of the House.

Senators Cayetano, Hagino and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 64 on H.B. No. 134

The purpose of this bill is to provide fund authorizations and appropriations for collective bargaining cost items, including the cost of salary adjustments negotiated between the State and bargaining unit representatives for the fiscal biennium 1985-87.

Fund authorizations and appropriations by the legislature are necessary, in accordance with section 89-10(b), Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1985.

Your Committee has amended this bill by inserting the appropriation amounts necessary for collective bargaining cost items.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 134, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 134, H.D. 1, S.D. 1, C.D. 1.

Representatives Kiyabu, Yoshimura, Cachola, Crozier, Kihano, Kim, Lardizabal, Leong, Nakata, Oshiro, Souki, Tajiri, Takamine, Anderson, Isbell and Kamali'i,
Managers on the part of the House.

Senators Yamasaki, Fernandes-Salling, Hagino, Hee, Holt, B. Kobayashi, Machida, Matsuura, McMurdo, Mizuguchi, Solomon, Henderson and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 65 on H.B. No. 146

The purpose of this bill is to provide fund authorizations and appropriations for wage and other adjustments in Fiscal Biennium 1985-87 for executive, judiciary, and legislative officers and employees excluded from collective bargaining.

Section 89C-2, HRS, stipulates that the compensation, laws, terms and conditions of employment, and other benefits for public officers and employees who are excluded from collective bargaining shall be adjusted by the chief executive of the state, the board of education, the board of regents, or the chief justice, as applicable. Further, section 89C-5, HRS, stipulates that any such adjustments which constitute cost items shall be subject to appropriation by the legislature.

Your Committee has amended this bill by: (1) adding a new part providing appropriations for the salary increases and other cost adjustments for officers and employees of the office of Hawaiian affairs excluded from collective bargaining, for fiscal biennium 1985-87 and (2) adding to section 5 of the bill a provision appropriating funds for the salary increases and other cost adjustments for officers and employees of the State Ethics Commission excluded from collective bargaining.

Further, your Committee has amended this bill to stipulate exact amounts needed for wage and other adjustments pursuant to recent collective bargaining agreements.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 146, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 146, H.D. 1, S.D. 1, C.D. 1.

Representatives Kiyabu, Yoshimura, Cachola, Crozier, Kihano, Kim, Lardizabal, Leong, Nakata, Oshiro, Souki, Tajiri, Takamine, Anderson, Isbell and Kamali'i,
Managers on the part of the House.

Senators Yamasaki, Fernandes-Salling, Hagino, Hee, Holt, B. Kobayashi, Machida, Matsuura, McMurdo, Mizuguchi, Solomon, Henderson and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 66 on H.B. No. 147

The purposes of this bill are to establish the amounts of the state and county contributions to the Health Fund for officers and employees not covered by collective bargaining, as provided by chapter 89C, HRS, and to provide appropriations to fund the state's contribution for fiscal biennium 1985-87.

Act 254, Session Laws of Hawaii 1984, authorized collective bargaining negotiations to determine the amount of employer contributions to the Health Fund for employees covered by collective bargaining, the negotiated amounts becoming effective July 1, 1985. The Act also authorized the chief executives of the state and counties, the board of education, the board of regents, the legislative auditor, the director of the legislative reference bureau, the ombudsman, and the chief justice of the supreme court to establish the amount of employer contributions to the Health Fund for officers and employees excluded from collective bargaining in accordance with processes outlined in either of the foregoing provisions, the Act provided that adjustments to the amounts of employer contributions to the Health Fund shall be made by legislative enactment.

This bill will permit timely adjustments to the amount of employer contributions to the Health Fund for officers and employees not covered by collective bargaining or the provisions of chapter 89C, HRS, and provide appropriations for that purpose.

Your Committee upon further consideration has made the following amendments to H.B. No. 147, H.D. 1, S.D. 1:

- (1) Subparagraph 1 of section 2 has been amended to read:

"\$27.34 for each respective employee-beneficiary and \$84.05 for each respective employee-beneficiary with a dependent-beneficiary..."

- (2) Subparagraph 2 of section 2 has been amended to read:

"\$5.72 effective July 1, 1985, and \$5.96 effective July 1, 1986, for each child..."

- (3) Subparagraph 3 of section 2 has been amended to read:

"\$2.25 for each respective employee to be used towards the payment of group life insurance benefits."

- (4) Section 3 has been amended to appropriate \$220,517 for fiscal year 1985-86 and \$221,272 for fiscal year 1986-87.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 147, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 147, H.D. 1, S.D. 1, C.D. 1.

Representatives Kiyabu, Yoshimura, Cachola, Crozier, Kihano, Kim, Lardizabal, Leong, Nakata, Oshiro, Souki, Tajiri, Takamine, Anderson, Isbell and Kamali'i,
Managers on the part of the House.

Senators Yamasaki, Fernandes-Salling, Hagino, Hee, Holt, B. Kobayashi, Machida, Matsuura, McMurdo, Mizuguchi, Solomon, Henderson and

Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 67 on S.B. No. 239

The purpose of this bill is to clarify the problems created by the department of taxation's stand regarding "gross up" and to exempt sport tournament funds from the general excise tax in certain instances.

Your Committee finds that clarification of the departmental stance regarding "gross up" is required due to the artificiality of their concept. The principle of "gross up" is used by the department to provide that if a company uses an outside third party, whether or not there is an apparent agency relationship, to sell the company's services, any commissions or discounts the department attributes to the third party will be added to the gross proceeds of the company using such third party, even though the company never receives the money. Such additions to gross proceeds are subject to the general excise taxation. For example, if a tour company offers a tour at \$20 and advertises such fact and an independent person sells a ticket on that tour for \$15, the department attributes the difference between \$20 and \$15 as commissions paid the independent person and includes the \$5 difference in the gross proceeds of the tour company. The department applies the concept even though the company never sees the extra \$5 and may have no control over the price at which the person sells the ticket. Your Committee finds that this practice is inequitable and carries a broader implication for businesses which use the discount and independent agent concepts. This is particularly true in Hawaii where many of the hotels and other tourist activities package their services with discounts.

The bill provides that funds paid by a customer or customer's agent to a travel agent or tour packager for tickets, reservations, tour, or travel services which are not transmitted to the persons or entities furnishing the tour or package of travel services or accommodations shall be presumed not to be a part of the gross proceeds or gross income received by such persons or entities. This presumption may be rebutted by showing an agreement to the contrary.

Your Committee has amended this bill by deleting the provisions on the exemption of sport tournament funds. Your Committee has further amended the bill by further clarifying the general excise tax principles imposed on the taxpayers. This has been done to clarify the area of reimbursements for costs and advances made to a third party by one party for a second party. For example, if A reimburses B for payments made to C on A's behalf in many such instances, the department will attempt to impose the general excise tax on the amount of the reimbursement to B, even though such reimbursement is not gross income to B. This is an incorrect and inapplicable application of the general excise tax law which this bill clarifies. This is an area long in need of clarification due to the numerous misunderstandings regarding the application of the general excise tax between the department and the taxpayer.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 239, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 239, S.D. 2, H.D. 1, C.D. 1.

Representatives Kiyabu, Cachola, Crozier, Kihano, Kim, Lardizabal, Leong, Nakata, Oshiro, Souki, Tajiri, Takamine, Anderson, Isbell and Kamali'i,
Managers on the part of the House.

Senators Yamasaki, Fernandes-Salling, Hagino, Hee, Holt, B. Kobayashi, Machida, Matsuura, McMurdo, Mizuguchi, Solomon, Henderson and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 68 on S.B. No. 1198

The purpose of this bill is to provide for early payment to the thrift account holders of Manoa Finance Company, Inc., Great Hawaiian Financial Corporation, and Commercial Finance, Limited.

After reviewing the plight of the account holders of Manoa Finance and Great

Hawaiian which are debtor companies in bankruptcy reorganization, and giving consideration to the resources available, your Committee on Conference has agreed to recommend a plan which will provide to the account holders payments at least equal to the guaranteed amount and still recover as much as possible for the State. This plan is reflected in the bill attached as S.B. No. 1198, S.D. 2, H.D. 1, C.D. 1.

Your Committee on Conference amended S.B. No. 1198, S.D. 2, H.D. 1, to provide for a State loan of \$9,500,000 to Thrift Guaranty Corporation of Hawaii to be used in connection with loans from the industrial loan industry and Thrift Guaranty's own funds for plans of reorganization of Manoa Finance and Great Hawaiian confirmed by the bankruptcy court. An additional \$1,000,000 would be made available for a similar plan of reorganization for Commercial Finance, if it elects to participate on similar terms. The loan will be made to Thrift Guaranty to allow payment of at least the guaranteed amount of all thrift accounts in the debtor companies as part of the plans of reorganization. Central to the amended bill is Section 5, where the requirements for the plans of reorganization and the State loan are set out.

