

## SCRep. 313 Human Services and Health on H.B. No. 704

The purpose of this bill is to amend the statutes to delete all references to reimbursing providers of health care services in accordance with specific fee projects and provide specific authority to (1) reimburse providers of institutional health care services through a prospective payment system, and (2) reimburse non-institutional providers of health care through a rate determined by the Department of Social Services and Housing (DSSH), but limited by Medicare and the State Legislature.

Your Committees are concerned that publicly-funded institutional health care services have continued to absorb a larger and larger portion of the State's Medicaid budget. Payments to long-term care facilities make up the largest portion of Medicaid costs. The State's average Medicaid payment per day is twice the amount normally paid on the Mainland. In the last three years, expenditures for long-term care services have increased from \$57 million per year to \$67 million per year.

Your Committees agree that the prospective payment system enables the State to control future expenditure growth and enables the State to make more accurate projections of yearly anticipated costs for budgeting purposes.

Your Committees have amended the bill by first correcting a typographical error on page 1, line 3. The section should have read "346-59", rather than "356-59".

Your Committees have further amended section (b) of the bill by providing for legislative review and approval of the department's prospective payment plans prior to implementation. Your Committees believe that this will enable the legislature, in its responsibility over the state budget, to properly review the department's prospective payment plans prior to appropriating funds for the purpose.

Your Committees have further amended section (c) of the bill by adding the phrase "in accordance with a federally-approved fee schedule", after the word "department"; substituting the word "or" for "and"; and adding the phrase "whichever is less", for greater clarity and precision.

Your Committees have further amended section (c) of the bill by adding the following: "Rates of payment to providers of medical care who are individual practitioners, including doctors of medicine, dentistry, podiatry, osteopathy, optometry, and other individuals providing services, shall be according to a fixed fee schedule which shall be subject to annual review." As testified to by the Hawaii Medical Association, and as agreed to by the department of social services and housing, the intent of the department to reimburse providers according to a fixed fee schedule should be so stated.

Your Committees also have amended section (f) by deleting the brackets on the second paragraph, thereby leaving intact the requirement that the Director submit a report to the legislature on or before January 1 of each year indicating an estimate of the amount of money required to be appropriated to pay providers at the maximum rates permitted by federal and state rules in the upcoming fiscal year.

Your Committees have further amended the bill by amending the effective date of the Act to July 1, 1985.

Your Committees on Human Services and Health are in accord with the intent and purpose of H.B. No. 704, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 704, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hirono, Kiyabu, Morgado and Shito.

## SCRep. 314 Human Services and Health on H.B. No. 575

The purpose of the bill is to statutorily set forth less restrictive conditions concerning qualifications for licensees of nursing home administrators than currently provided for by the Board of Nursing Home Administrators' rules and regulations, to call for the reenactment of Chapter 457B, HRS, and to provide for the development of specific performance standards for nursing home administrators.

The Legislative Auditor in his "sunset law" report on the regulation of nursing home administrators under Chapter 457B, HRS, revealed glaring shortcomings in the administration of the law. Lack of clear standards for admission to the licensing examination, unequal treatment of applicants and the failure to monitor the activities of nursing home administrators were all identified in the report. In addition, the requirements for licensure have become so restrictive that Hawaii residents were at a disadvantage when compared with applicants from other states. Your Committees believe that clear standards must be set by statute and that by doing so equal treatment of all applicants will be achieved.

Your Committees received testimony from the Department of Social Services and Housing, the Hawaii Long Term Care Association and the Board of Examiners of Nursing Home Administrators, which provided suggested language even less restrictive than that proposed by the Legislative Auditor. Your Committees adopted many of the Board's recommendations. Rather than allowing a Master's Degree in Public Health to serve as a substitute for the one year practical experience requirement, your Committees amended the bill by allowing a Master of Public Health, Master of Business Administration or a Master of Hospital Administration, with specialization in health services administration, to serve as a substitute. Rather than requiring one year of administrative experience in health administration, your Committees amended the bill by requiring one year of administrative experience in a health related area.

Your Committees also amended the bill by expanding the exemption provision and deleted paragraph (b)(3) of the bill in its entirety since the University of Hawaii School of Public Health offers courses in health administration in its Master of Public Health program, relating both to administration and gerontology.

Your Committees further amended the bill by deleting language requiring "evidence of the ability to understand, communicate and assume responsibilities" since this is an obvious requirement for being licensed and is the basis for the licensure test in the first place.

Your Committees have amended Section 2 of the bill by reenacting Chapter 457B, HRS, for another two years, or until December 31, 1986. Your Committees believe that the liberalization of the licensure requirements for nursing home administrators should be evaluated within a shorter than normal period of time due to the apparent shift from one extreme to the other.

Finally, the bill proposed that the Board develop specific performance standards for administrators to be used by the Department of Social Services and Housing in its inspection of care reviews for nursing homes. Your Committees did not find persuasive the recommendation that the performance of nursing home administrators be left entirely to their employers. Your Committees believe that the ability of nursing home administrators to provide a high level of care is an important public policy consideration and that the activities and performance of nursing home administrators must come within the purview of the Board. Your Committees have, therefore, left intact the language in Section 3, paragraph 4 of the bill requiring the Board to initiate and maintain cooperative arrangements with the Department of Social Services and Housing and Department of Health for the purpose of sharing information on the performance of administrators.

Your Committees on Human Services and Health are in accord with the intent and purpose of H.B. No. 575, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 575, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committees except Representatives Kihano, Kiyabu, Liu and Shito.

SCRep. 315      Human Services on H.B. No. 1278

The purpose of this bill is to provide for a state child protective services advisory committee and an Oahu child protective services advisory committee.

Your Committee received testimony in support of the bill from the Child Protective Services Advisory Committee. In response to the development of a Children's Protective Services Center at Kapiolani Children's Hospital in the late 1960's, a Child Protective Services (CPS) Advisory Committee, comprised of twenty-four representatives of public and private agencies and organizations, was formed. The advisory committee, since its formation, has had an unofficial and tentative rela-

tionship with the Department of Social Services and Housing (DSSH).

Your Committee believes that the time has come to provide a statutory basis for the CPS Advisory Committee and that a permanent and official relationship with the Department is necessary. Your Committee finds that public attention on the ability of the DSSH, specifically, the Child Protective Services, to respond to child abuse and neglect, to effectively protect our children, place them in temporary and permanent foster homes, provide tertiary prevention and treatment to prevent reoccurrences of child abuse in families, is seriously in question.

Your Committee further finds that the management of resources available to the Child Protective Services on Oahu, particularly with the added resources currently being proposed for it by the Legislature, will be the object of much scrutiny in the future and that the advisory committee will serve a useful purpose for the department.

Your Committee has, however, amended the bill by deleting the first section of the bill dealing with a State CPS advisory committee. Your Committee believes that a State committee is premature at this time since the Department has not established a Child Protective Services section on each island.

Your Committee has amended the structure of the advisory committee as initially proposed to ensure a manageable number on the advisory committee and a proper balance between public agencies, service providers and members of the public.

Your Committee is in accord with the intent and purpose of H.B. 1278, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 1278, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 316 Human Services on H.B. No. 1416

The purpose of this bill is to appropriate \$164,000 as a grant-in-aid to establish and staff Hale Mana'olana, a group home for sexually abused adolescent girls in Hilo.

Your Committee finds that the problem of incest is one of the most difficult and complex of human problems today. The downward spiral and lifelong feelings of shame and guilt have been the fate of so many of the victims. Sexual promiscuity, long lasting emotional trauma, and suicide are some of the more common effects.

Your Committee believes that additional resources are needed to provide adequate assistance in this area. There currently exists no appropriate intervention for these adolescents in any of the neighbor islands. While there is an adolescent home on Oahu, there is no possibility of neighbor island adolescents being served because of the high caseload on Oahu.

Your Committee received testimony in support of the bill from Women Helping Women (Maui), Group Home/Treatment Project and a concerned individual.

Your Committee finds that such a program is necessary. Unless a professional care facility is available, our society will suffer tremendously from the destructive effects of incest.

Your Committee on Human Services is in accord with the intent and purpose of H.B. 1416 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 317 Human Services on H.B. No. 1120

The purpose of the bill is to appropriate \$35,000 for fiscal year 1985-1986, as a grant-in-aid to the Waiānae Coast Teen Network through the Department of Health.

Much testimony was received in support of the one-time funding request. The Department of Health supported the bill, indicating that direct case management services for pregnant and parenting adolescents was an important component in the

networking and coordination of adolescent services in the community. Further support for the bill was received from the Waiānae Adolescent Family Life Project, Waiānae Coast Comprehensive Health Center, Queen Liliuokalani Children's Center, Waiānae Time Out Nursery, Waiānae Continuing Education Program, students from Waiānae High, teenagers from Waiānae, Waiānae Ohana Homes, Parent-Child Development Center, Waiānae Rap Center, Hale Olu o Ho'opākolea, Kamehameha schools, March of Dimes, Waiānae Quick Kokua, Waiānae Cooperative Parish, Waiānae Mental Health Clinic and Child and Family Services.

Your Committee finds that the Waiānae Coast has the highest teen pregnancy rate in the State, with 40.7 live births per thousand, compared with 14.9 per thousand statewide. Of these 85% were illegitimate births; 42% received late or no prenatal care; 11.6% were the second child to the teen; and 10% were low birth weight infants, which is an indication of high risk for developmental delays and/or birth defects.

Your Committee is in accord with the intent and purpose of H.B. No. 1120 and recommends that it pass second reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hirono and Kiyabu.

SCRep. 318      Health and Human Services on H.B. No. 905

The purpose of this bill is to establish an innovative program which seeks to provide an opportunity for physicians to serve with the State and, consequently, ease the difficulty of the Department of Health and the Department of Social Services and Housing in recruiting physicians.

It is currently difficult to fulfill the need for physicians to serve in certain rural communities of the State and in correctional facilities.

Your Committees hope that these needs can be met by reserving designated residency positions for candidates who apply for and are selected by the school of medicine to participate in this special program.

Your Committees have amended Section 2 of the bill to clarify the voluntary nature of the application for the reserved positions on this special program.

Your Committees have amended Section 3 of the bill to provide that a person who fills a reserved position must start to serve in the Department of Social Services and Housing or in the Department of Health immediately following the termination of participation in the residency program and licensure, rather than to complete two years of service within the four-year period immediately following termination, as the original bill required.

Section 6 of the bill required that these positions be added to the number of positions planned to be authorized in the residency program. Your Committees deleted Section 6, and amended the bill to provide that the positions be reserved from within the total number of positions approved for the residency program. Accordingly, the provision in section 8 for an appropriation, to be expended by the school of medicine, has been deleted.

Section 2 of the bill provided that two positions be established in the Fiscal Year 1985-1986, and an additional two in Fiscal Year 1986-1987. Your Committees amended the bill to provide for two positions commencing in each of Fiscal Years 1985-1986, 1986-1987, and 1987-1988, or a total of six positions, commenced at staggered terms, and for these six positions to be part of an ongoing program, rather than a pilot program as section 1 of the bill originally provided.

Your Committees on Health and Human Services are in accord with the intent and purpose of H.B. 905, as amended herein, and recommend that it pass Second Reading and be referred to the Committee on Finance in the form attached hereto as H.B. 905, H.D. 1.

Signed by all members of the Committees except Representatives Levin and Morgado.



## SCRep. 319 Human Services on H.B. No. 771

The purpose of this bill is to appropriate \$547,302 for fiscal year 1985-1986 to the Department of Social Services and Housing as additional funds for programs relating to the prevention, early intervention and treatment of spouse abuse.

Your Committee received testimony in support of the bill from the Hawaii State Committee on Family Violence, a participant in the development of a Person Abuse Plan of the Mental Health Division, Department of Health.

Your Committee believes that the problem of spouse abuse is one of great magnitude and complexity. Based on national formulas, 50-60% of marriages include physically assaultive behavior. For Hawaii, 172,263 women will receive some kind of battering in their lifetime, of which 68,905 will experience chronic or occasional abuse. Primary prevention program services need to be developed. Conflict resolution, non-abusive interpersonal skill-building and self-esteem building experience within our schools, community education, consultation and training on family violence and advocacy services are needed.