Under a bankruptcy plan of reorganization, the assets of the debtor companies would be sold to Thrift Guaranty, which would use funds from the appropriation, a substantial loan from member companies, plus up to \$2,000,000 of its own funds. The debtor companies would distribute the sale proceeds and their own available cash, pro rata, among all general creditors (including depositors).

Some depositors would therefore be paid more than \$10,000, which is more than the guaranty amount. This result is unavoidable under the Bankruptcy Code, because all general creditors must be treated equally; i.e., they are entitled to pro rata distributions from the debtor's estate.

Other depositors would receive less than the guaranty amount from the distribution of the sale proceeds. If so, Thrift Guaranty would pay the shortfall, as a guaranty payment under section 408A-14, Hawaii Revised Statutes.

The State loan to be made under this bill and the loan from the member companies will both be secured by liens on the assets of Thrift Guaranty acquired from the debtor companies. The bank examiner and the member companies will designate two separate pools of assets. The State will have a senior lien on one pool, equalling the full amount of the State loan, and the member companies will have a senior lien on the rest of the assets. The selection of collateral for the State pool will be by negotiation between the member companies and the bank examiner. These pools will be cross-collateralized. That is, the State will have a junior lien in the pool set aside for the member companies and vice-versa. After the member companies have recovered principal, interest and expenses on their loan from the member company pool, the pool will be available to repay the State's loan. Furthermore, once the member companies' loan has been repaid, all assets of Thrift Guaranty would be available to repay the loans made by the State to Thrift Guaranty in earlier years. This is provided in the new Section 7.

Your Committee on Conference is concerned that the assets of Manoa Finance and Great Hawaiian not be disposed of in a "fire-sale". Consequently, the bank examiner's approval will be required for all asset sales.

In addition to the above changes to Section 5, your Committee on Conference made the following amendments:

Section 1. This section expresses the simple purposes of the bill, which are to permit a prompt payment to account holders of the debtor companies and to terminate assessments of operating industrial loan companies in future years. This was necessary to obtain private industry participation in the plan.

Section 2. A technical amendment of section 408A-5, Hawaii Revised Statutes, is made to provide a basis for allocating the voting power of industrial loan company members of Thrift Guaranty.

Section 3. A technical amendment of section 408A-8(b), Hawaii Revised Statutes, is made to conform statutory language to terminology used in the current Bankruptcy Code.

Section 4. Similar language changes to conform to Bankruptcy Code terminology are made to section 408A-14(a), Hawaii Revised Statutes. Further, Thrift

Guaranty is given the express right to waive its subrogation rights under section 408A-14(c), Hawaii Revised Statutes, with the bank examiner's approval. It is understood that there will be such a waiver as part of the proposed plans of reorganization with respect to all payments which have been or may be made pursuant to the Program for Advance Payments To Account Holders dated June 7, 1983, among Manoa Finance, Great Hawaiian, and Thrifty Guaranty.

Section 5. This section has been described above. However, in addition, it should be understood that payment to certain account holders may be made more than ninety days after court confirmation of the plan for various reasons, including requirements for legal releases of the State and Thrift Guaranty and possible delays in completing paperwork with individual creditors.

Section 6. This section provides for the termination of the industrial loan companies' assessment liability under section 408A-9 and 408A-10, Hawaii Revised Statutes, but only after all of the requirements for a State loan under the new Section 5 have been met.

Section 7. This section is discussed above.

Section 8. This new section clarifies that loans made by the member companies to Thrift Guaranty to effect the plan will be deemed to comply with statutory provisions concerning industrial loan company loans, such as limits on loans to one borrower, collateral requirements, and the like.

Section 8 of S.B. No. 1198, S.D. 2, H.D. 1, a standard severability clause, has been deleted because of the interrelated nature of the provisions of the bill.

Sections 9 and 10 of S.B. No. 1198, S.D. 2, H.D. 1, have been renumbered as Sections 8 and 9.

Your Committee on Conference is concerned that the assets of Manoa Finance and Great Hawaiian not be reduced by excessive legal and liquidation costs. The Committee on Conference understands that the member companies and Thrift Guaranty will take prompt steps to achieve efficiency in Thrift Guaranty's liquidation operations, including the reasonable use of staff and attorneys and the containment of legal fees and other expenses. Those steps should be consistent with the maximum realization on the liquidation of its assets and the satisfaction of its past and future obligations.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1198, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1198, S.D. 2, H.D. 1, C.D. 1.

Representatives Kiyabu, Shito, Bunda, Crozier, Hirono, Souki, Taniguchi, Isbell and Jones,
Managers on the part of the House.

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

Conf. Com. Rep. 69 on S.B. No. 589

The purposes of this bill are to provide exclusive representatives of certain public employee bargaining units another opportunity to negotiate a model conversion plan for reducing salary range steps and to extend such opportunity to units representing employees paid according to the department of education's salary schedules.

Your Committee has amended the bill as follows:

- (1) All references to "reducing", or "reduction of", the number of steps have been replaced with references to "adjusting", or "adjustment of", the number of steps;
- (2) All references to the department of education's salary schedules added by the house draft to the model conversion plan section under chapter 77, Hawaii Revised Statutes, have been deleted;
- (3) The subsection outlining the required contents of model conversion plans

agreed to between the employers and the exclusive representative has been repealed; and

(4) A new section has been added to chapter 297, Hawaii Revised Statutes, which specifically provides the exclusive representatives of employees within the department of education's salary schedules the opportunity to negotiate model conversion plans in the same manner allowed for the other bargaining units.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 589, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 589, S.D. 2, H.D. 1, C.D. 1.

Representatives Kiyabu, Yoshimura, Cachola, Kim, Lardizabal, Souki and Anderson,
Managers on the part of the House.

Senators Yamasaki, Holt, Machida, Mizuguchi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 70 on S.B. No. 20

The purpose of this bill is to appropriate funds, to be matched dollar-for-dollar by the Hawaii Sugar Planters' Association, for sugar research and development, including research on alternate crops.

Your Committee finds that the sugar industry is a vital component of the State's economic base and that failure of this industry would have widespread detrimental effects on the economy of the State.

Your Committee has amended this bill by changing the sum appropriated to \$2,500,000.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 20, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 20, S.D. 1, H.D. 1, C.D. 1.

Representatives Kiyabu, Honda, Crozier, Kim, Leong and Kamali'i,
Managers on the part of the House.

Senators Yamasaki, Hagino, Mizuguchi, Solomon and Soares,
Managers on the part of the Senate.

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

The purposes of this bill are to establish a University of Hawaii at Manoa malpractice special fund, University of Hawaii at Manoa intercollegiate athletics special fund, University of Hawaii at Hilo intercollegiate athletics special fund, and systemwide computer services special fund and to require annual itemized income statements of each university special and revolving fund.

Your Committee has amended the bill by making the intercollegiate athletics funds at the University of Hawaii at Manoa and University of Hawaii at Hilo revolving, instead of special. The enabling language has also been made broader. The intent of your Committee is to give these campuses more authority in expending moneys earned from athletics activities than would have been available under the bill, as received.

Your Committee notes that under section 304-8, Hawaii Revised Statutes, the comptroller, upon the recommendation of the department of budget and finance, may establish special funds when "deemed in the best interests of the university and the State". A University of Hawaii at Manoa internal support services special fund and a University of Hawaii at Hilo internal support services special fund may be established under this section without specific legislative enactment. Your Committee finds that special funds for internal support services are in the university's and State's interest.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1287, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1287, S.D. 2, H.D. 2, C.D. 1.

Representatives Kiyabu, Levin, Cachola, Hagino, Kihano, Lindsey, Onouye, Oshiro, Say, Tajiri, Anderson and Hemmings, Managers on the part of the House.

Senators Yamasaki, Holt, Mizuguchi, Young and Soares, Managers on the part of the Senate.

Conf. Com. Rep. 72 on S.B. No. 1286

The purpose of this bill is to amend sections 304-4 and 304-17, Hawaii Revised Statutes, and to repeal sections 304-15 and 304-17, Hawaii Revised Statutes, in order to effect changes in the state-sponsored tuition assistance programs at the University of Hawaii. This bill will consolidate tuition waivers and scholarships, as there is no significant difference between the two, as interpreted by the University. Also, this bill recognizes the leadership role the University plays in Pacific-Asian affairs, and provides for tuition waivers for qualifying students from those areas.

Your Committee agrees that the increased flexibility in awarding tuition waivers will allow a greater number of those waivers to be utilized, and allow the granting of waivers to certain foreign students who have the potential to make beneficial contributions to this State.