Hawaii's shelters for abused spouses serve 20 to 25 families a month and receive 400 calls for assistance each month. In 1983, Victim Witness Kokua received 863 calls for family violence related issues, or approximately 70-75 per month. Your Committee believes that mechanisms of crisis intervention services need to be developed, which include 24-hour information, referral, medical treatment and counseling services, outreach to high-risk populations and community-based support groups.

Your Committee finds that the \$25,000 included in the Executive Budget for purchase of services for spouse abuse is inadequate if we are to protect lives, teach new skills, build self-esteem and provide options. This involves developing a sophisticated, well-coordinated, needs-based community resource network.

Your Committee has amended this bill by providing that the Mental Health Division, Department of Health, be the expending agency. Your Committee finds that the Person Abuse Plan prepared by the Mental Health Division is an integrated, coordinated, needs-based plan and can best meet the identified community needs in this area.

Your Committee is in accord with the intent and purpose of H.B. 771, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 771, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee.

## SCRep. 320 Human Services on H.B. No. 775

The purpose of this bill is to provide \$690,900 in additional funds to the Department of Social Services and Housing for fiscal year 1985-1986 for programs relating to the prevention and treatment of sex abuse.

Your Committee received testimony in support of the bill from the Sex Abuse Treatment Center. The Center's director testified that 424 victims received services in 1983-1984 and half of the victims were minors with nearly 100 cases, or 25% of the total, being children age 9 or younger.

Your Committee believes that these statistics point to the need for more sexual assault education programs and the need to provide more services to groups especially vulnerable to sexual abuse such as children.

Figures from the Person Abuse Plan of the Mental Health Division indicate that there are 127,248 potential victims of sex abuse in Hawaii. The total amount of funds needed to assist victims of sex abuse, both children and adults, approximates \$2,000,000. Currently, \$325,378, or 16% of the need, has been included for purchase of services in the Executive Budget. These additional monies provided by the Legislature will increase resources to 50% of the total needed.

Your Committee believes that prevention, outreach, medical treatment, crisis intervention, follow up services and legal advocacy programs are needed to combat sex abuse. Sexual assault victims need a combination of medical, legal and psychological services.

Your Committee believes that the number of reported rapes and incidents of sex abuse of children continue to rise. Unless additional resources are provided, many of the victims of sex abuse will further suffer from a lack of services to help them deal with the consequences.

Your Committee has amended this bill by providing that the funds be expended by the Department of Health, rather than the Department of Social Services and Housing.

Your Committee is in accord with the intent and purpose of H.B. 775, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 775, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hirono, Kiyabu and Shito.

SCRep. 321 Human Services on H.B. No. 780

The purpose of the bill is to appropriate funds by way of a grant-in-aid for the operation of the Alzheimer Day Care Center on Kauai.

Your Committee believes that Alzheimer's Disease is a most tragic disease affecting many of our elderly. The County of Kauai funded the center as a pilot program through the Community Services Block Grant program in September 1984. Funding will unfortunately run out by March 31, 1985. While the County will fund the program through June 30, 1985, unless the state provides funds for the next fiscal year, the center will close.

Your Committee believes that without the adult day care program many, if not all, of the present clients will be institutionalized at a much higher cost to the state. With the elderly population in our state growing very rapidly, particularly on Kauai, your Committee believes that the concept of adult day care centers should be encouraged and supported.

Your Committee made a minor amendment to the bill as a result of a typographical error.

Your Committee is in accord with the intent and purpose of H.B. 780, H.D. 1, as amended herein, and recommends that it pass second reading in the form attached hereto as H.B. 780, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hirono and Kiyabu.

SCRep. 322 Human Services on H.B. No. 774

The purpose of this bill is to appropriate \$1,290,865 in additional funds to the Department of Social Services and Housing (DSSH) for fiscal year 1985-1986 for primary, secondary and tertiary prevention programs in child abuse.

Testimony in support of this bill was received from the Department of Social Services and Housing, the Child Abuse and Neglect Coalition, and the Hawaii Respite Coalition.

Your Committee believes that preventing and treating child abuse and neglect is cost-effective. Studies show that 80% of those who abuse their children were themselves abused as children. More than 90% of those incarcerated in prisons for crimes against persons were abused as children. The cost of treating these problems is overwhelming.

The Department of Social Services and Housing is currently mandated to serve children when abuse has occurred and those children who are in imminent danger of abuse or neglect. This effort is referred to as "intervention", and it is the department's legislative mandate to provide services in this area. Resources for intervention programs, however, are sorely lacking. Non-residential treatment services for children, non-residential treatment services for parents, residential treatment facilities, emergency shelter homes, family-related sex abuse treatment services, family support groups, multidisciplinary teams, and other services are being provided at a level far short of need.

While your Committee has amended the bill by specifying a figure of \$1,290,865 on line 2 of this bill, this figure was provided by the Department of Social Services and represents their estimation of the need in this area. Your Committee is unable to review the figure within the time allotted and recommends that your Committee on Finance evaluate further the department's assessment of the need and determine any possible additional allocation of available resources for the purpose.

Your Committee has further amended this bill by deleting references to primary, secondary, and tertiary prevention programs on lines 4 and 5 of the bill. Your Committee finds that this terminology is confusing and does not clearly reflect responsibilities that have been given to the Department of Social Services and Housing and the Department of Health in this area. Your Committee believes that intervention programs as opposed to prevention programs provide a better basis for coordination in the future.

Your Committee is in accord with the intent and purpose of H.B. 774, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 744, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kiyabu, Levin, Lindsey and Morgado.

SCRep. 323      Ocean and Marine Resources and Transportation on H.B. No. 888

The purpose of this bill is to amend subchapter 237-28.1, Hawaii Revised Statutes, to expand the exemption of the general excise tax to include shipbuilding and ship repair services for commercial purposes out of any harbor in the State of Hawaii, such commercial purposes shall mean any activity engaged in with the object of gain or economic benefit, either direct or indirect, including commercial fishing or barge activities.

Your Committee finds that there is a need to further encourage the development of the shipbuilding and ship repair industry in Hawaii, particularly in the private sector. Such industries might be encouraged to develop or locate in the State if certain tax incentives were in place.

Under present law, shipbuilding and ship repair rendered to surface vessels federally owned or engaged in interstate or international trade is presently exempted from the general excise tax. This bill will make clear that your Committee intends to expand the general excise tax exemption for the purpose of stimulating shipbuilding and ship repair activities in the private sector.

The Department of Taxation reiterated its opposition to any further extension of exemptions and/or credits. However, the Legislative Tax Bill Service testified in support of this bill on the basis that many commercial vessels docked in Hawaii are reported to utilize West Coast repair facilities because they are more economical. Moreover, extending the current exemption to commercial vessels operating out of State harbors will also assist the State's ailing fishing industry.

Your Committee agrees that this bill will provide an incentive for commercial shipbuilding and ship repair activities within the State, offer relief for those requiring this type of service and are needing to secure these services elsewhere.

Your Committees on Ocean and Marine Resources and Transportation are in accord with the intent and purpose of H.B. No. 888, and recommend that it pass Second Reading, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Blair, Honda, Kamali'i, Nakata, Onouye, Pfeil, Say, Shon and Tam.

SCRep. 324      Human Services on H.B. No. 776

The purpose of this bill is to bring family day care in Hawaii into a regulated but less costly environment by adopting a registration method for licensing.

H.B. No. 776 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committee has amended the bill to provide the substantive contents of

the bill in long form so that a public hearing may properly be held on its substantive provisions. Without the amendment providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short-form bill may not be helpful, and a notice thereof could be less meaningful.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 776, as amended herein, and recommends that it be recommitted to the Committee on Human Services, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 776, H.D. 1.

Signed by all members of the Committee except Representatives Bunda, Hirono, Kiyabu, Morgado and Shito.

SCRep. 325      Consumer Protection and Commerce on H.B. No. 995

The purpose of this bill is to address the problem facing Native Hawaiians who have mastered the art of "lomilomi" and other forms of Hawaiian massage from kupuna but are precluded from becoming licensed massage therapists.

H.B. No. 995 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may properly be held on its substantive provisions. Without the amendment providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short-form bill may not be helpful, and a notice thereof could be less meaningful.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 995, as amended herein, and recommends that it be recommitted to the Committee on Consumer Protection and Commerce, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 995, H.D. 1.

Signed by all members of the Committee.

SCRep. 326      Employment Opportunities and Labor Relations and Consumer  
Protection and Commerce on H.B. No. 463 (Majority)

Section 1: Overall Purpose

The purpose of this Act is to amend the workers' compensation law to make the system both effective and efficient. Your Committees have carefully reviewed the Study of the Workers' Compensation Program of the State of Hawaii by Haldi Associates, Inc. as submitted by the Legislative Auditor (hereafter referred to as "the Haldi study") and are aware of earlier studies including the Report of the Workers Compensation Program Commission dated January 1982. Extensive testimony was received from many interested persons regarding the complicated features of Hawaii's workers' compensation law. H.B. 463 has been amended to incorporate those reforms deemed necessary to improve Hawaii's workers' compensation program.

Section 2: Regarding Vocational Rehabilitation

The purpose of Section 2 is to amend the provisions of HRS §386-25 relating to physical and vocational rehabilitation of injured employees in order to improve the delivery of rehabilitation services in a cost-effective manner and to best achieve the objectives of vocational rehabilitation services. The measure defines the purpose of rehabilitation and establishes certain time limitations in which vocational rehabilitation plans are to be developed and implemented.

To achieve the desired result vocational rehabilitation services to formulate vocational rehabilitation plans have been limited to a period not to exceed 26 weeks beyond the date of medical stabilization in each case. Vocational rehabilitation services paid for under this chapter to implement approved plans shall not exceed 52 weeks except in certain cases.

Your Committees recognize that there are exceptional cases which should not be subject to the 52-week implementation limit. In those cases where the severity of the injured employee's handicap and/or market conditions prevailing in the geographic area where the injured employee resides the opportunity for employment of the injured employee to suitable work the Director is empowered to provide vocational rehabilitation services for a longer duration.

The 26-week limitation for the development of vocational rehabilitation plans and the 52-week limitation to implement said plans are designed to facilitate the injured employee's prompt return to suitable and gainful employment. When considered together with the amendment contained in Section 3 of this Act regarding the prospective limitation of temporary total disability benefits under HRS §386-31(b), following medical stabilization, your Committees believe that considerable cost savings to the workers' compensation program can be achieved without jeopardizing the legitimate and rightful claims of deserving employees to benefits under this chapter.

### Section 3: Regarding Temporary Total Disability

The purpose of Section 3 is to amend the provisions of Section 386-31(b) relating to temporary total disability benefits in order to eliminate obstacles and disincentives to the prompt reemployment of injured workers. Claimants who are displaced from their regular jobs due to work-related accidents are confronted with numerous practical problems which in too many instances result in extended periods of temporary total disability benefits and open-ended awards.

Your Committees believe that the high frequency of such cases may in part be due to:

- 1) The manner in which temporary total disability cases are handled by employers and insurance carriers,
- 2) The lack of prompt dispositions at the director's level,
- 3) The failure to coordinate vocational rehabilitation services in a timely manner,
- 4) The lack of information and notice to the injured employee of his or her responsibility to affirmatively seek reemployment,
- 5) The lack of motivation on the part of certain workers to resume gainful employment due to the open-ended nature of temporary total disability awards,
- 6) The cyclical changes in the job market in Hawaii, and
- 7) Employment discrimination against injured employees who are handicapped.

While overcoming all of the various obstacles to reemployment is impossible, this measure is designed to address some of the concerns raised by the Haldi report and other studies. This portion of the bill is part of an overall effort to encourage injured employees to return to work as soon as possible after medical stabilization.

The director is empowered to issue preliminary decisions whenever he believes based on documentary review that an injured employee's medical condition has stabilized and he or she is unable to return to his or her regular job. The preliminary determination of the director shall notify all parties of their respective rights and responsibilities. If neither the employee nor the employer requests a hearing to challenge the director's preliminary decision, said decision shall be deemed binding on all parties.