Your Committee has amended this bill by increasing the tuition waivers which may be made for students who are well qualified or in need of financial assistance from 13 to 15 per cent of the total full-time enrollment of the previous fall semester for each campus in the system. Of this 15 per cent, 2 per cent shall be used for those highly qualified students whose presence advances the University's unique mission as a bridge between east and west and who enhance the leadership role the University and the State have assumed in the Pacific and Asian regions. Your Committee has deleted the limitation contained in the bill on such Pacific-Asian waivers as unnecessary due to this amendment. Your Committee has also made technical, nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1286, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1286, S.D. 2, H.D. 2, C.D. 1.

Representatives Kiyabu, Levin, Hagino, Leong, Lindsey, Nakata, Onouye, Say, Souki, Takamine, Anderson and Pfeil, Managers on the part of the House.

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

Conf. Com. Rep. 73 on S.B. No. 463

The purpose of this bill is to authorize an appropriation to provide for payment of judgments against the State, settlements, and other miscellaneous claims as provided by section 37-77, Hawaii Revised Statutes. As received, this bill lists thirty claims for payment and appropriates the sum of \$3,790,009.49 to satisfy them.

Your Committee received from the department of the attorney general notice of a settlement by the State in the case of Randi Swift v. State of Hawaii, et al., Civil No. 74048, First Circuit in the amount of \$22,500. Your Committee amended this bill to include this claim. Your Committee has further amended this bill by reinstating the claim for reimbursement of the City and County of Honolulu in the amount of \$2,024,952.99. Therefore, as amended, this bill lists thirty-two claims for payment and appropriates the sum of \$5,837,462.48.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 463, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 463, S.D. 1, H.D. 2, C.D. 1.

Representatives Kiyabu, Tom, Metcalf, Oshiro, Souki, Takamine, Tungpalan, Isbell and Medeiros, Managers on the part of the House.

Senators Yamasaki, Chang, Kawasaki, Mizuguchi and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 74 on H.B. No. 463

The purpose of this Act is to amend the Hawaii Workers' Compensation law to improve the system's efficiency and cost-effectiveness.

Your Committee recognizes the delicate balance of social and economic considerations underlying our Workers' Compensation law. On one hand, injured workers have a legitimate right to be compensated when they are injured as a result of their employment. On the other, the cost of production for employers must be reasonable in order that economic prosperity is achieved. Accordingly, your Committee has addressed the concerns expressed regarding Hawaii's Workers' Compensation law by diverse segments of our community in a manner that it believes is consistent with the humanitarian and remedial objections of our law.

Each section of this bill is aimed at the causes of the problem including: (1) excessive premium increases due to the failure to consider investment income in setting premium rates for workers' compensation insurance; (2) the absence of sufficient market competition in the underwriting and sales of workers' compensation insurance; (3) the increased frequency of industrial accidents in Hawaii; (4) the lack of effective controls on the utilization of medical benefits and in the availability of other benefits; and (5) the lack of administrative controls by carriers and the Department of Labor and Industrial Relations in handling cases involving extended wage loss. Senate Standing Committee Report No. 806 and Senate Standing Committee Report No. 853 highlight how these causes are addressed in a meaningful way without affecting basic rights of injured workers who are legitimately entitled.

SAFE AND HEALTHY WORK ENVIRONMENT

Your Committee is well aware that statutory changes alone are not enough to reduce the escalating costs of Hawaii's Workers' Compensation system. Indeed, the best method for reducing costs in our Workers' Compensation system is by reducing the occurrences of work-related injuries and illnesses. We believe that a safe and healthy working environment will not only reduce costs but also improve employee morale and lead to a more productive work force. However, government cannot possibly anticipate all the health and safety needs of the thousands of diverse and varied types of employment and working places in our state. Ultimately, the responsibility for insuring a healthy and safe working environment resides with those most directly affected. For these reasons, your Committee strongly urges that employers, insurance carriers, employees and employee organizations work cooperatively to develop programs and strategies designed to reduce work-related injuries and illnesses. Further, your Committee believes that the promotion of a safe and healthy working environment is in the best public interest and requests that our state administration initiate any action necessary to facilitate such cooperative efforts.

THE INSURANCE PROBLEM

Your Committee shares the sentiments expressed in Senate Standing Committee Report No. 853 regarding the insurance crisis confronting employers and businesses in Hawaii brought about by the skyrocketing costs of workers' compensation insurance coverage in recent years.

Your Committee agrees that a non-profit insurance fund, whose purpose is to sell workers' compensation insurance at the lowest actuarially responsible price in competition with private carriers, is a meaningful alternative to the existing system of providing insurance. Your Committee, however, is also aware that the establishment of such a fund requires careful planning and preparation. Accordingly, your Committee has amended H.B. No. 463, H.D. 2, S.D. 2, C.D. 1, to provide that the nonprofit insurance fund created by this Act will be operational upon funding by special appropriation by the legislature. Your Committee has provided funding to hire a consultant who is to work with an interim legislative committee and develop a report to be submitted to the legislature prior to the 1986 session.

In the meantime, to avoid a recurring of the workers' compensation insurance

crisis, your Committee has carefully reviewed the concept of establishing a business advocate to help effectively regulate the insurance industry and fully implement Act 263, Session Laws of Hawaii 1983, which mandates that premium rates be set with meaningful consideration of insurer investment income. While persuaded of the merits of this concept, your Committee decided that objectives to be achieved by establishing a business advocate might also be met by strengthening the actuarial and other resources of the Insurance Commissioner and effectuating a program of business advocacy in that office. Your Committee is inclined to take this alternative primarily because the Insurance Commissioner has yet to decide any rate increase request under the provisions of Act 263, Session Laws of Hawaii 1983. Thus, we have amended the bill to provide the Insurance Commissioner additional powers and staff. We have also given businesses the option to intervene, if they do wish to, in rate-making and rate-filing proceedings.

If, however, the legislature's intended objectives are not met, your Committee strongly recommends that the concept of a business advocate be reviewed again and implemented.

Your Committee is not persuaded that insurance carriers have made all reasonable efforts to contain the rising costs of workers' compensation insurance premiums in the State of Hawaii. Nonetheless, this Act makes cuts in statutory benefits that represent a reduction in costs to employers. Your Committee expects that these statutory benefit cuts and the implementation of Act 263, Session Laws of Hawaii 1983, will ultimately result in lower premium costs for the employers and businesses of our state. Accordingly, your Committee requests that our state administration and Insurance Commissioner closely monitor the workers' compensation insurance industry to help insure that such cost reductions are realized and accrue to the benefit of the employers and businesses of our state.

THE PRESUMPTION

Your Committee concurs with the discussion regarding the statutory presumption found in Senate Standing Committee Report No. 806 and Senate Standing Committee Report No. 853.

Much of the debate regarding the statutory presumption has focused on (1) quality and quantity of evidence needed to overcome the presumption; and (2) applicability of the presumption to issues considered under Chapter 386, Hawaii Revised Statutes.

First, for the reasons stated in the above-mentioned standing committee reports, your Committee believes that the present requirement of substantial evidence to overcome the presumption must be maintained. Furthermore, your Committee endorses the definition of substantial evidence as set forth by our Supreme Court in Akamine v. Hawaiian Packing & Crating Co., 53 Haw. 406 (1972), to wit:

"Substantial evidence is relevant and credible evidence of a quality and quantity sufficient to justify a conclusion by a reasonable man that an injury or death is not work-connected." Ibid at 408.

Your Committee believes that this definition correctly defines substantial evidence for purposes of Chapter 386, Hawaii Revised Statutes.

Second, your Committee notes that the statutory presumption applies to the following four items:

- (1) That the claim is for a covered work injury;
- (2) That sufficient notice of such injury has been given;
- (3) That the injury was not caused by the intoxication of the injured employee to injure himself or another;
- (4) That the injury was not caused by the wilful intention of the injured employee to injure himself or another.

FRAUD

In order to insure the integrity of our workers' compensation program, your

Committee has amended H.B. No. 463, H.D. 2, S.D. 2, C.D. 1, to strengthen the prohibition against fraud within the system.

Your Committee intends that any person who wilfully makes a false statement or representation for the purpose of directly obtaining compensation or payment or for the purpose of avoiding on behalf of any employer or insurance carrier any payment or compensation under chapter 386, Hawaii Revised Statutes, be penalized in accordance with one or more of the enumerated penalties listed in the amendment.

However, your Committee is aware that it would be impossible to prejudge the merits, facts and circumstances of each case. Thus, while a penalty is mandated in each case where a violation is found, the Director and the Appellate Board are given the discretion to fashion a penalty that would be appropriate for that case.

Your Committee believes that any person charged with a violation is afforded due process by the following procedure:

- 1) Proof of wilful misconduct to establish a violation;
- 2) A written complaint filed within two years of the alleged violation;
- 3) Notice of charges specifying the nature of the alleged violation given at least twenty days prior to the hearing;
- 4) A full and fair hearing and a right to appeal the determination to the appellate board as specified under Section 386-87 and the Supreme Court under Section 386-88.