By the preliminary decision, the injured employee is notified of a 26-week limitation to develop a vocational rehabilitation plan and a 52-week limitation to implement an approved plan under Section 386-25. The limitations in weekly benefits coincide with provisions of vocational rehabilitation services under Section 386-25 as amended in Section 2 of this bill.

The prospective nature of the director's preliminary determination gives the claimant ample notice that temporary total disability benefits are limited, forewarns him or her that more affirmative steps must be taken toward reemployment, advises the injured worker of legal recourse whenever discriminatory employment barriers

are confronted, and advises him or her that entitlement to permanent partial disability benefits are not contingent upon resumption of work.

Any party who disagrees with the director's preliminary determination may seek additional information or may request a hearing within 20 days after receipt of the director's decision. At such a hearing the injured employee or the employer may challenge the preliminary determination of medical stabilization and/or limited work capacity. If a party disagrees with a director's decision and order following a hearing, an appeal is afforded under HRS §386-87. To avoid unnecessary delays at the appellate level, review in these cases shall be completed within 26 weeks after the director's decision.

In no instance shall a claimant's rights to temporary total disability benefits be terminated following medical stabilization without compliance with the foregoing procedures.

Furthermore, your Committees recognize that there are exceptional cases which the severity of the claimant's handicap and/or market conditions prevailing in the geographic area may unduly limit a claimant's opportunity to suitable reemployment. In such exceptional cases the director is authorized to extend the duration of temporary total disability benefits.

#### Section 4: Regarding Medical Services and Physicians

The purpose of Section 4 of this Bill is to stem the tide of increasing medical costs under Hawaii's workers' compensation program which currently represents approximately one-third of all benefit payments for workers' compensation.

As confirmed by the Haldi report submitted by the Legislative Auditor:

Medical costs not only represent the largest single category of benefit payments, but the share represented by medical costs has fluctuated upwards over the past decade. Since 1979, medical costs have represented an increasing share of an escalating total cost. This means that the rise in total medical costs has been substantial. In 1979, total medical costs were \$11.8 million, and by 1983, they had almost tripled, to \$34.3 million.

Dr. John Haldi testified before your committees that a major problem in Hawaii's workers' compensation system is the high average cost per case and has reported that "control over medical costs must be a key part of any effort to contain the overall costs of the workers' compensation program." In his estimate as many as twenty per cent of the cases account for approximately eighty per cent of the medical costs.

Therefore, your committees endorse measures proposed by Dr. Haldi to more carefully regulate the frequency of treatment and the fees and costs charged by health care providers. In addition, authority is given to the Director of Labor and Industrial Relations to curtail abusive practices on a case-by-case basis due to over-utilization and over-charges for unnecessary and unreasonable referrals, tests, studies, and other similar practices.

The Director of the Department of Labor and Industrial Relations is mandated to issue guidelines for the frequency of treatment and to require that all physicians seeking payment for services under chapter 386 conform to guidelines for treatment and reasonable utilization of medical care and services and other standards to remain a qualified provider. Said guidelines shall be promulgated pursuant to chapter 91. At the same time, an updated medical fee schedule is mandated with a separate medical fee schedule for chiropractic services to become effective no later than June 30, 1986. The regulations to be promulgated by the Director shall not interfere with the right of the injured employee to exercise his free choice of physician as contemplated under existing law.

Your Committees further believe that over-utilization of medical services and other prohibited practice can be curtailed on a case-by-case basis provided that physicians are required to qualify for practice under this chapter and be required to comply with established standards. These standards are designed to insure fair and reasonable payment for services rendered, avoidance of unnecessary referrals and diagnostic tests and studies, and more strict compliance with the Director's medical fee schedules and guidelines for frequency of treatment.



The Director is given discretionary authority to impose appropriate fines and other sanctions as the facts and circumstances in each case require. The Director is also given discretion to convene an advisory panel consisting of three experts who will assist the Director in cases of alleged violations of established standards.

Any physician charged with a violation of this section shall be afforded due process by requiring: (1) a written complaint filed with the Director within two years of the alleged violation; (2) notice of charge specifying the nature of the alleged violation given at least twenty days prior to the hearing; (3) a full and fair hearing by the Director; (4) a written decision stating the Director's findings in any case where sanctions are ordered; and (5) a right to appeal the Director's determination to the appellate board as specified under section 386-87.

To avoid unnecessary costs of litigation to the claimants and to avoid any financial hardship to an injured employee as a result of a complaint filed against a treating physician, the injured employee shall not be a party to the proceedings under this section and shall not be adversely affected by a disallowance of fees by the Director. Payment on charges for services rendered by said physician against the injured employee shall be suspended pending action by the Director and the appellate board in cases on appeal. Whenever any fee for services is disallowed, the physician shall be ordered to forfeit payment from the injured employee in an amount to equal the disallowance.

#### Section 5: Regarding Permanent Partial Disability Benefits

The purpose of Section 5 of this bill is to correct inequities in the amount of permanent partial disability benefits awarded to injured employees and to modify the maximum allowable benefits for scheduled and non-scheduled losses to fair and equitable levels consistent with the purpose and objective of Hawaii's workers' compensation law.

Presently injured employees who sustained compensable work accidents and are permanently partially disabled receive benefits which are not uniform. The total benefit amount an injured employee receives depends on his or her average weekly wage. Therefore, employees who are paid at the lower wage rate receive less benefits than those who receive higher wages even though injured employees suffer the same degree of functional loss or impairment. This inherent inequity was verified by the Workers' Compensation Program Commission dated January 1982. Calculating permanent partial disability benefit amounts at the effective maximum weekly benefit rate of the year of the injury provides uniform treatment to all persons similarly situated. The purpose of awarding permanent partial disability benefits (i.e. to compensate an injured employee for functional losses regardless of earnings) will be advanced by this measure.

Your Committees believe that changes in the level of benefits is necessary to achieve the purposes of the workers' compensation law. As confirmed by the Haldi report, submitted by the Legislative Auditor, the existing statute in determining the maximum amount of benefits used by Hawaii is "among the lowest" when compared with other states. A modification in benefit levels does not create a disincentive to injured employees since benefit amounts are awarded regardless of earnings. Your Committees favor modifications in benefit levels more consistent with the needs of injured workers and in line with contemporary awards in comparable circumstances. The Committees are fully cognizant of the elimination of the right to sue under section 386-5 and believe that the reasonable adjustments contemplated by this measure reaffirms a legislative trade-off purpose essential to justify the elimination of the right to sue for work-related injuries.

#### Section 6: Regarding Weekly Death Benefit Rate

The purpose of Section 6 of this bill is to amend the provisions of HRS §386-41(b) to incorporate amendments in Section 386-31 pursuant to this Act without altering the weekly maximum death benefit rate for dependents currently in effect.

#### Section 7: Regarding An Aggregate Limit on Death Benefits

The purpose of Section 7 of this bill is to amend the provisions of HRS §386-43(b) relating to aggregate weekly death benefits to dependents. Your Committees incorporate a specific recommendation contained in the Haldi report. Dr. Haldi notes that:

. . . Hawaii's statutory benefits for survivors are relatively low in comparison with several other states. Consistent with this, Hawaii's average cost for cases involving death is comparatively low. Under the existing law, survivors have no guaranteed entitlement to workers' compensation benefits beyond the maximum weekly benefit rate at the time of death multiplied by 312.

(Haldi study, p. 82)

Thus, your Committees favor modification of benefit levels under this section to be more consistent with the rights of injured workers and their dependents and in line with the awards in comparable circumstances.

#### Section 8: Regarding Fees and Costs of Attorneys and Expert Witnesses

The purpose of Section 8 of this bill is to amend HRS §386-94 to require attorneys retained by employers and insurance carriers as well as expert witnesses who provide consultation and other services in behalf of any party to obtain approval of fees and costs from the director. Currently only attorneys retained by injured employees are required to obtain approval from the director for costs and fees for prosecuting workers' compensation cases.

The breadth and scope of this measure is designed to insure that all costs of handling workers' compensation cases be regulated to a reasonable level and to provide the director a means to account for the costs of litigation in Hawaii's workers' compensation system as a whole. Including attorneys and experts retained by employers and carriers to defend against claims of injured employees also achieves the desired uniformity, consistency, and fair treatment to all providers of services in the workers' compensation program. It is noted that other providers of services are being subject to increased regulation as a means of cost containment to the workers' compensation system. This section is in line with this overall objective.

Your Committees also believe that no rational basis currently exists to justify the exclusion of attorneys, expert witnesses and consultants hired or retained by the employers or insurance carriers to defend against claims from coverage of the current provisions of §386-94.

#### Section 9: Regarding Fraud

The purpose of Section 9 of this bill is to prohibit fraud in the workers' compensation system. The amendment to HRS 386-98 is designed to penalize those who make false representations or withhold information wilfully and knowingly creating a falsehood for the purpose of obtaining or depriving another of compensation or to obtain payment for services rendered under this chapter.

The scope of the prohibition is intended to cover all persons including claimants, employers, claims representatives and agents of insurance carriers, physicians and chiropractors and other health care providers, and vocational rehabilitation specialists and others who are directly involved in processing or defending claims or in providing services under the worker's compensation system.

The breadth and scope of this measure is designed to insure the integrity of the process by which claims are considered and handled by the Director. Only falsehoods perpetrated upon the director come within the purview of this measure.

Your Committees believe that a person who falsely attempts to deny a rightful award or payment of benefits by withholding information should be penalized as much as one who wilfully attempts to obtain benefits by a deliberate falsehood. One who wilfully or knowingly withholds information (by omission) thereby creating a falsehood is as culpable as one who provides false information affirmatively (by commission).

The Director is given discretionary and not mandatory authority to impose appropriate fines and penalties as the facts and circumstances in each case require. Your Committees believe that the humanitarian purposes and remedial character of the worker's compensation law cannot be ignored in enforcing Section 386-98, as amended. For more than three-fourths of a century, this principle has been recognized by the Hawaii Supreme Court in the interpretation and application of Chapter 386, Hawaii Revised Statutes. In *Re Ikoma*, 23 Haw. 291, 295 (1916); *Silva v. Kaiwika Mill Co.*, 24 Haw. 324, 330 (1918); *Acoustic, Insulation and Dry-*

wall, Inc. v. Labor and Industrial Relations Appeals Board, 51 Haw. 312, 316 (1969); *Evanston v. Univ. of Hawaii*, 52 Haw. 595, 600 (1971). With the foregoing purpose in mind, the Director is mandated to assess fines and penalties as good conscience and equity require in cases of violation.

Your Committees believe that any person or organization charged with fraud under Section 386-98 as amended should be afforded due process by requiring:

- 1) Proof of willful and knowing misconduct to establish a violation;
- 2) A written complaint filed with the director 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 by the Director and a right to appeal the Director's determination to the appellate board as specified under Section 386-87.

#### Section 10: Regarding Decisions of the Director

The purpose of Section 10 of this bill is to amend the provisions of HRS §386-25 to mandate that all decisions of the director shall be issued within 60 days after the completion of hearings. Your Committees have incorporated this amendment as a recommendation contained in the Haldi report.

Your Committees endorse the finding of the Haldi report as follows:

For workers with longer-term disabilities, weekly wage loss payments may continue for many months. Serious injuries may require extended healing periods, and these will necessarily entail extended wage loss payments. It may also occur, however, that wage loss payments are unduly extended because of a failure by the Disability Compensation Division (DCD) to hold hearings and issue decisions promptly. In other words, control of long-term temporary wage loss payments must focus on facilitating the hearings and decision processes within the DCD.

(Haldi Study, p. 89)

This measure is designed to eliminate administrative delays which may contribute to extended wage loss payments especially.

Your Committees recognize that in certain special cases where legal and factual issues are complex that requiring decisions within 60 days after completion of hearings may be an unreasonable deadline. In such special cases the director is given discretion to extend the due date for up to an additional 30 days.

#### Section 11: Regarding Reopening of Cases

The purpose of Section 11 of this Bill is to amend the provisions of section 386-89(c) to reduce the ten-year time limit for reopening applications to an eight-year time limit for reopening requests.

Your Committees believe that a shorter timeframe furthers the timely and expeditious disposition of cases within the Department of Labor and Industrial Relations.

#### Section 12: Regarding Accident Prevention Unit

The purpose of Section 12 of this bill is to establish an accident prevention unit within the Department of Labor and Industrial Relations. The need for an accident prevention program is confirmed by the Haldi report.

The accident rate in Hawaii is and has been consistently higher than the United States' average. Information as to the reason for the high accident rate is not currently available. However, your Committees believe that a program designed to determine the causes of industrial accidents in Hawaii and to disseminate information regarding risks and hazards in the work place is a necessary part of reducing the cost of workers' compensation benefits.

Thus, the accident prevention unit is given broad powers to receive and analyze reports of industrial accidents to determine the causes of industrial accidents.

Through the employment of safety and medical professionals, the unit is empowered to gather information and to conduct studies for the purpose of risk and hazard assessment and identification.

The new unit is also empowered to promote educational programs which will include subjects such as safety practices and procedures. As an incentive to employers, the accident prevention unit is empowered to certify good safety records of employers. Those certified shall receive premium reductions or dividends pursuant to Section 13 of this act.

Section 13: Regarding Workers'  
Compensation Premium Reductions

The purpose of Section 13 of this bill is to provide a direct economic incentive to employers to promote good safety practices and procedures.

Your Committees believe that the addition of subsection (c) to section 431-693 mandates insurance carriers to recognize good safety performance records of employers by appropriate reductions in premiums and/or dividends.

By a certification program implemented by a newly created accident prevention unit within the Department of Labor and Industrial Relations, financial rewards shall be made available only to deserving employers.

Section 14: Regarding Appropriation of Funds

The purpose of Section 14 of this bill is to appropriate from the general funds those sums necessary to implement the terms and provisions of this Act except for Section 18.

Section 15: Regarding Revisions  
to the Hawaii Revised Statutes

The purpose of Section 15 of this bill is technical in nature for the revisor of statutes to incorporate into the Hawaii Revised Statutes Sections 2 through 14 of this bill.

Section 16: Regarding Effective Dates of Enactment

The purpose of Section 16 of this bill is to avoid any constitutional problems which might otherwise arise in the implementation of the certain sections of this Act.

Your Committees believe that amendments which affect benefit levels contained in this Act shall apply prospectively only. Sections 2, 3, 5, 6, 7, 11 and 17 shall apply only in those work-connected accident or injury cases that arise after the effective date of this enactment.

Section 17: Regarding Certain Cases  
Affecting Temporary Total Disability Benefits

The purpose of Section 17 is to eliminate a disincentive for returning to work in rare cases. This measure allows an employer who believes that the level of weekly compensation for temporary total disability benefits exceeds the injured employee's regular after-tax income level, to request an investigation by the director. The director may make an adjustment in the level of weekly compensation where the director finds that a financial disincentive actually is a barrier to return to work following medical stabilization.

Your Committees wish to reiterate that nothing in this section is intended to alter the maximum level of weekly compensation for temporary total disability benefits which is set by the applicable state's average weekly wage under section 386-31(a) and as established in section 386-31(b). In the event of a conflict between this section and section 386-31(a) and (b), HRS, the provisions of section 386-31(a) and (b), HRS, shall prevail. Furthermore, your Committees intend that this section shall not apply in any way to adversely affect the compensation level for temporary total disability benefits of any part-time worker.

Section 18: Regarding Study of  
Insurance System Alternatives

The purpose of Section 18 is to establish a committee to study and analyze the concepts of the open competitive rating system and the competitive state compensation fund as possible alternatives which might be implemented in Hawaii.

Your Committees believe that implementation of either an open competitive rating system or a competitive state compensation fund may ultimately result in reduced workers' compensation premium rates for employers. Through this study, the implications of implementation of either alternative will be examined prior to any direct implementation.

Section 19: Regarding Appropriation of Study

The purpose of Section 19 is to appropriate funds to effectuate the purpose of Section 18, the study of insurance system alternatives.

Your Committees on Employment Opportunities and Labor Relations and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 463, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 463, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Apo.  
(Representatives Anderson, Hemmings, Jones, Liu and Medeiros did not concur.)

SCRep. 327      Tourism on H.R. No. 70

The purpose of this resolution is to request that the Visitor Industry Education Council prepare a film to show advancement opportunities from entry level positions available through the visitor industry.

Your Committee finds that the first film produced by the Visitor Industry Education Council, "Tourism, What's in it for Me?", a film that demonstrated how tourism produces jobs for local residents, was an unqualified success. To follow up on this film, it is highly desirable to produce another film to show the advancement opportunities which exist within the visitor industry.

Your Committee on Tourism concurs with the intent and purpose of H.R. No. 70 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 328      Higher Education and the Arts on H.R. No. 17

The purpose of this resolution is to request the House Committee on Higher Education and the Arts to review the Western Interstate Commission on Higher Education (WICHE) Program, and to make recommendations as to how the state might better benefit from the program.

WICHE is an organization of 13 western states that have pooled their higher education resources to save money, avoid duplication of programs, and to provide educational opportunities to students who do not have similar programs in their home states. This goal is accomplished through student exchange, higher education resource development, and minority education programs.

Your Committee finds that the WICHE program has been beneficial to students who wish to enroll in academic programs that would otherwise be unavailable to their home state. However, concern has been expressed that those students who are beneficiaries of the program may not return to Hawaii to serve the people who subsidized their education.

Your Committee has amended this resolution by deleting the phrase "resulting in no tangible benefit to the State" from paragraph 3, line 3. The fourth paragraph and the resolution clause were amended to ask the Committee to consider how the WICHE program might better serve our state.

Your Committee has also amended this resolution by extending the due date to report its findings and recommendations prior to the convening of the Regular Session of 1986.

Your Committee on Higher Education and the Arts concurs with the intent and purpose of H.R. No. 17, as amended herein, and recommends its referral to your Committee on Legislative Management in the form attached hereto as H.R. No. 17, H.D. 1.

Signed by all members of the Committee except Representatives Honda, Nakasato, Pfeil and Tam.

SCRep. 329      Transportation and Judiciary on H.B. No. 490

The purpose of this bill is to provide the examiner of drivers with the discretionary authority to waive the actual demonstration of driving ability for any applicant for a Hawaii driver's license who is at least eighteen years of age and who possesses a valid driver's license issued to the applicant by any other state in the United States or a province of the Dominion of Canada.

Under present law, the examiner of drivers is required to conduct a road test for every applicant seeking to obtain a Hawaii driver's license whether or not the applicant is a licensed driver in another jurisdiction. Hawaii is currently one of only five states that require out-of-state driver's license applicants to actually demonstrate driving ability prior to being issued a driver's license.

Your Committees find that most out-of-state licensed applicants for a Hawaii's driver's license satisfactorily demonstrate their driving ability the first time they take the road test. Your Committees also find that Hawaii is a party to the Driver's License Compact and therefore has the ability to obtain licensing information from the National Driver Register, providing the examiner of drivers with information on applicants whose driving histories indicate that they may pose a threat to the safety of Hawaii's driving public.

This bill, by providing the examiner of drivers with the discretionary authority to waive the road test for out-of-state licensed applicants, will enable greater attention to be focused on the licensing of Hawaii residents who are attempting to obtain a driver's license for the first time.

Your Committees have amended this bill at page 2, line 11, to include the District of Columbia, the Commonwealth of Puerto Rico, American Samoa and Guam to conform in most part with section 286-105 of the Hawaii Revised Statutes.

Your Committees on Transportation and Judiciary are in accord with the intent and purpose of H.B. No. 490, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 490, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 330      Transportation and Judiciary on H.B. No. 89 (Majority)

The purposes of this bill are: 1) to require operators of motor vehicles to be restrained by a seat belt assembly and to ensure that their passengers between four and sixteen are so restrained; 2) to require motor vehicle passengers over the age of sixteen to be so restrained; 3) to provide exemptions from these requirements; 4) to familiarize motorists with the provisions of this bill, by enabling authorized law enforcement officials to issue verbal warnings to persons in violation of the seat belt law between December 1, 1985 and December 31, 1985; and 5) to require the initiation of an educational program designed to encourage compliance with seat belt laws.

Your Committees find that in the last ten years in Hawaii there have been an average of between 16,000 and 17,000 traffic accidents, involving an average of 24,000 drivers and 5,000 passengers per year. Your Committees also find that seat belt use is the single most cost-effective highway safety measure available.

Your Committees received testimony from the State Department of Transportation, the Highway Users' Federation, the Hawaii Automobile Safety Coalition, the Hono-



lulu Police Department, the Hawaii Child Transportation Safety Coalition, and Professor Robert McGee of the University of Hawaii School of Public Health favoring the basic thrust of the bill, to require the prevalent use of seat belts.

The Department of Transportation provided your Committees with statistics indicating "if everyone used a seat belt on every trip, motor vehicle occupant fatalities could be expected to drop about 57% and injuries about 60 to 70%".

Your Committees also find that the opposition to seat belt legislation is rooted in the belief that seat belt laws infringe upon an individual's right of choice. However, the enormous social cost of unnecessary death and injury justifies any possible minimal infringement on the right of choice of the individual caused by requiring him or her to wear a seat belt in a vehicle being operated on a public road.

Your Committees also find that subsection (d) of the new section of the H.R.S. created by Section 1 of the bill is intended to prohibit the use of evidence of noncompliance with this new section as evidence of comparative or contributory fault or of failure to mitigate damages.

Your Committees amended the bill at page 2, line 6, by inserting the words "passengers of the" between the words "The" and "following". This amendment will clarify the intent of subsection (b) of the new section of H.R.S. created by this bill which is to exempt the passengers of certain vehicles from the requirements of this bill and to remain consistent with Federal Motor Carrier Safety Regulations and State General Order Number 2 which require the drivers of motor carriers to use available seat belts.

Your Committees on Transportation and Judiciary are in accord with the intent and purpose of H.B. No. 89, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 89, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.  
(Representative Kim did not concur.)

SCRep. 331      Transportation on H.B. No. 453

The purpose of this bill is to ease quorum requirements for the Metropolitan Planning Organization (MPO) Policy Committee, to determine who among the MPO Policy Committee members is eligible to be elected chairperson, and to clarify voting procedures for that committee.

Your Committee received testimony from Gordon G. W. Lum, Executive Director of the Oahu Metropolitan Planning Organization, favoring the streamlining of the operating procedures of the Oahu Metropolitan Planning Organization Policy Committee by easing quorum requirements. Your Committee finds that it is appropriate to lower requirements for the quorum from seven members to five members in response to the difficulty that has been encountered in obtaining a quorum due to the time constraints experienced by legislators and council members who are members of the Oahu Metropolitan Planning Organization's Policy Committee.

Your Committee has amended section 3 of the bill, which proposes the initiation of a polling mechanism. This amendment, at section 3, page 3, line 9 of the bill inserts the words "who need not be present" between the words "members" and "request", allows members who are not at the meeting to be part of the two member requirement necessary to initiate a poll.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 453, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 453, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 332      Agriculture on H.B. No. 492

The purpose of this bill is to amend section 105A-6, HRS, to prohibit the importation of any live or dead honey bees.

Your Committee finds that there is a parasitic honey bee mite, Acarapis woodi, that lives within the tracheae of honey bees and which eventually kills the honey bee. This mite, originally found only in Central and South America, was detected for the first time in the United States in Texas on July 3, 1984. To date, a total of ten mainland states have indicated infestation by the Acarapis woodi. Once a bee colony has been infested, that particular colony must be destroyed as there is no known cure for these mites.

Your Committee also finds that Hawaii, aided by its geographical isolation, is free of the Acarapis woodi. The threat of infestation, however, remains a reality, since this particular species of mite could still enter the state within either live or dead honey bees that are imported. Your Committee is of the opinion that the honey bee industry in Hawaii holds significant potential for expansion, and that efforts to assure its continued health by minimizing the threat of the Acarapis woodi are in the public interest.