Furthermore, your Committee intends that the determination of fraud be strictly limited to falsehoods that come within the provisions of this Chapter. For example, your Committee agrees with our Intermediate Court of Appeals that misrepresentations made to obtain employment are not covered by Chapter 386, Hawaii Revised Statutes. See Teixeira v. Kauikeolani Children's Hospital, 3 Haw. App. 432 (1982). While your Committee does not condone such misrepresentations or any other falsehoods, it does believe that matters which do not directly relate to the workers' compensation system are better handled in other more appropriate forums.

Finally, the amendment is intended to prohibit the commission of fraud by any person who directly profits from the workers' compensation system; i.e. claimants, employers, insurance carriers, health care providers, and vocational rehabilitation providers.

TEMPORARY TOTAL DISABILITY

Your Committee has amended the provisions of H.B. No. 463, H.D. 2, S.D. 2, C.D. 1, relating to temporary total disability as follows:

First, present law provides a two-day waiting period with recapture after five days of disability. H.B. No. 463, H.D. 2, S.D. 2, C.D. 1, extended the waiting period to three calendar days and allowed a recapture after five days of disability only in cases where the injured employee had not received or become entitled to any type of full wage loss replacement for the initial waiting period. Your Committee accepted the extension of the waiting period to three calendar days but has eliminated the recapture provision.

Your Committee believes that the basis for eliminating the recapture provision should be clarified. We have heard but are unpersuaded by the arguments made to the effect that the recapture provision of the present law is a disincentive for workers to stretch their absence from work to take advantage of retroactivity. We are aware, however, that Hawaii's workers' compensation benefits are among the lowest in the country and that the elimination of the recapture provision is a reduction of those benefits. Thus, your Committee considers the elimination of the recapture provision to be a real sacrifice on behalf of Hawaii's injured employees to reduce the costs of our workers' compensation system.

Second, your Committee has amended the section requiring a hearing after the rehabilitation unit has certified that an injured worker is not a feasible candidate for rehabilitation services to allow the Director to make a determination of permanent partial disability as well as temporary total disability or permanent total

disability.

Your Committee notes that while the above amendments are designed to reduce costs and improve the processing of claims, the best method for containing temporary total disability costs is to make it possible for an injured worker to return to work. Accordingly, your Committee requests that our State Administration and Department of Labor and Industrial Relations work with employers, insurance carriers, employee organizations and other appropriate parties to (1) establish incentives to encourage employers to assist injured workers to return to work; and (2) review Sec. 386-142 and Sec. 378-32(b), Hawaii Revised Statutes, to determine whether those statutory provisions offer adequate protection for the injured worker who desires to return to work but is not given the opportunity by an employer.

VOCATIONAL REHABILITATION

Your Committee agrees with the amendments regarding vocational rehabilitation contained in H.B. No. 463, H.D. 2, S.D. 2, C.D. 1.

Your Committee has reviewed and shares the concerns raised regarding the potential for increasing costs if vocational rehabilitation services are not adequately regulated. Much of the discussion has focused on whether a limit should be established on the duration of vocational rehabilitation services. However, your Committee is apprehensive about establishing durational limits on vocational rehabilitation services since such limits may have a tendency to become the minimum length of service and may actually increase rather than decrease vocational rehabilitation in most cases. Instead, your Committee believes the better alternative for controlling vocational rehabilitation costs is to strengthen such items as eligibility criteria, participation requirements and the delivery of suitable vocational rehabilitation services. In this regard, we are informed that the Department of Labor and Industrial Relations in January 1985 promulgated revised regulations to accomplish these objectives.

Your Committee is satisfied that the proposed amendments contained in this Act should help to contain vocational rehabilitation costs in the workers' compensation system. Moreover, your Committee believes that if specific adjustments have to be made to better regulate vocational rehabilitation services, such matters are more appropriately handled through the Chapter 91, Hawaii Revised Statutes, rule making procedures to implement the provisions of this Act.

MEDICAL AND HEALTH CARE

Your Committee is concerned about the increasing costs of medical and health care which currently represents approximately one-third of all benefit payments for workers' compensation. Accordingly, except for technical amendments, your Committee strongly endorses the regulatory scheme outlined in H.B. No. 463, H.D. 2, S.D. 2, C.D. 1.

Your Committee also believes that this is an area of our workers' compensation system that requires the cooperation of those most directly involved if increasing costs are to be contained. Government has always been loathe to regulate those who are performing humanitarian services. However, if we are to continue to provide the quality of care required by the humanitarian and remedial character of our workers' compensation law, we must find alternatives to reduce medical and health care costs. Regulation alone is not enough. Accordingly, your Committee requests that our state administration take the initiative to work with the various health care provider organizations along with interested employer and employee organizations to develop such alternatives.

ATTORNEYS, HEALTH CARE PROVIDERS AND OTHER FEES

Your Committee believes that fees charged by all attorneys and physicians as well as other health care providers for services rendered to prosecute or defend a claim for compensation under this Chapter should be regulated to contain unwarranted costs in the workers' compensation system. However, your Committee is also concerned that such regulation be done by the appropriate entity.

Claimant attorney and witness fees need to be regulated by the Director to protect the claimant against any excessive charges since such fees are enforced as

a lien against the compensation awarded the claimant. In addition, the fee schedules for physicians and other health care providers are established by the Director who should appropriately regulate such fees.

Employer attorney and witness fees are not a lien against any award. They are, however, costs that must be borne by the employer either directly through self-insurance or indirectly through the payment of insurance premiums.

Your Committee believes that self-insured employers should be responsible for regulating their own attorney and witness fees. Indeed, one of the primary advantages for being self-insured is to have the ability to develop your own costs containment programs.

However, the same opportunity to control attorney and witness fees does not exist for employers who purchase workers' compensation insurance. Decisions regarding these costs are made by insurance carriers and not individual employers. Thus, your Committee believes that such costs should be regulated by the Insurance Commissioner to insure that they are not excessive.

Your Committee is aware that insurance carriers are required to report attorney and witness fees to the Insurance Commissioner as part of their loss adjustment expenses which are used with other items to justify premium rates. Your Committee strongly encourages the Insurance Commissioner to monitor and review insurance carrier attorney and witness fees as well as other loss adjustment expenses to contain premium rates.

Your Committee has deleted prior amendments proposed to section 386-94 except those relating to the inclusion of all health care providers within the coverage of the section.

DEDUCTIBLE OPTIONS FOR INSURANCE COVERAGE

Your Committee concurs with the amendments made by H.B. No. 463, H.D. 2, S.D. 2, C.D. 1, to allow employers to purchase workers' compensation insurance coverage with an option for medical deductibles.

However, your Committee believes that this concept could be expanded to include deductibles for indemnification benefits as well as medicals. Such an expanded concept, in essence, would allow employers to have the option of being self-insured for short periods of time. This option would be especially advantageous for those employers that have injury-free records. We also believe that this option would tend to encourage employers who purchase such coverage to maintain safe and healthy work environments as well as facilitate an injured employer's early return to work.

Accordingly, your Committee requests that our State Administration and Insurance Commissioner review this expanded concept and submit a report on this matter to the 1986 session of the legislature.

OTHER AMENDMENTS

Due Date for Decisions. Your Committee has amended the bill by providing that decisions by the Director are to be rendered within sixty days after the conclusion of the hearing but may be extended without a specific time limit for good cause provided the parties are in agreement. This amendment gives the Director sufficient flexibility to extend the due date when such extension is in the interest of the concerned parties.

Accident Prevention Unit. Your Committee has deleted section 10 of H.B. No. 463, H.D. 2, S.D. 2, C.D. 1, and included promotion of safety programs in the section establishing the State Fund. Your Committee believes that the State Fund should have this capability to properly service its employer clients.

Computation of Average Weekly Wages. To avoid increasing costs to businesses, your Committee has deleted the provisions which changes from 25 to 30 the age in which an injured employee's average weekly wage will be computed.

Standing to Intervene in Appeals. To provide pre-paid health plan contractors fair treatment at the Appellate Board level with the objective of reducing un-

necessary duplication of medical payments, your Committee has limited intervention for the purpose of protecting past liens only in accordance with the appropriate health provider fee schedule.

Appropriations. Your Committee has appropriated the amounts of \$707,400 for fiscal year 1985-1986 and \$742,770 for fiscal year 1986-1987 for personnel and other related costs to the Department of Labor and Industrial Relations to administer Sections 3, 5 and 7 of the bill.