Your Committee has also received testimony from the Dean of the University of Hawaii College of Tropical Agriculture and Human Resources indicating that there is a considerable investment made by beekeepers in equipment and supplies necessary for beekeeping. A beekeeper moving to Hawaii, therefore, will likely wish to bring such equipment also. To enable this equipment to be brought into Hawaii, yet to assure that the Acarapis woodi is not inadvertently brought in also, your Committee has amended this bill by incorporating the recommendation of the Dean of the College of Tropical Agriculture and Human Resources that such equipment be allowed into the state only if it is fumigated, steam cleaned or treated in a manner to be free of disease, mites, etc. Such equipment shall enter the state under quarantine and be released only after certification of treatment or treatment by the Department of Agriculture quarantine officials.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 492, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 492, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 333      Housing on H.B. No. 1000

The purpose of this bill is to disband or "sunset" the Council of Housing and Construction Industry (CHCI) by the repeal of Chapter 360E, HRS (Act 166, SLH 1976).

The Council was created by Act 166, SLH 1976, to investigate 15 specific areas of activities relating to housing and the construction industry. The Council has not, for the most part, received funding for its operations or staff authorizations commensurate with its assignment. Additionally, the Council's membership believes that the "implementing actions" of the State Housing Functional Plan are similar to the Council's original assignment.

By action of its membership in 1984, the Council has recommended that Act 166, SLH 1976, be repealed.

Favorable testimony on H.B. No. 1000 was received from the Governor's Special Assistant on Housing and the Hawaii Housing Authority.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 1000, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 334      Education and Public Employment and Government Operations on  
H.B. No. 129

The purpose of this bill is to allow the Governor to make an appointment to fill a vacancy on the board of education which term ends on the next succeeding general election.

In 1981 the legislature eliminated the provision for filling vacancies on the board

of education for terms which end at the next succeeding general election. There presently exists no provision for ensuring full membership of the board of education in the event a member, whose term expires at the next succeeding general election, is unable to complete that term.

Your Committees are in agreement that this change is necessary and should be made.

Your Committees on Education and Public Employment and Government Operations are in accord with the intent and purpose of H.B. No. 129 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 335      Education and Employment Opportunities and Labor Relations on  
H.B. No. 176

The purpose of this bill is to define the duties and functions of the State Advisory Commission on Employment and Human Resources.

Your Committee finds from testimony presented that in order to receive approximately 2.8 million dollars in federal vocational education funds, the State must comply with federal provisions of the newly enacted Carl Perkins Vocational Education Act of 1984. As a provision, the State is required to form a State Council on Vocational Education. In addition, language in this bill has been changed to reflect language that is unbiased in nature.

Your Committees on Education and Employment Opportunities and Labor Relations are in accord with the intent and purpose of H.B. No. 176 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 336      Water, Land Use, Development and Hawaiian Affairs on H.R. No.  
47

The purpose of this resolution is to request application to establish a Foreign Trade Zone in Hawaii County and to request review of existing FTZ activities in Hawaii.

Hawaii's FTZ-9 at Honolulu Harbor was first authorized in 1965, and its first subzone in Campbell Industrial Park was authorized in 1970. According to testimony by the Department of Planning and Economic Development, benefits in increased employability of Hawaii's people and in enhanced economic development for Hawaii's industries have been accrued, and expansion of subzones to the neighbor islands is highly desirable. Additional testimony from the Hawaii County Council supports this resolution.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.R. No. 47 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 337      Agriculture; Planning, Energy and Environmental Protection; and  
Health on H.R. No. 97

The purpose of this House Resolution is to encourage State cooperation with the Federal Environmental Protection Agency in conducting a program to control the Tri-Fly pest complex in Hawaii, without the aerial spraying of malathion.

Your Committees find that the Federal proposal to eradicate the Tri-Fly complex with the aid of aerial spraying poses unacceptable risks to the people, natural resources, and commerce of this State, without being able to guarantee either that the program can succeed, as proposed, or that a successful program would solve its ultimate end of protecting mainland crops.

After duly reviewing testimony on this resolution, your Committees have modified its title and emphasis to more adequately express the strong reservations held

against the Tri-Fly Eradication Program.

Your Committees find that the remaining aspects of the program, after eliminating aerial spraying of malathion, still raise questions of acceptable risk as well as efficacy; and because there is no evident urgency in applying the program, your Committees have amended the original Resolution to oppose implementation of the APHIS program, and to promote continuing research in genetic, behavioral, and biological controls. It is expected that such research will provide timely and more ecologically and socially acceptable answers to the problem.

Your Committees have amended the resolution as follows:

(1) The "Whereas" clause concerning interisland travel inspection has been deleted due to its inconsistency with the altered intent of this resolution.

(2) The initial "Be It Resolved" clause was amended to reflect the changed title. A consequently redundant "Be It Further Resolved" clause was replaced with one more clearly stating your Committees' support for research.

(3) The "Be It Further Resolved" clause was amended to encourage Federal support of basic, as well as strategic research, and to include the State Department of Agriculture with the University of Hawaii as a center of this research.

Your Committees on Agriculture; Planning, Energy and Environmental Protection; and Health are in accord with the intent and purpose of H.R. 97, as amended herein, and recommend its adoption in the form attached hereto as H.R. 97, H.D. 1.

Signed by all members of the Committees except Representatives Jones and Leong.

SCRep. 338      Health and Judiciary on H.B. No. 157

The purpose of this bill is to provide the Director of Health with the authority to levy administrative penalties and to obtain injunctive relief from the courts where rules adopted by the department to effectuate the provisions of chapter 321, Hawaii Revised Statutes, are violated.

Under present provisions of the law, a violation of a departmental rule which implements chapter 321 is a misdemeanor. Accordingly, in order to punish a violator, court action must be instituted. Each court action taken involves a lengthy, costly process, and the time and cost involved are magnified when many such actions must be taken. Furthermore, to take all violators to court would amount to an unreasonable reliance on the legal resources of the State. The only presently available alternative to court action is revocation of the license or permit to operate of the violator. The department believes, however, that revocation is too radical a measure to take in most cases of violations of chapter 321 rules since it could take away the individual's ability to engage in business and may cause unwarranted, irreparable economic harm. Thus, the department rarely imposes the sanctions of license revocation or suspension.

Health rules in chapter 321 are largely regulatory and their purposes are to deter violations. However, when the threat of being penalized is limited, the deterrent effect of the rules is lost. By being authorized to invoke administrative penalties rather than having to take legal action to revoke or suspend licenses, the department will be able to act quickly and decisively, and will be better able to tailor the punishment to the nature of the particular violation. This change will also act as a greater deterrence to potential violations.

A concern was expressed by a member of your committee that a potential for an abuse of administrative powers existed in the provisions contained in the last sentence of part (1) of the bill. A reading of that sentence would seem to indicate that in a judicial proceeding brought by the Director of Health to recover the penalties imposed by him, the violator would have no opportunity to rebut the director's allegations. While this may be true if the provision is taken in isolation, it does appear that a violator does have the right to appeal under the provisions of section 91-14, Hawaii Revised Statutes, which deals with the judicial review of contested cases. In other words, it appears that any person accused of violating a rule may appeal the charge of violation and the imposition of penalties.

Your Committees of Health and Judiciary are in accord with the intent and purpose of H.B. No. 157 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Hirono.

SCRep. 339      Ocean and Marine Resources and Water, Land Use, Development  
and Hawaiian Affairs on H.B. No. 191

The purpose of this bill is to implement the reorganization and consolidation of the aquatic life and wildlife functions of the Department of Land and Natural Resources.

The department testified that this bill will facilitate referencing and locating specific statutes and will minimize confusion, misunderstanding and misinterpretation by reorganizing and consolidating aquatic life and wildlife functions into a new chapter in the Hawaii Revised Statutes.

The department further testified that there are two other bills related to this bill which has been submitted for consideration by this Legislature. The bills are H.B. 193 to consolidate all wildlife sections of Chapters 183, 187, 191 and 192, and H.B. 192 relating to aquatic resources.

Your Committees are in agreement with the need to reorganize and consolidate those sections referred to by the department in order to minimize confusion, misunderstanding and misinterpretation, particularly by those who need to reference such materials.

Your Committees on Ocean and Marine Resources and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 191, and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 340      Ocean and Marine Resources on H.B. No. 479 (Majority)

The purpose of this bill is to add a new section to Chapter 5 of the Hawaii Revised Statutes to designate the Humu humu nuku nuku apua'a as the official fish of the State of Hawaii.

The Department of Land and Natural Resources testified on behalf of naming the Humu humu nuku nuku apua'a as the State fish and offered an amendment to capitalize the first letter of the scientific name of this fish.

Dr. Leighton Taylor, director of the Waikiki Aquarium reminded your Committee of the seriousness of naming the State fish. Although Dr. Taylor's personal choice was not the humu humu nuku nuku apua'a, he deferred to this "unanimous" choice with a word of caution: that the humu humu nuku nuku apua'a did not receive a majority of statewide votes. This caution was shared by the Hawaii Fishing News.

Dr. Edward D. Stroup, sang most of his testimony in support of the manini, which he claims is plentiful in the islands and is easier to pronounce. He felt strongly that the name of a State fish should be pronounced correctly and in its entirety and did not believe that this would be the case with the Humu humu nuku nuku apua'a.

One group presented testimony by singing a medley of songs in support of the Humu humu nuku nuku apua'a. Several students from the gifted and talented classes at Ahuimanu Elementary School and Puohala Elementary School testified on behalf of this bill and provided information on the research they conducted and the voting procedures used to select the State fish.

Representative Crozier submitted testimony on the virtues of the akule and claimed that the Humu humu nuku nuku apua'a was a rubbish fish as well as being a coward because it hid in nooks and crannies within the reefs. He strongly endorsed the akule because it represented the working man, it is a free-spirited fish much like bald eagle, our national bird.

Your Committee is in agreement that the choice of selecting Hawaii's State fish is a serious undertaking. Thousands of people participated in this activity throughout the islands. While the Humu humu nuku nuku apua'a did not receive the majority of votes in the statewide election, your Committee finds that by far, it appears to be the more popular choice. For reasons that are apparent, Representative Crozier was disqualified from voting on this measure.

Your Committee amends this bill to capitalize the first letter of the scientific name to read, *Rhinecanthus rectangulus*.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 479, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 479, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
(Representatives Crozier and Hagino did not concur.)

SCRep. 341      Housing on H.B. No. 502

The purpose of this bill is to reduce the continuous-absence period of thirty consecutive days to fourteen consecutive days or more in order to deem a tenant to have wrongfully quit the dwelling unit. A tenant, therefore, shall be deemed to have wrongfully quit the dwelling unit if the tenant is absent from the dwelling unit for a continuous period of fourteen days or more without written notice to the landlord.

Your Committee finds that the current thirty day absence period does not allow the landlord to initiate summary possession proceedings to evict a tenant until this time period has elapsed. Under the current thirty day requirement, the landlord is unable to collect for damages to the unit since the landlord is not allowed to retain a security deposit which exceeds one month's rent. If the tenant is in default in the payment of rent prior to the wrongful quit, the losses to the landlord are even greater. The landlord must absorb the costs of legal fees, cleaning and/or repair costs involved in regaining possession of the property and preparing it for re-rental. By reducing the continuous-absence period to fourteen days, the landlord will be able to have the unit available for rental sooner and allow the landlord to minimize losses.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 502 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 342      Housing on H.B. No. 860

The purpose of this bill is to broaden the applicability of the State's Housing Loan and Mortgage Program, also known as Hula Mae, to a larger group of first-time homebuyers.

As amended, this bill provides for the following: (1) a 15 percent increase in the adjusted household income of an eligible borrower; (2) a 15 percent increase in the asset limit of an eligible borrower; (3) a deletion of the requirement that the down payment on property securing a loan shall not exceed 20 percent of the fair market value of the property; (4) a provision that income received by dependent members of an eligible borrower's household shall not be included in calculating "adjusted household income"; and (5) a provision that the value of a vacant lot owned by an eligible borrower shall not be included as an asset when a dwelling unit is or shall be constructed on the property and financed by an eligible loan.

Your Committee views the proposal to liberalize eligibility and down payment requirements of the Hula Mae Program as a positive step in achieving the full utilization of a limited housing subsidy; especially in light of the "sunsetting" of qualified mortgage bond programs on December 31, 1987, under the Federal Deficit Reduction Act of 1984. If viewed from the perspective that the federal government is in effect subsidizing the interest rates on Hula Mae loans, it makes sense to maximize the availability of this subsidy to benefit the people of the State.



The Hawaii Housing Authority testified that under the provisions of the federal Mortgage Subsidy Bond Tax Act of 1980, up to \$200 million in tax-exempt revenue bonds can be issued per annum to fund low-interest mortgage loans to first-time homebuyers. To the extent that the maximum amount of such funds are not made available, the State is in effect relinquishing a valuable subsidy. By making the program requirements less restrictive, a greater number of first-time homebuyers could be assisted, thereby resulting in increased use of the Hula Mae Program.

Your Committee believes that deletion of the down payment restriction and the provision that the value of land owned by an eligible borrower on which a dwelling unit is or shall be constructed shall be excluded as an asset will assist additional lower-income households to qualify for loans. This situation is especially applicable to the neighbor islands, where the Hawaii Housing Authority has found that households tend to accumulate assets (including vacant land) on relatively low incomes. This has caused such low-income households to: (1) become ineligible for the Program since their combined assets exceed the limit for their household size; or (2) be unable to qualify for financing on their level of income because of the inability to make more than a 20 percent down payment.

Upon further consideration of this measure, your Committee has made the following amendments to H.B. No. 860:

1) The adjusted household income has been amended to read: "For an eligible borrower with a family of four persons, the amount shall be equal to 172.5 per cent of the median annual income for households of four persons in the State..." This represents a 15 percent increase over the previous limit. The law presently provides that the amount shall be equal to 150 percent. The original draft of this bill had proposed amending the maximum income to be substantially higher, and did not provide for increased or decreased limits based on family size, as does this draft.

Your Committee and members from the private lending community believe that the previously proposed limits were too high and should have been adjusted for family size. Your Committee sought input from the private lending community, as well as Hawaii Housing Authority, in deriving at the revised requirements set forth in this draft.

2) A provision has been added that income received by dependent members of an eligible borrower's household shall not be included in calculating "adjusted household income".

3) The original draft of this bill had provided for the deletion of all asset restrictions. The asset limitations have been reinserted in H.D. 1 of this bill, but provides for a 15 percent increase over previous limits, since asset limits are based on an amount equal to the adjusted household income for an eligible borrower.

4) A provision has been added to Section 356-206 which states that the value of a vacant lot owned by an eligible borrower shall not be included as an asset when a dwelling unit is or shall be constructed on the property and financed by an eligible loan.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 860, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 860, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 343      Housing on H.B. No. 861

The purpose of this bill is to enable single-parent households to obtain a Hula Mae loan, even though the parent may have had an interest in a principal residence within the last three years.

Under the provisions of both federal and State laws, applicants for financing under the Housing Loan and Mortgage Program (Hula Mae) must be able to document that they have not had an interest in a principal residence for a period of three years prior to applying for the loan. The intent of the requirement is to assist first-time homebuyers.

The Tax Equity and Fiscal Responsibility Act of 1982 amended the first-time homebuyer requirement such that ten per cent of the lendable proceeds of a qualified mortgage bond issue can be used to assist applicants who do not meet the three-year requirement. Despite this relaxation of the federal requirements, no corresponding change has been made to the State requirements under Chapter 356 Part II, Hawaii Revised Statutes.

However, the Hawaii Housing Authority has become cognizant of the needs of a particular group that could be assisted by the relaxation in the federal requirements; specifically, recently-divorced single parents who may have had an interest in a principal residence during the past three years. This group of individuals and their children are presently precluded from the Hula Mae financing although their need for housing may be urgent.

The availability of low-interest loans could make opportunities for home ownership available to members of this group without creating a serious monitoring problem for Hawaii Housing Authority.

Your Committee has expressed concern regarding potential abuse by those who may not qualify as a single parent, thereby eroding, to some extent, the funds available for qualified single parents. Your Committee has amended H.B. No. 861 to clarify what would constitute a "single-parent household". As provided in this draft, a single-parent household is defined as: "A household headed by a single person who has legal custody of one or more dependent children."

Your Committee has further amended this bill to specify that the liberalized requirement for single parents shall apply to up to ten per cent of eligible loans made to single-parent household borrowers in order that any excess funds available, due to lack of qualified single-parent borrowers in this category, could be utilized for other loans.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 861, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 861, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 344      Water, Land Use, Development and Hawaiian Affairs and Planning,  
Energy and Environmental Protection on H.B. No. 206

The purpose of this bill is to provide for the facilitation and coordination of State and inter-governmental permit processes, through the establishment of a consolidated application procedure and to allow for the monitoring of permit processes on an ongoing basis to identify inefficiencies for the purpose of implementing streamlining opportunities.

Your Committees find that the proliferation of governmental regulations and procedures relating to Hawaii's development permit system continues to be a major concern. Hawaii's efforts to ameliorate the problem during the recent decade ultimately led to the formation of the Inter-Governmental Task Force for Permit Simplification. The Task Force's broad-based approach to the issue addressed all levels of government and resulted in the formulation of recommendations to simplify and clarify various layers of permit processing. Accordingly, H.B. No. 206 proposes to establish a voluntary program of permit coordination within and among county, state and federal agencies and authorities involved in development permit processing.

While in agreement with the intent of H.B. No. 206, your Committees find that a voluntary effort in regard to development permit processing and coordination on the level of State government may be inadequate. Such an effort may only lead to further problems of agency coordination and communication. In this regard, your Committees have amended this bill to mandate State agency participation in this process. County and federal participation in any development permit review remains voluntary.

Your Committees have further amended this bill by requiring any designated State agency unable to participate in a permit review to submit a written explanation as to the reasons for non-participation. Your Committees have also specified June 30, 1987 as the repeal date for this Act.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and on Planning, Energy and Environmental Protection are in accord with the intent and purpose of H.B. No. 206, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 206, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 345      Water, Land Use, Development and Hawaiian Affairs and Judiciary  
on H.B. No. 195 (Majority)

The purpose of this bill is to authorize the Department of Land and Natural Resources to retain and use confiscated items including any equipment, article, instrument, aircraft, vehicle, or vessel forfeited to the Department by the court, in accordance with Section 701-119, Hawaii Revised Statutes (Hawaii Penal Code).

Under current provisions of Section 199-7, Hawaii Revised Statutes, the court is authorized to forfeit to the Department confiscated items to be destroyed or sold at public auction. Your Committees received testimony from the Department in support of this administration bill which will permit the Department to carry out its enforcement program and operations more efficiently and effectively.

It has been suggested that the bill be amended to permit other State agencies to use the forfeited items if the Department of Land and Natural Resources has no need of them. Your Committees do not disagree with this idea but are of the opinion that, because this bill is concerned with the enforcement program of the Department, that suggestion be addressed separately.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and on Judiciary are in accord with the intent and purpose of H.B. No. 195 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Menor.  
(Representative Hashimoto did not concur.)

SCRep. 346      Water, Land Use, Development and Hawaiian Affairs and Judiciary  
on H.B. No. 194

The purpose of this bill is to protect the public's access to and enjoyment of Hawaii's beaches.

Your Committees find that a recent problem has occurred along Hawaii's shoreline in places where there are extreme shifts in sand. In such locations, landowners have constructed seawalls to protect lands created by sand movement. The construction of a seawall often causes ocean currents to move laterally along the seashore. As a result, land adjacent to the lot in which the seawall is constructed begins to erode. This prompts the owner of the eroding land to build a second seawall. This sequence repeats itself as the ocean currents move along the beach.

As seawalls are constructed, two problems arise. First, a wide stretch of beach is destroyed. Only rock walls standing next to the water are left in its wake. Second, public access to the shoreline and ocean is inhibited.

This bill protects the public's access to and enjoyment of Hawaii's beaches by adding a new section to Chapter 183, Hawaii Revised Statutes. The section prohibits the construction of structures or seawalls, dredging, or grading, or other use of accreted land to which title has been obtained by judicial decree after the enactment of this bill and which interferes or may interfere with the future natural course of the beach.

This bill also amends Chapter 501, Hawaii Revised Statutes, which relates to registration of land registered under the Land Court system, by adding a new section to the chapter. The section states that an application to register accreted lands may be granted only if the applicant proves by a clear preponderance of the evidence that the accretion is natural and permanent. An accretion is deemed to be "permanent" if it has been in existence for more than twenty years.

Similarly, this bill amends Section 669-1, Hawaii Revised Statutes, which relates

to actions to quiet title, by adding a new subsection. The subsection also requires that a person bringing an action to quiet title to accreted land prove by a clear preponderance of the evidence that the accretion is natural and permanent. Again, an accretion is "permanent" if it has been in existence for more than twenty years.

Your Committees do not intend to affect the existing law in regard to ownership of and other rights relating to land created by accretion, and it is the intent of your Committees that the bill does not affect existing law.

In its original form, Section 1 of the bill may not clearly define what land is subject to its provisions. Therefore, your Committees have amended this section by deleting the language "of the newly accreted land" found on page 1, line 4, of the bill and substituting the language "on accreted land as judicially decreed". This makes it clear that the section only applies to accreted land which has been registered or to which title has been established by a judicial decree.

Further, in its original form, Section 1 of the bill may be construed to preclude the State and the counties from engaging in necessary public works projects or other activities on accreted land. Therefore, your Committees have amended this bill by adding language making it clear that the State and the counties are not subject to the provisions of the section. Specifically, the bill is amended by the addition of the following sentence to the first paragraph of Section 1: "This provision shall not in any way be construed to affect State or county property."

Your Committees on Water, Land Use, Development and Hawaiian Affairs and on Judiciary are in accord with the intent and purpose of H.B. No. 194, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 194, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Menor.

SCRep. 347      Finance on H.B. No. 131

The purpose of this bill is to set forth the State's allocation of private activity bonds among the governmental units in the State authorized to issue such bonds.

The Deficit Reduction Act of 1984 (DEFRA), Public Law 98-369, put a \$200 million ceiling on the principal amount of tax-exempt private activity bonds which may be issued within Hawaii during any calendar year. Private activity bonds include, with certain exceptions, student loan and industrial development bonds which bear interest that is exempt from taxation.

DEFRA allocates fifty per cent or \$100,000 of the State ceiling for agencies of the State authorized to issue private activity bonds in any calendar year. The other half of the state-wide ceiling may be allocated to each county of the State according to the ratio of its population to the population of the entire State. DEFRA, however, provides that the state legislatures may, by law, modify the formula for allocation of the state-wide ceiling among the governmental units having authority to issue private activity bonds. This bill provides for the allocation of the state ceiling in accordance with the federal formula, in addition the bill authorizes the department of budget and finance, the department responsible for the administration of the state debt, to administer a program under which such allocations may be assigned and reassigned among the State and the several counties.

Your Committee has amended subsection (a) of this bill to specify the percentages of the annual state private activity bond ceiling that are required to be allocated to the four counties. Your Committee has provided that the annual State ceiling shall be allocated to the counties in the following proportion:

- (1) An amount equal to 38.72 per cent of the annual State ceiling to the city and county of Honolulu;
- (2) An amount equal to 5.13 per cent of annual State ceiling to the county of Hawaii;
- (3) An amount equal to 2.15 per cent of the annual State ceiling to the county of Kauai; and

(4) An amount equal to 4.00 per cent of the annual State ceiling to the county of Maui.

Your Committee has also amended this bill to make nonsubstantive style changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 131, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 131, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 348      Finance on H.B. No. 18

The purpose of this bill is to establish an interest rate ceiling on general obligation bonds of the State.

Act 245, Session Laws of Hawaii 1980, established the maximum interest rate which may be paid on general obligation bonds issued by the State at 9-1/2%. The rate was temporarily raised to 14% by Act 118, Session Laws of Hawaii 1983. This rate is effective through June 30, 1985, at which time it will revert to 9-1/2%.

On March 24, 1982, the State attempted to issue \$75 million general obligation bonds, series AT, but received no bids because of conditions in the municipal bond market and the 12% statutory interest rate ceiling in effect at the time. The bond buyer's 20-bond index of general obligation bonds at that time was 13.04%. In the period from March 31, 1982 to May 13, 1982, after the interest rate ceiling had reverted to 9-1/2%, the State was effectively shut out of the municipal bond market. During this period the 20-bond index fluctuated from a low of 11.82% to a high of 13.13%. The series AT bonds were finally sold on June 17, 1982.