COST REDUCTIONS

Your Committee concurs with the discussion regarding cost reductions in Senate Standing Committee Report No. 853 and believes that the amendments made by your Committee further increases such reductions. As a result, your Committee intends that future workers' compensation insurance premium rates be lowered to meet the sacrifices made by many participants in the workers' compensation process, including our injured workers.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 463, H.D. 2, S.D. 2, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 463, H.D. 2, S.D. 2, C.D. 2.

Representatives Tungpalan, Shito, Kiyabu and Isbell,
Managers on the part of the House.

Senators Yamasaki, Abercrombie, Holt, Machida and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. 75 on S.B. No. 471

The purposes of this bill are to adjust the salaries or maximum salaries of certain public officers and employees, state explicitly that certain public officers and employees who are exempt from civil service are also exempt from the classification and collective bargaining laws, and make the requisite appropriations.

The salaries of most of the public officers and employees who are subject to this bill were adjusted last in 1982. Your Committee finds that increases to the salaries as proposed under this bill are appropriate at this time.

Your Committee has amended the bill by providing the governor with a salary of \$75,000 retroactive to January 1, 1985, and \$80,000 beginning July 1, 1985. Your Committee considers these amounts to be appropriate when compared to the salaries of other elective officers in this State and governors of other states.

Your Committee has also amended the bill by inserting for the other public officers and employees increased salary amounts retroactive to January 1, 1985, and beginning July 1, 1985. The salary amounts represent the same proportion to the governor's proposed salary amount as the proportion under current law, with certain exceptions. For example, the salary of a department head continues to be eighty-five per cent of the governor's salary. The exceptions to this principle are the following. The salary of the lieutenant governor has been adjusted to ninety-five per cent, from ninety per cent, of the salary of the governor. Salaries of the chairpersons of the labor and industrial relations appeals board, public utilities commission, and Hawaii public employment relations board have been adjusted to eighty-five per cent, from eighty per cent, of the governor's salary. Salaries of members other than the chairpersons of the labor and industrial relations appeals board, public utilities commission, and Hawaii public employment relations board have been adjusted to eighty per cent, from seventy-five per cent, of the governor's salary. The salary of the executive director of the Hawaii public broadcasting authority has been adjusted to seventy-five per cent, from sixty-five per cent, of the governor's salary. The salary of the special assistant to the governor for agriculture has been adjusted to sixty-five per cent, from fifty per cent, of the governor's salary. The salary of the state librarian, formerly seventy-five per cent of the governor's salary, has been made equivalent to the superintendent of education's salary, which is eighty-five per cent of the governor's salary under this bill. In addition, the discretion of the board of education to set the salary of the state librarian has been deleted.

Your Committee has also amended the bill by including salary increases for justices and judges. The chief justice's salary is increased from \$56,430 a year to \$74,500 retroactive to January 1, 1985 and \$78,500 beginning July 1, 1985. Your Committee intends that the chief justice's salary be near, but not equal to, the governor's. The intention reflects the co-equal nature of the judicial and executive branches, but recognizes the heavier duties of the governor.

The salaries of subordinate justices and judges retroactive to January 1, 1985 have been established to reflect your Committee's conception of the appropriate ranking within the judicial structure. The salaries beginning July 1, 1985 have been increased by approximately five per cent of the retroactive salaries. In addition, your Committee has included in this bill language in sections 571-8.2 and 604-2.5, Hawaii Revised Statutes, to stipulate that district court and district family court judges assigned temporarily to circuit court duties are to be paid at the rate based on the salary of a circuit court judge. Your Committee feels that this amendment makes the temporary assignment situation more equitable.

Your Committee notes that the administrative director and deputy administrative director of the courts will continue to receive the same salaries as a department head and a first deputy, respectively.

As amended, this bill increases the salaries or maximum salaries of the following public officers and employees. The public officers and employees are the: governor, lieutenant governor, superintendent of education, department directors, adjutant general, first and second deputies and assistants to department directors, administrative director of the State, federal programs coordinator, members of the Hawaii public employment relations board, chief negotiator, stadium manager and deputy stadium manager, special assistant to the governor for agriculture, commissioners of the public utilities commission, assistant, district, and deputy district superintendents of education, state librarian, executive director of the Hawaii public broadcasting authority, director of the executive office on aging, members of the Hawaii paroling authority, executive director of the Hawaii Housing Authority, members of the labor and industrial relations appeals board, deputy commissioner of credit unions, director of the office of consumer protection, director of the office of children and youth, state public defender, supreme court justices, intermediate appellate court judges, circuit court judges, district court judges, district family court judges, administrative director and deputy administrative director of the courts, legislative auditor, director of the legislative reference bureau, and ombudsman and their deputies or assistants, and executive director of the state ethics commission. Your Committee also notes that, because of sections 401-1 and 431-33, Hawaii Revised Statutes, the maximum salaries of the bank examiner and insurance commissioner are increased. The necessary appropriations are also inserted.

Your Committee finds that the salary amounts proposed under this bill are fair and will assist the State in recruiting and retaining qualified, competent, and motivated public officers and employees.

Your Committee has also made another major amendment to the bill. Language has been included in section 26-52, Hawaii Revised Statutes, to authorize the board of regents of the University of Hawaii to provide compensation to the president of the university which is additional to the compensation provided by law. The authority of the board of regents to establish the salary up to \$95,000 has been retained, and your Committee intends and has stated explicitly in the amendment that the board cannot increase the salary over \$95,000. The amendment also requires the salary and compensation to be paid from general funds. Your Committee emphasizes that no part of the salary or compensation is to be paid from private contributions or other revenues of the university. It is the understanding of your Committee that, under this amendment, the university will replace the general fund appropriation which will be used to pay for the compensation package with funds solicited or received as gifts under section 304-7, Hawaii Revised Statutes.

In addition, your Committee has made technical, nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 471, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 471, S.D. 2, H.D. 1, C.D. 1.

Representatives Kiyabu, Yoshimura, Crozier, Kihano, Lardizabal, Souki, Takamine and Anderson,
Managers on the part of the House.

Senators Yamasaki, Holt, Machida, Mizuguchi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 76 on H.B. No. 281

The purpose of this bill is to increase revenues for the state highway fund created pursuant to section 248-8, Hawaii Revised Statutes.

Your Committee has amended the bill as follows:

(1) Four Per Cent General Fund Transfer. The temporary transfer to the highway fund of general excise tax revenues is extended to June 30, 1991.

(2) Vehicle Registration Fee. The vehicle registration fee is increased from \$1 to \$10.

(3) Fuel Tax. The state fuel tax is increased from 8-1/2 to 11 cents.

(4) Diesel Oil Tax. The state diesel oil tax is increased from 7-1/2 to 11 cents.

(5) Vehicle Weight Tax. The bill has been amended to increase the vehicle weight tax to the following:

<u>Category</u>	<u>Rate Charged (per pound)</u>
4,000 pounds or less	.50 cents
Over 4,000 pounds and up to and including 7,000 pounds	.55 cents
Over 7,000 pounds and up to and including 10,000 pounds	.60 cents
Over 10,000 pounds	\$65

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 281, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 281, H.D. 2, S.D. 2, C.D. 1.

Representatives Kiyabu, Taniguchi, Crozier, Oshiro, Souki and Anderson,
Managers on the part of the House.

Senators Yamasaki, Cayetano, B. Kobayashi, Toguchi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 77 on S.B. No. 384

The purpose of this bill is to authorize the issuance of general obligation bonds to finance projects authorized in the General Appropriations Act of 1985, the General Improvements Act of 1985, the Judiciary Appropriations Act of 1985, and the Act making an appropriation for payment of the settlement in the case of State of Hawaii vs. Goodfellow Bros., Inc., Civil No. 6635, Second Circuit.

This bill includes the declaration of findings required by the clause in Article VII, section 13, of the State Constitution which states:

"Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance."

The effect of the foregoing constitutional requirement is that the legislature must take into account the debt service on all bonds that count against the debt limit, including outstanding bonds, authorized bonds which are yet to be issued, and bonds authorized in the Act, and demonstrate that the constitutional debt limit will not be exceeded at the time the bonds are issued.

The required declaration is set forth in Section 1 of the bill.

Your Committee on Conference has updated this bill to reflect current data and amounts, including the authorization amount.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 384, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 384, H.D. 1, C.D. 1.

Representatives Kiyabu, Cachola, Crozier, Kihano, Kim, Lardizabal, Leong, Nakata, Oshiro, Souki, Tajiri, Takamine, Anderson, Isbell and Kamali'i,
Managers on the part of the House.

Senators Yamasaki, Fernandes-Salling, Hagino, Hee, Holt, B. Kobayashi, Machida, Matsuura, McMurdo, Mizuguchi, Solomon, Henderson and Soares,
Managers on the part of the Senate.

SPECIAL COMMITTEE REPORTS

Spec. Com. Rep. 1

Your Committee on Credentials begs leave to report that it has thoroughly considered the matter of the seating of the members of the House of Representatives of the Thirteenth Legislature of the State of Hawaii, Regular Session of 1985, and finds that the following members-elect are duly qualified to sit as members of the House of Representatives, to wit:

FIRST DISTRICT:	Andrew Levin
SECOND DISTRICT:	Harvey S. Tajiri
THIRD DISTRICT:	Wayne M. Metcalf
FOURTH DISTRICT:	Dwight Y. Takamine
FIFTH DISTRICT:	Virginia Isbell
SIXTH DISTRICT:	Robert K. Lindsey
SEVENTH DISTRICT:	Mark J. Andrews
EIGHTH DISTRICT:	Herbert J. Honda
NINTH DISTRICT:	Joseph M. Souki
TENTH DISTRICT:	Bill Pfeil
ELEVENTH DISTRICT:	Daniel J. Kihano
TWELFTH DISTRICT:	Ron Menor
THIRTEENTH DISTRICT:	Robert Bunda
FOURTEENTH DISTRICT:	Joseph P. Leong
FIFTEENTH DISTRICT:	Robert Nakata
SIXTEENTH DISTRICT:	Terrance W.H. Tom
SEVENTEENTH DISTRICT:	Marshall K. Ige
EIGHTEENTH DISTRICT:	Whitney T. Anderson
NINETEENTH DISTRICT:	John Justin Medeiros
TWENTIETH DISTRICT:	Cam Cavasso
TWENTY-FIRST DISTRICT:	Donna R. Ikeda
TWENTY-SECOND DISTRICT:	Hal Jones
TWENTY-THIRD DISTRICT:	Barbara Marumoto
TWENTY-FOURTH DISTRICT:	Fred Hemmings, Jr.
TWENTY-FIFTH DISTRICT:	Calvin K.Y. Say
TWENTY-SIXTH DISTRICT:	Ken Kiyabu
TWENTY-SEVENTH DISTRICT:	Brian T. Taniguchi
TWENTY-EIGHTH DISTRICT:	James T. Shon
TWENTY-NINTH DISTRICT:	David M. Hagino
THIRTIETH DISTRICT:	Kina'u Boyd Kamali'i

THIRTY-FIRST DISTRICT:	Russell Blair
THIRTY-SECOND DISTRICT:	Mazie K. Hirono
THIRTY-THIRD DISTRICT:	Rod Tam
THIRTY-FOURTH DISTRICT:	Michael Liu
THIRTY-FIFTH DISTRICT:	Galen K. Onouye
THIRTY-SIXTH DISTRICT:	Dwight L. Yoshimura
THIRTY-SEVENTH DISTRICT:	Dennis M. Nakasato
THIRTY-EIGHTH DISTRICT:	Reynaldo Gaulty
THIRTY-NINTH DISTRICT:	Romy M. Cachola
FORTIETH DISTRICT:	Donna Mercado Kim
FORTY-FIRST DISTRICT:	Tom Okamura
FORTY-SECOND DISTRICT:	Clarice Y. Hashimoto
FORTY-THIRD DISTRICT:	Arnold Morgado, Jr.
FORTY-FOURTH DISTRICT:	Eloise Yamashita Tungpalan
FORTY-FIFTH DISTRICT:	Mitsuo "Mits" Shito
FORTY-SIXTH DISTRICT:	Paul T. Oshiro
FORTY-SEVENTH DISTRICT:	Mike Crozier
FORTY-EIGHTH DISTRICT:	Henry Haalilio Peters
FORTY-NINTH DISTRICT:	Peter K. Apo
FIFTIETH DISTRICT:	Alfred C. Lardizabal
FIFTY-FIRST DISTRICT:	Richard A. Kawakami

Signed by Representatives Tom, Shito, Andrews, Apo, Blair, Hashimoto, Hirono, Metcalf, Liu, Marumoto and Medeiros.

Spec. Com. Rep. 2

Your Interim Committee to Review Hazardous Waste Management Practices in Hawaii, appointed pursuant to H.R. No. 439, begs leave to report as follows:

COMMITTEE APPROACH

The members of your Interim Committee conducted a two-day public informational meeting on August 23-24, 1984, to obtain information on the management of hazardous wastes in Hawaii. Your committee believed that the threat posed to the public health and the State's groundwater resources by the improper disposal of these wastes warranted legislative review. The objectives of this meeting were: (1) to ascertain the present administration of hazardous waste management programs in Hawaii; (2) to identify current and anticipated problems with respect to hazardous waste management in Hawaii; (3) to review options to alleviate these problems; and (4) to discuss legislation needed to effectuate those options.

The format for this meeting included a tri-level governmental overview of hazardous waste regulations and programs, followed by oral presentations and the submission of written testimony from agencies and businesses involved in hazardous waste generation or disposal, or responsible for regulatory oversight or emergency cleanup. The meeting concluded with a panel discussion on the feasibility of a business and community sponsored Amnesty Day for the collection and disposal of household hazardous wastes.

BACKGROUND

Hazardous waste disposal has become of increasing concern in the last several years. Improper disposal or accidental leakage of such wastes has polluted a number of lakes and rivers, threatened underground sources of drinking water, and posed incalculable danger to human health, animal life, and the environment. Such incidents prompted Congress to enact the Resource Conservation and Recovery Act (RCRA) in 1976, and resulted in the subsequent development of rules and regulations pertaining to hazardous waste management by the U.S. Environmental Protection Agency (EPA). By the end of 1980, a Federal program encouraging uniform state regulation and preempting non-equivalent or less stringent state programs was placed in effect.

In 1983, the Hawaii State Department of Health (DOH) terminated its two-year effort to develop a program acceptable for state delegation of the Federal hazardous waste management program permitted under Section 4008 of RCRA. Reasons cited by DOH for not seeking delegation included: (1) a lack of adequate State commitment for necessary monies and staff support; (2) complexity of the Federal program; and (3) inability of the State to realistically control the hazardous waste practices of military agencies in Hawaii. Hazardous waste management in Hawaii, therefore, is presently under the jurisdiction of the EPA with the State providing assistance to the extent possible within limited resources.

Recent incidents in Hawaii involving violations of RCRA and Toxic Substance Control Act standards, and the discovery of unmarked "midnight-dumped" drums of chemical wastes in local landfills, have given rise to concern over the ability of the existing program, administered from the EPA's Region IX office in San Francisco, to adequately protect human health and the environment in Hawaii. These conditions have renewed calls to reevaluate the feasibility of State assumption of the EPA program.

FINDINGS

A. Hazardous Waste Administration

Hazardous wastes are the residuals of an industrial or service process and are regulated independently of hazardous materials. Several Federal and State laws affect the life cycle of hazardous materials/wastes; only RCRA, however, specifically regulates hazardous wastes. Subtitle C of RCRA defines hazardous wastes as manufacturing by-products or discarded materials which are: ignitable, corrosive, reactive, or toxic.

1. Large quantity generators are presently the primary focus of the hazardous waste management program.

The EPA has established two classes of hazardous waste generators who must comply with full RCRA regulations:

- a. those who generate 1,000 kg. (2,200 lbs.) or more of hazardous wastes per month or who store that amount for more than 90 days; and
- b. those who generate 1 kg. (2.2 lbs.) or more of acutely hazardous wastes per month or who store that amount for more than 90 days.

Generators of hazardous wastes in less than the above quantities, while still expected to store their wastes in the proper manner and ship them to an EPA approved disposal site, are exempt from RCRA reporting regulations. Since these generators are not required to notify EPA of their disposal procedures, it is not known if they are in fact complying with RCRA regulations.

2. A manifest tracking system and facility permitting procedures are the operational means of regulating hazardous wastes.

The key feature of RCRA's hazardous waste management program is a "cradle-to-grave" manifest system to track all significant quantities of hazardous wastes from generation to final disposal. Specific administrative and permit requirements apply to each category of hazardous waste handlers: generators, transporters, and owners or operators of treatment, storage, and disposal (TSD) facilities. Compliance inspections are the cornerstone of the program's enforcement efforts.

3. State governments are encouraged to assume responsibility for implementing the hazardous waste management program.

It is the intent of Congress that states eventually assume responsibility for the RCRA hazardous waste management program. Under Section 3006 of RCRA, states may choose to operate the program in lieu of the EPA, provided that their program is equivalent to or more stringent than RCRA.

To encourage the states to assume responsibility for RCRA, the EPA has begun to engage in cooperative agreements with states. Such arrangements allow states to initially assume responsibility for only a portion of the hazardous waste management program, and phase in additional responsibilities over time. The EPA continues to administer those portions of the program not assumed by the states, and the states can, at any time, terminate the agreement, whereafter total program administration reverts back to EPA.