State expenditures for capital improvement projects are expected to continue at a rate of about \$150 million per year. To insure continued orderly financing of these projects without relying upon borrowing from the state general fund, your Committee agrees it is advisable to maintain the current interest rate ceiling on state general obligation bonds.

Your Committee has amended this bill to keep the interest rate temporarily at 14%, but to limit the effect of such ceiling until June 30, 1987, after which the statutory rate of 9-1/2% shall apply.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 18, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 18, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 349      Agriculture and Judiciary on H.B. No. 111

The purpose of this bill is to amend the Plant and Non-Domestic Animal Quarantine law by making possession of prohibited plants and animals in addition to the importation thereof, illegal; to clarify the enforcement authority of the plant quarantine inspectors; and to make technical non-substantial changes in the language and structure of the law.

Your Committees find that there has been a rise in recent years in the number of prohibited plants and animals being brought into the State. Expanding the scope of this law to prohibit the possession of such plants and animals should help to deter their introduction.

Your Committees also find that the enforcement and penalty provisions of the existing law are insufficient to act as effective deterrents. Your Committees believe that the provisions of this bill, which authorize plant quarantine inspectors to issue citations and which establish penalties for violation of the law will allow for better enforcement.

Your Committees have amended this bill to further clarify the terminology regarding possession, propagation, or harboring of prohibited items by inserting the

qualifying words, "intentionally or knowingly".

Your Committees on Agriculture and Judiciary are in accord with the intent and purpose of H.B. No. 111, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 111, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 350      Consumer Protection and Commerce on H.B. No. 1060

The purpose of this bill is to amend Chapter 431, Hawaii Revised Statutes, by adding new sections requiring insurers authorized to do business in this State to file a copy of their annual statement with the National Association of Insurance Commissioners (NAIC).

Your Committee heard testimony in support of the bill from the Insurance Commissioner, Department of Commerce and Consumer Affairs. The Insurance Commissioner testified that the NAIC has made insurer insolvencies its foremost concern, and is improving and updating its early warning system. The NAIC has also provided the Insurance Division with a computer tie-in to the NAIC headquarters, which allows quick access to financial analysis of insurers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1060 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 351      Ocean and Marine Resources and Agriculture on H.B. No. 1243

The purpose of this bill is to provide for the formation of aquacultural cooperative associations by amending Section 421-1, Hawaii Revised Statutes, to include the term "aquacultural commodities" to the definition of "agricultural products".

Your Committees find that existing law does not formally provide for the formation of aquaculture cooperative associations. Your Committees are in agreement with the Department of Land and Natural Resources that it is in the State's interest to promote economic diversification through the encouragement of diversified agriculture and aquaculture.

Your Committees on Ocean and Marine Resources and Agriculture are in accord with the intent and purpose of H.B. No. 1243 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hagino, Pfeil and Tam.

SCRep. 352      Human Services and Judiciary on H.B. No. 266

The purpose of this bill is to amend Hawaii's law on child support enforcement to fully comply with the mandates of Public Law 98-378 which was enacted by Congress in August 1984. The federal law mandates states to have an automatic wage assignment law. While Hawaii partially meets the mandate through section 571-52.2, Hawaii Revised Statutes, Hawaii does not fully comply because it does not hold the employer liable for any wage assignment they refuse to withhold or fail to withhold. P.L. 98-378 also requires that provisions be made for the termination of such wage assignments by the agency or department which initiated them when they are no longer required.

This bill will enable Hawaii to fully comply with the federal mandate, thereby avoiding a penalty of approximately \$2 million in federal assistance payments to the State.

In addition to testimony in support of the bill from the Department of Social Services and Housing, your Committees received testimony from the Family Support Division, Department of Corporation Counsel, City and County of Honolulu, in support of the bill, but suggesting that the bill be amended by deleting the word "minor".



Section 580-47, Hawaii Revised Statutes, provides for the support, maintenance and education of a minor child or adult. Since the requirement for child support may continue after the child reaches the age of majority, your Committees have amended this bill by deleting the word "minor".

Furthermore, your Committees have amended the bill by adding Section 571-52, Hawaii Revised Statutes, and deleting the word "minor" wherever found in sections 571-52 and 571-52.2, Hawaii Revised Statutes.

Your Committees have also amended the bill by substituting the word "shall" for "may". The federal law mandates the States to have the termination of assignment provision and the bill, as originally drafted, did not precisely reflect the federal mandate.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 266, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 266, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 353 Human Services and Judiciary on H.B. No. 265

The purpose of this bill is to amend and conform Hawaii law with Federal Law by including the definitions of "Persons", "Employer", "Duty of Support", "Obligor" and "Obligee" in Section 571-2, Hawaii Revised Statutes. The additional terms are necessary to facilitate the work of the courts in relation to child support.

Testimony in support of the bill was received from the Department of Social Services and Housing, the Family Support Division, Department of Corporation Counsel, City and County of Honolulu, and the Senior Judge of the Family Court.

The Family Court recommended, however, that the definition of "Status Offender" be amended by deleting "or abused" on the bill. Hawaii Revised Statutes 571-11(2)(A) is specific to a child who has been neglected educationally and not to one who has been abused.

Your Committees have, therefore, amended this bill by deleting the reference to an abused child.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 265, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 265, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 354 Human Services and Judiciary on H.B. No. 168

The purpose of this bill is: (1) to simplify and clarify the statute pertaining to the registration of a conferred name with the department of health; (2) to provide a means of selecting a surname for a legitimate child when the parents do not agree; and (3) to use the term "surname" in all sections of the Hawaii Revised Statutes pertaining to names on vital records.

Despite a 1980 amendment to Section 574-4 confusion still exists as to what surname a child may have and what surname should be entered on the birth certificate.

The bill provides that the registered surname of a legitimate child may be the child's father's name; for a legitimated child, the child's father's or mother's name; and for an illegitimate child, the child's mother's name; or any other name stipulated by the parent or parents.

The bill provides that if either parent objects to the proposed conferred surname in writing to the hospital or facility where the child was born, or to the department of health before such conferred name is entered into the birth certificate, that section of the birth certificate will remain blank until either the parents agree, or a court of competent jurisdiction specifies what surname would be in the best interest of the child.

The bill also provides that the surname of an adoptive minor child be changed to that of the adoptive parent or parents.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 168, and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 355      Human Services and Judiciary on H.B. No. 274

The purpose of this bill is to allow the department of social services and housing to obtain court review of an adverse decision rendered by one of its hearing officers at an administrative hearing.

In the case of Eric G., the Hawaii Supreme Court ruled that, unless there is explicit statutory language to authorize it, the department cannot appeal the hearing officer's decision. Your Committees believe that this is an inequity and that either side should be permitted to appeal an adverse decision to a court of competent jurisdiction.

Your Committee on Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 274 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Jones.

SCRep. 356      Human Services and Judiciary on H.B. No. 264

The purpose of this bill is to amend Hawaii's law on child support enforcement to fully comply with the mandates of Public Law 98-378 which was enacted by Congress in August, 1984. The federal law mandates states to establish a reciprocal enforcement of support mechanism with other states to ensure that support owed to children and their custodial parents will be collected without regard to the residence of the absent parent.

This bill would also enable the court to enforce a support order through wage withholding where the support order is entered in one state but the absent parent is employed in another state.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 264, and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 357      Transportation and Judiciary on H.B. No. 830

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

Your Committees received testimony from the Honolulu Police Department favoring this bill. Present law prohibits the impersonation of a police officer, but proof of impersonation is difficult. With the increase in the incidence of police impersonators, it is important to be able to prosecute persons who have their vehicles set up to appear to be police vehicles but who are not in the act of impersonating a police officer.

Your Committees are concerned about persons posing as police officers who gain advantage against their potential victims, law-abiding citizens who mistake the impersonator for a police officer and accede to the commands or perceived commands of the police impersonator. Your Committees received testimony that from February 4, 1982 through October 11, 1984 there were 120 reported cases of persons impersonating public servants. Fourteen of these cases involved motor vehicle small lights and nine involved portable lights.

Your Committees have amended Section 1, page 1, line 4 of the bill to add the

word "Blue" to the title of the new section in Chapter 29, Hawaii Revised Statutes, proposed by this bill. This will conform the language of the title of the proposed new section to its content.

Your Committees have amended the bill to clarify those persons who shall be in violation of this bill by adding the words, "The registered owner or the operator of any motor vehicle, motorcycle, motor scooter, bicycle, or moped in" in Section 1 of this bill at the beginning of subsection (b) of the new H.R.S. section proposed by this bill.

Your Committees on Transportation and Judiciary are in accord with the intent and purpose of H.B. No. 830, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 830, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 358      Corrections and Rehabilitation on H.R. No. 80

The purpose of this resolution is to require the Director of Social Services and Housing, the Executive Director of Intake Service Centers, and the Administrative Director of Courts to present to the Legislature a report and recommendations concerning the role and responsibilities of the Intake Service Centers.

Your Committee finds that initially the Intake Service Centers (ISC) were created by the Hawaii Correctional Master Plan (HCMP) to coordinate criminal justice activities, as well as to perform correctional and traditionally non-correctional functions. However, there has since been a distinct change in public attitude from that of rehabilitation of convicted criminals to the present attitude of emphasizing punishment. Furthermore, the Intake Service Centers have encountered bureaucratic resistance over the years in their attempt to coordinate criminal justice activities. As a consequence, it has been determined by the Legislative Reference Bureau that having the Intake Service Centers as the system's coordinators may no longer be feasible, and that a firm decision must be made by the Legislature to determine whether or not the Intake Service Centers should continue in existence.

Accordingly, your Committee finds that it is imperative that the roles and responsibilities of the Intake Service Centers be reviewed and redefined so as to create a criminal justice system which is synergistic.

Finally, in order to fully accomplish the purposes of this study, your Committee has amended this resolution by deleting the last "WHEREAS" clause; and by amending the "BE IT RESOLVED" clause to require that a report be submitted to the Legislature at least twenty days prior to the convening of the 1986 session, rather than "to the House Committee on Corrections/Rehabilitation prior to the adjournment of the 1985 session".

Your Committee on Corrections and Rehabilitation concurs with the intent and purpose of H.R. No. 80, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 80, H.D. 1.

Signed by all members of the Committee.

SCRep. 359      Human Services and Health on H.R. No. 29

The purpose of this resolution is to express legislative support for programs such as Senior Companion and Respite Services which enable so-called gap group elderly to maintain themselves in the community without seeking medicaid assistance. Programs such as Nursing Home Without Walls, Personal Care, Adult Day Care and Day Health programs also delay institutionalization for many in our elderly population. Queen's Foster Family and Waimanu Community-based services for the mentally retarded are continually demonstrating that community-based care for medicaid recipients is considerably less expensive than comparable institutional care.

The Department of Social Services and Housing, the Executive Office on Aging, Kokua Council for Senior Citizens, the State Planning Council on Developmental Disabilities, Hawaii Centers for Independent Living and several individuals testified in strong support of the resolution.

Your Committees believe that community and home-based services have the advantages of lower costs, avoid outlays of large amounts of money for capital development and maintenance and are responsive to changing community needs as they can be more readily adjusted, expanded or reduced as the elderly population changes.

Your Committees on Human Services and Health concur with the intent and purpose of H.R. No. 29 and recommend its adoption.

Signed by all members of the Committees except Representatives Cachola, Hirono, Morgado and Shito.

SCRep. 360      Agriculture on H.R. No. 39

The purpose of this resolution is to request the Congress of the United States to include sugar price support provisions in its 1985 Farm Bill.

Your Committee finds that the sugar industry is an integral element in the economic, social, and environmental health of the State. Cessation of the sugar industry, and the many economic activities directly dependent on the industry, would produce an economic and social disaster.

Your Committee also finds that without the continuation of sugar support provisions in the 1985 Farm Bill, Hawaii's sugar industry would face numerous and potentially insurmountable problems. Such a situation may likely signal the beginning of the end for Hawaii's sugar industry.