4. Proposals to strengthen and to expand the scope of RCRA are now pending in Congress.

It is expected that the EPA will continue to encourage state primacy in the administration of hazardous waste programs. In addition, a number of proposals expanding the scope of RCRA are currently pending. Significant amendments proposed for RCRA include:

- a. identification and listing of new hazardous wastes to be controlled;
- b. formulation of regulations applicable to generators of hazardous wastes in amounts less than 1,000 kg. per month;
- c. tightening of land disposal regulations with respect to health and environmental protection and minimum technological standards;
- d. amending permit review and renewal procedures;
- e. regulating the burning, blending, and recycling of hazardous wastes; and
- f. amending hazardous waste export and landfill inspection requirements.

B. Generators of Hazardous Wastes

It has been roughly estimated that as much as 50,000 tons of hazardous wastes are generated in Hawaii each year. This includes RCRA-regulated hazardous wastes as well as nonregulated wastes such as PCB.

5. Most generators of hazardous wastes in Hawaii are small quantity generators exempt from RCRA reporting requirements.

Recent EPA survey data identified a total of 57 generators of hazardous wastes in Hawaii. All but a handful of these were classified as small quantity generators (SQG's) (i.e., generating less than 1,000 kg. per month). Such generators are not currently subject to notification or reporting regulations under RCRA. For this reason, the prevalence of SQG's in Hawaii presents administrative problems with respect to monitoring and compliance enforcement procedures.

6. The volume of hazardous wastes in Hawaii is expected to steadily increase.

Testimony presented by hazardous waste generators revealed that the volume of hazardous wastes generated in Hawaii is expected to increase as population and economic growth produce commensurate increases in the industrial and service processes which generate such wastes.

7. Household hazardous wastes represent a potentially serious but completely unregulated problem.

An extensive number of household waste products, ranging from paint thinners to insecticides, fall within the definition of hazardous wastes. These wastes are commonly disposed of through the municipal garbage and end up in Hawaii's landfills. Public educational efforts and appropriate disposal options must be made available to protect health and the environment from this source of contamination.

8. Compliance with RCRA requirements can be difficult, time consuming, and

costly.

A few of the hazardous waste generators in Hawaii are also permitted, or seeking permission, to operate as TSD facilities. The majority, however, contract with commercial transporters and TSD facility operators for the removal and disposition of their wastes. For many of these generators, especially the SQG's who generate small amounts of a large number of different wastes, the numerous RCRA and TSD acceptance requirements pose significant problems. High costs, extensive paperwork, and a lack of technical expertise have all been cited as impediments to good faith compliance with the regulations and intent of RCRA. Further, the difficulties encountered by SQG's could worsen if, and when, more stringent regulations affecting SQG's are incorporated in RCRA. Unless a concerted effort is made to educate and work with these generators, these more rigorous regulations may in fact become a disincentive and actually lower existing compliance levels.

Common complaints lodged by generators of hazardous wastes in Hawaii include:

- a. the lack of a local contact to supply information and/or guidance with respect to hazardous wastes and RCRA procedures;
- b. the cost of technical/analytical testing required to identify unknown wastes and determine their proper hazard class;
- c. a lack of disposal options--some materials cannot be shipped out of the state;
- d. the cost of approved containers required for shipping;
- e. the possibility that mainland disposal sites may limit or ban the importation of hazardous wastes from Hawaii; and
- f. the imposition of a 90-day maximum storage limit--which creates problems for SQG's who do not generate sufficient quantities of such wastes for economical shipping and disposal.

C. Treatment, Storage, and Disposal Facilities

Since there is no approved disposal site in Hawaii, hazardous waste generators must send their wastes to EPA-approved mainland sites. TSD facilities, therefore, play an integral role in hazardous waste management practices in Hawaii. TSD facility operators are contracted to pick up hazardous wastes from generators, transport the wastes to TSD facilities, recycle or neutralize wastes, temporarily store wastes, and arrange for ultimate disposal on the mainland.

9. Increased recycling of hazardous wastes would lower the overall costs of complying with RCRA regulations.

Most of the hazardous wastes generated in Hawaii are either recycled or treated and disposed of locally as a solid waste. Those materials which cannot be recycled or neutralized must be sent to the mainland for recycling or final disposal. The cost of disposal ranges between \$100-\$1,000 per barrel, depending on the type of wastes and where it will be disposed. It was clear from the testimony received, however, that total disposition costs can be significantly reduced through greater recycling. To accomplish this, generators must be educated in the proper identification and segregation of their wastes to prevent mixture contamination and to facilitate the recycling process.

10. A local disposal site would reduce overall compliance costs and potential environmental contamination and may become a future necessity.

Of concern to local generators and TSD facility operators is the potential for mainland disposal site operators to refuse to accept wastes from Hawaii, and the possibility for excessive increases in transport and final disposition costs. Such eventualities could occur because proposed amendments to RCRA may greatly increase the volume of hazardous wastes requiring disposal.

It was pointed out that if a disposal site was located in Hawaii: (1) disposal costs could be reduced, (2) possible contamination of unregulated municipal landfills would be lessened; and (3) the State would no longer be dependent upon mainland disposal sites. Unanswered questions, however, concern whether the relatively small volume of hazardous wastes generated in Hawaii would justify or support the construction of such a facility, and whether an acceptable site could

be located.

Other problems identified by operators of TSD facilities include:

- a. carrier restrictions which prevent mainland shipment of certain wastes (i.e. radioactive or explosive) and
- b. coordination of small quantity generators so that similar wastes can be consolidated and economically shipped to the mainland.

D. Emergency Response

Under RCRA, hazardous waste generators, transporters, and TSD operators are responsible for incidents of leakage or spillage which occur as a result of their handling of the wastes. In practice, emergency response to any such incident involves a joint public/private effort.

11. Emergency or cleanup situations are managed through a coordinated effort of government and commercial entities.

In the event of a hazardous waste emergency, it is the responsibility of the immediate handler to initiate clean-up action and to notify the appropriate authorities. Initial responding agencies may include: the county police, fire, and civil defense departments, as well as the U.S. Coast Guard. In the absence of EPA response personnel in Hawaii, the Coast Guard provides a predesignated Federal On-Scene Coordinator (OSC) to coordinate and assume appropriate response action. Based on an assessment of the situation, private TSD operators may be requested to provide analytical and or clean-up services.

12. Informational gaps cause delays and pose safety problems with respect to emergency clean-up actions.

The lack of readily available information on the type of wastes involved in, and who should be responsible for, a hazardous waste emergency can cause a delay in timely response and threaten the safety of individuals exposed or responding to emergency situations. While increased educational efforts and greater compliance with RCRA regulations would minimize this problem, it was also suggested that a central information center, an emergency response team, and a special clean-up fund be established to assure that timely clean-up action can proceed in those cases where ambiguity is involved.

According to Fire Department and Coast Guard administrators, accessible, centralized information with respect to the location of generators and hazardous waste treatment and storage areas, types of materials, etc., would benefit their personnel, who now must respond to emergency situations without the benefit of knowing what materials and dangers to expect.

CONCLUSIONS AND RECOMMENDATIONS

It was the consensus of the participants and is the conclusion of this Committee that some form of State representation and responsibility with respect to managing hazardous wastes in Hawaii would be beneficial to hazardous waste handlers in our State, and may in fact become a necessity to protect human health and our environment.

No state program however, should be fully established until both the short- and long-range budget implications are considered. Your Committee also finds, however, that investing in the development of a State hazardous waste management program could minimize and/or prevent the compounding of hazardous waste problems, thereby saving the State money in the long run.

Recommendation 1:

A State hazardous waste management program, initiated under a cooperative agreement between the State Department of Health and Region IX EPA, should be established and supported.

Under a cooperative agreement presently being pursued by DOH, the State would assume responsibility for conducting compliance inspections. The EPA would retain enforcement and emergency response responsibilities. This arrangement possesses numerous benefits for Hawaii.

First, a cooperative agreement, which includes the hiring of environmental health specialists, will improve inspection and enforcement procedures in Hawaii. The increased number and frequency of inspections should reduce or minimize any threats to the public. In addition, this expanded capability may soon be necessary to adequately handle the increased number of generators who must fully comply with RCRA should the Federal government include SQG's within RCRA.

Secondly, the cooperative agreement will enable the State to improve the community's overall awareness and understanding of hazardous waste problems and procedures, as well as respond to specific questions raised by concerned individuals.

Finally, a cooperative agreement will allow Hawaii the time required to develop a program that addresses our unique and particular needs and can gradually lead Hawaii into assuming total delegation.

Recommendation 2:

Based on proposals to be submitted to the 1985 Legislature by DOH, appropriate \$40,000.00, or so much thereof as may be necessary for FY 1985-86 to fund the State's share of the cooperative agreement.

Seventy-five percent of the annual cost of a cooperative agreement can be funded by the Federal government. The State's portion--estimated at \$38,000 for the 1984-85 program proposed by DOH--can be comprised of actual dollar appropriations as well as in-kind services. While the current level of Federal funding is not guaranteed in the future, the cooperative agreement does not commit the State to continue program administration beyond the one-year agreement. The State cannot, therefore, be forced to assume complete program responsibility in the event of the termination of federal funding support.

Recommendation 3:

Request the State Department of Health to prepare a five-year hazardous waste management program plan to be submitted to the Legislature prior to the 1986 session detailing anticipated activities and needs, including but not limited to: inspection procedures, program development and assessment, public education, centralized data compilation, and funding.

The scope of a hazardous waste management plan for Hawaii, and the accompanying costs, may vary from year-to-year depending upon the cooperative agreement that is reached. Detailed information with respect to the activities and costs anticipated, therefore, will be required by the Legislature before additional support can be granted.

Recommendation 4:

Appropriate funds for FY 1986-87 for the purchase of computer facilities and the creation of a position responsible for compiling and maintaining a statewide hazardous materials and hazardous wastes data base.

Provided that the hazardous waste management program plan to be prepared by DOH is in accordance with the need for and the timing of this recommendation, a centralized information base should be the next element in the development of Hawaii's program.

Recommendation 5:

Request all appropriate State departments to submit a report to the Department of Health describing their hazardous waste management practices, including existing budget allocations and anticipated needs.

An understanding of the State's own practices and responsibilities with respect to hazardous waste management, including any anticipated clean-up costs, will be needed by DOH and the Legislature in planning for a locally-administered program.

Recommendation 6:

A joint public-private advisory committee should be appointed by the Governor to investigate the feasibility of locating a disposal site in Hawaii; to investigate the possibility of instituting some kind of user fees to defray the cost of imple-

menting the hazardous waste management programs; and to advise on any other legislative or technical matters relating to hazardous waste management in Hawaii.

Because the management of hazardous wastes is a dynamic, evolving issue which involves and impacts all levels of government, the business community and the general public, an advisory committee represents a prudent approach to tackling the many possible eventualities and alternatives with which the State may be confronted.

Recommendation 7:

Support and encourage to the extent possible amnesty day-type programs to safely dispose of the many household hazardous wastes presently contained in the community.

The existence and potential threat posed by the accumulation of hazardous household wastes has been repeatedly cited as a significant and growing problem. Business and community groups alike have expressed a willingness to establish and participate in community clean-up programs to remove the threat of contamination posed by these substances.

Your Interim Committee to Review Hazardous Waste Management Practices in Hawaii is in accord with the findings and recommendations contained herein and transmits this report for your consideration.

Signed by Representatives Okamura, Kiyabu-Saballa, Baker, Bunda, Crozier, Hashimoto, Menor, Nakata, Say, Dang and Isbell.

Spec. Com. Rep. 3

Your Interim Committee on Corrections and Rehabilitation, appointed pursuant to H.R. No. 438, begs leave to report as follows:

COMMITTEE APPROACH

The members of your Interim Committee conducted a public informational meeting on August 17, 1984, to obtain information on a number of issues relating to the operations of the Hawaii Youth Correctional Facility (HYCF). Specifically, before the Legislature considers appropriating additional funds for a new HYCF complex, your Committee wanted to ensure that all construction plans and design for the facility will be based on a carefully considered and meaningful program for the wards. Therefore, the objectives of this meeting were:

- (1) to review the HYCF's overall objectives and program implementation plan, with particular attention toward compliance with recommendations made in two reports on the operations of HYCF;
- (2) to determine whether HYCF's program implementation plan is being used to guide the ongoing planning and design work for the new HYCF complex; and
- (3) to review the basis and underlying assumptions being used to plan and design the new facility.

BACKGROUND

HYCF is the only statewide, residential facility responsible for the custody and care of male and female juvenile offenders. By law, this facility must provide residential and nonresidential treatment programs including education, evaluation, detention, counseling, recreation, employment, medical and dental care, and vocational training for committed persons (Chapter 352, HRS).

The need to build a new physical plant to replace the existing facility has been recognized for a number of years. When Act 303 created and implemented a master plan for the juvenile justice system in 1980, the Legislature recognized that the buildings at the Koolau site had not been receiving adequate funds for maintaining their physical condition in order to accomplish their purposes. The Legislature believed that even if the buildings were to be restored, the physical plant would become totally inadequate after about five years. Thus, there would be a need for

a completely new layout of functions and structures in the near future.

Accordingly, during the 1981 session the Legislature authorized the issuance of bonds to finance the development of plans for the best utilization of land at HYCF for a new physical plant (Act 1, 1st Special Session, SLH 1981). Consultants are currently preparing a prototype layout of the new facility for the Department of Accounting and General Services.

During the 1984 session, the Legislature sought to ensure that the preliminary designs for the proposed facility would incorporate the programs necessary for the proper treatment and rehabilitation of the wards. Before any additional funds were authorized for this project, the Legislature wanted to determine whether the Department of Social Services and Housing (DSSH) had any program implementation plan to help guide the design of the new facility. For this reason, H.R. No. 82 was introduced requesting that the Committee on Corrections and Rehabilitation conduct an interim hearing on the operations of HYCF.

Specifically, H.R. No. 82 sought to determine whether DSSH had complied with the recommendations of two HYCF reports: (1) An Assessment of the Hawaii Youth Correctional Facility by SMS Research, and (2) Response to Senate Resolution No. 300 of the Tenth Legislature Concerning the Development and Design of a Permanent Plan for the Koolau Youth Correctional Facility by the State Law Enforcement Planning Agency (SLEPA) and DSSH.

Generally, the 1979 SMS study concluded that HYCF's planning and evaluation process had to be improved. Specifically, the study found that HYCF lacked (1) specific objectives to guide its long range planning efforts, and (2) activities to meet these objectives. In addition, the study recommended that HYCF develop a series of implementation and impact measures and design methods to collect the data in order to properly carry out its long-range planning. For example, according to SMS, HYCF lacked an adequate escapee profile; that is, information on escapees, types of escapees, time of escape or causes of escape.

The 1981 SLEPA report was prepared in response to a legislative request for a preliminary plan relating to the development of the new youth correctional facility. This report emphasized that treatment programs and objectives should be individualized to address the varied needs of the committed juveniles. Relatedly, a unit management team approach was also discussed as the primary feature of the proposed program concept.

These, then, are some of the types of issues and concerns that the Legislature wanted to have discussed during the 1984 interim in determining whether DSSH had complied with the recommendations of these two reports. Relatedly, the Legislature also proposed to (1) review HYCF's overall objectives and program implementation plan to achieve these objectives; and (2) review the basis and underlying assumptions being used to plan and design the new facility.

FINDINGS

A. Overall statement of objectives

Your Committee found that DSSH has formulated its mission statement as well as goals and objectives for HYCF. Briefly, the mission of HYCF is "to protect society and to provide programs and guidance that will assist committed delinquents in adopting productive, law-abiding lifestyles." Consistent with this mission statement are three overall goals for HYCF:

1. To insure the protection of society by confining and supervising committed delinquents;
2. To provide a safe, healthful and humane environment for all wards and a safe and rewarding working environment for all staff; and
3. To help wards return to the community as productive, law-abiding citizens by providing individualized, rehabilitative program opportunities.

Your Committee also found that objectives have been developed which focus on ten program areas: education, work training, social development, counseling, community services, recreation, religion, basic maintenance, health care, and security.

B. A Plan for the implementation of a treatment program

Your Committee found that DSSH, with the assistance of the Department of Education, the Department of Health, and Family Court, has prepared a report entitled: An Integrated Plan for Program Planning at the HYCF (March, 1984) which consists of two major sections:

1. An action plan which is a schedule outlining the activities, deadlines, responsible departments, and resources needed to implement the programs; and
2. A service delivery list which broadly identifies strategies, responsible agencies, and possible resources to address various goal statements relating to the redirection of ward behavior and the development of ward skills.

According to DSSH, this service delivery list represents the department's program implementation plan to achieve its overall objectives; it also serves as the basis for individualized treatment programs for each individual ward.

C. Compliance with recommendations in the SMS and SLEPA Reports

Your Committee found that the various recommendations made from both reports on such issues as escape, staff training, individualized diagnosis and program planning, population profile data, unit management, and program evaluation are all being addressed either through the architectural planning process or through special studies.

RECOMMENDATION

Since DSSH has developed overall objectives and a program implementation plan for HYCF in conformance with the SMS and SLEPA studies and since the program implementation plan is being used to guide the planning and design of the new facility, progress toward its construction should be supported and encouraged.

Signed by Representatives Honda, Hirono, Andrews, Kim, Lardizabal, Shito, Taniguchi, Tom, Tungpalan, Ikeda and Medeiros.