Your Committee also finds that sugar is a widely produced commodity and that almost every producing nation has highly protective market mechanisms to support its domestic industry, including costly subsidization. As a result of the existing price supports for sugar, and the county-by-county import quotas imposed by the United States Department of Agriculture, however, the United States has been able to absorb all sugar produced in this country at a fair market price. The existing support program, therefore, has cost the taxpayers nothing.

Your Committee is of the opinion that the support provided domestic sugar in the current Farm Bill has worked well and is in the best interests of agricultural producers and consumers throughout the United States. Continuation of this support program, therefore, is both warranted and desired.

Your Committee on Agriculture concurs with the intent and purpose of H.R. No. 39 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 361      Agriculture on H.C.R. No. 6

The purpose of this concurrent resolution is to request the Congress of the United States to include sugar price support provisions in its 1985 Farm Bill.

Your Committee finds that the sugar industry is an integral element in the economic, social, and environmental health of the State. Cessation of the sugar industry, and the many economic activities directly dependent on the industry, would produce an economic and social disaster.

Your Committee also finds that without the continuation of sugar support provisions in the 1985 Farm Bill, Hawaii's sugar industry would face numerous and potentially insurmountable problems. Such a situation may likely signal the beginning of the end for Hawaii's sugar industry.

Your Committee also finds that sugar is a widely produced commodity and that almost every producing nation has highly protective market mechanisms to support its domestic industry, including costly subsidization. As a result of the existing price supports for sugar, and the county-by-county import quotas imposed by the United States Department of Agriculture, however, the United States has been able to absorb all sugar produced in this country at a fair market price. The existing support program, therefore, has cost the taxpayers nothing.

Your Committee is of the opinion that the support provided domestic sugar in the current Farm Bill has worked well and is in the best interests of agricultural

producers and consumers throughout the United States. Continuation of this support program, therefore, is both warranted and desired.

Your Committee on Agriculture concurs with the intent and purpose of H.C.R. No. 6 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 362 Human Services on H.R. No. 31

The purpose of this resolution is to request the Governor to designate the Executive Office on Aging the lead agency for short and long-range planning functions relating to the long-term care of the elderly.

Your Committee finds that certain problems exist in the long-term care of the elderly including: 1) fragmentation and lack of coordination of the long-term service delivery mechanism; 2) duplicative functions and fragmentation of services related to division of administrative responsibilities and functions; 3) uneven development of the spectrum of community based services and bias towards institutional care; 4) difficulty in receipt of long-term care services to persons above the means-eligibility criteria of public assistance programs; and 5) inappropriate institutional placements. Your Committee finds that the Executive Office on Aging has the requisite experience and expertise to serve as the lead agency for these functions and will be able to bring the various types of service under one agency thereby promoting coordination of effort and preventing many of the problems now experienced.

Your Committee on Human Services concurs with the intent and purpose of H.R. No. 31 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 363 Human Services on H.C.R. No. 29

The purpose of this concurrent resolution is to request the Governor to designate the Executive Office on Aging the lead agency for short and long-range planning functions relating to the long-term care of the elderly.

Your Committee finds that certain problems exist in the long-term care of the elderly including: 1) fragmentation and lack of coordination of the long-term service delivery mechanism; 2) duplicative functions and fragmentation of services related to division of administrative responsibilities and functions; 3) uneven development of the spectrum of community based services and bias towards institutional care; 4) difficulty in receipt of long-term care services to persons above the means-eligibility criteria of public assistance programs; and 5) inappropriate institutional placements. Your Committee finds that the Executive Office on Aging has the requisite experience and expertise to serve as the lead agency for these functions and will be able to bring the various types of service under one agency thereby promoting coordination of effort and preventing many of the problems now experienced.

Your Committee on Human Services concurs with the intent and purpose of H.C.R. No. 29 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 364 Public Employment and Government Operations on H.B. No. 522

The purpose of this bill is to correct a drafting error of H.B. No. 1749-84, H.D. 1, S.D. 1, which became Act 85, SLH 1984. Act 85 sought to eliminate the mandatory retirement age for employment in the private and public sectors.

Act 85 as it presently reads operates to exempt terms and conditions of the various plans from Part I Discriminatory Practices only if they are based on age. The intent of H.B. No. 1749-84 was to exempt the operation of all terms and conditions of the various plans and not merely based on age.

Your Committee has amended this bill by correcting drafting errors without affecting substance.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 522, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 522, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Medeiros and Tungpalan.

SCRep. 365      Legislative Management on H.B. No. 96

The purpose of this bill is to establish an appointed advisory committee comprised of five members of the senate, five members of the house, and one member of each county council that will study overlapping state and county functions and make recommendations to consolidate them in an efficient and cost-effective manner.

Under present laws the state and county governments have duplicated government services for parks, highways, land use planning, housing programs, water systems, protection of witnesses, and compensation for victims of crime. The confusion and inconsistencies can be identified in jurisdictional lines.

Your Committees are in agreement that the overlapping state and county functions are in need of review and it would be beneficial to the citizens of this State to deliver government services in an efficient and cost-effective manner.

Your Committee on Legislative Management agrees that the Report of the Ninth State Legislature, State of Hawaii, of the Commission on Organization of Government in 1977 should be a base from which to begin and update the study because of changing conditions.

Your Committee on Legislative Management agrees that the mandate to prepare the interim and final reports and present them to the legislature prior to the convening of the sessions in 1986 and 1987 respectively can be met and are reasonable.

The following individuals submitted testimony in favor of the bill: Steve Yamashiro, Chairman County Council of Hawaii; Mayor Dante Carpenter; Mayor Frank Fasi; Mayor Hannibal Tavares; Councilperson Jo Ann Yukimura and Georgia Miller.

Your Committee on Legislative Management decided against an amendment to include representatives from the county mayors and Governor because of the legislative intent of this bill to keep it as an advisory committee to the policy setting bodies of the State and Counties and to effectuate a rational state plan of cost-effective and efficient government services.

Your Committee on Legislative Management is in accord with the intent and purpose of H.B. No. 96 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 366      Planning, Energy and Environmental Protection on H.B. No. 1414

The purpose of this bill is to partially offset the negative environmental and economic effects that geothermal development may have on residents in the immediate neighborhood by granting an unspecified amount of income tax credit to affected resident taxpayers.

Your Committee received testimony from the Department of Taxation in opposition to this measure based on the argument that such special tax preferences increase the complexity of the tax structure and place added administrative burden on the Department.

While your Committee acknowledges the negative impacts that this bill may have on the State's tax structure, your Committee also believes that residents who bear the added burden of having geothermal activity take place in their neighborhood should be compensated.

Your Committee is in general agreement with the oral testimony presented by State Representative Andrew Levin and has, therefore, amended the bill as



follows: (1) by inserting the words "one" and "radius" to line 6 of page 1, thereby establishing that taxpayers residing within one mile radius of a geothermal site may claim this tax credit; and (2) by inserting the word "fifty" to line 12 of page 1, thereby clarifying the amount of tax credit to be claimed by these residents as fifty per cent of the amount paid by these resident taxpayers for electrical power to a utility company during that taxable year.

Your Committee has also made technical, non-substantive amendments to this bill including: (1) the replacement of the word "miles" with "mile" on line 6 of page 1 to conform to the insertion of the word "one" to this bill as described above; and (2) the deletion of the phrase "which the site was in use for the mining of geothermal" beginning on line 16 on page 1 and continuing on line 1 of page 2 to correct a typographical error.

Your Committee on Planning, Energy, and Environmental Protection is in accord with the intent and purpose of H.B. No. 1414, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1414, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Pfeil and Tam.

SCRep. 367      Finance on H.B. No. 1131

The purpose of this bill is to clarify the qualifying standards for any organization applying for a grant, subsidy, or purchase of service agreement.

H.B. No. 1131 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may properly be held on the substantive provisions. Without the amendments providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short-form bill may not be helpful, and a notice thereof could be less meaningful.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1131, as amended herein, and recommends that it be recommitted to the Committee on Finance, for the purpose of holding a public hearing hereon, in the form attached hereto as H.B. No. 1131, H.D. 1.

Signed by all members of the Committee.

SCRep. 368      Education and Consumer Protection and Commerce on H.B. No. 152

The purpose of this bill is to repeal Chapter 302, Hawaii Revised Statutes, to eliminate licensing requirements of out-of-state agents of private schools and correspondence schools.

Under Chapter 302, HRS, agents representing any out-of-state private school or correspondence school below the college level must be licensed by the Department of Education and be covered by a surety bond in the amount of \$2,000. In addition, agents must qualify for licensing and abide by rules set forth by this chapter. Presently, there are six licensed agents in the State.

Your Committees received testimony from the Department of Education in support of this bill and concur that the current practice of licensing out-of-state agents should be eliminated. The small number of agents (six) does not warrant separate statutory regulations. Complaints alleging unfair and deceptive practices may then be pursued through the Office of Consumer Protection.

Your Committees on Education and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 152 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 369      Corrections and Rehabilitation and Human Services on H.B. No.  
1135 (Majority)

The purpose of this bill is to amend Section 352-2, HRS, to provide a policy and purpose statement for the Hawaii Youth Correctional Facility (HYCF) which is to harmonize the sometimes conflicting requirements of public safety, secure placement, and individualized services for law violators in the custody and care of the Director of the Department of Social Services and Housing.

This bill specifies that the HYCF is responsible for the incarceration, punishment, institutional care and provision of services to reintegrate children committed by the courts. This bill also requires the Director of the Department of Social Services and Housing to provide opportunities for: intelligence and aptitude evaluation, psychological testing and counseling, pre-vocational and vocational training, and employment counseling to all persons committed to the facilities; counseling for the committed person's family; and coordination of services provided by other departments and agencies to the facilities.

Your Committees received testimony from the Juvenile Justice Inter-Agency Board whose mandate is to promote the Juvenile Justice Plan. The Board was in agreement with this measure and mentioned that this amendment would "clearly state the purpose of the facilities so that any new construction would be undertaken with the goal of achieving this purpose programmatically". Testimony from the Department of Social Services and Housing (DSSH) also indicated support of this measure because it describes the services are being provided to the wards at the HYCF. The bill will also assist in the development of long range goals and programs for the facility.

Your Committees are in agreement and find that the enactment of this measure would further clarify the Legislature's intent with regard to the provision of Chapter 352, HRS.

Your Committees on Corrections and Rehabilitation and Human Services are in accord with the intent and purpose of H.B. No. 1135 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.  
(Representative Morgado did not concur.)

SCRep. 370      Corrections and Rehabilitation on H.B. No. 683

The purpose of this bill is to set a time limitation on when a committed person can be placed on a furlough program to no sooner than the last eighteen months preceding the committed person's parole eligibility date. The bill would also allow the granting of special out-of-state furloughs to committed persons who are not already otherwise furloughed when death or critical illness or injury to the committed person's immediate family occurs.

This bill would amend the present law which allows the Department of Social Services and Housing to place an inmate on a program furlough or community release type program at any time prior to the expiration of the minimum term. Although your Committee recognizes and accepts rehabilitative aspects of furlough programming, the Committee also finds that the granting of furloughs can be incompatible with the "just punishment" model of clear and definite prison terms. For example, if the Hawaii Paroling Authority imposes a minimum five year prison term on a defendant based on the severity of the crime, the Department of Social Services and Housing has the discretion under present law to place that individual on furlough after having served only a few months of his minimum term. Although your Committee recognizes that this situation occurs infrequently, the potential for abuse exists under current law. In fact, your Committee was informed during hearings on this bill of at least one instance in which a convicted murderer serving a lengthy prison term for a heinous crime was furloughed within a few months of his prison term.

While your Committee is in agreement with the intent of the bill to impose standards on the granting of furloughs, your Committee believes that the proposed eighteen month time limitation would be unworkable when applied to minimum sentences of eighteen months or less, and would unduly restrict the discretion of the Department of Social Services and Housing to rehabilitate an inmate through furlough programming.

Your Committee is also concerned that the bill as presently drafted could preclude certain inmates from submitting applications to the Hawaii Paroling Authority for a reduction in their minimum terms of imprisonment. A representative from the Hawaii Paroling Authority testified that, in limited instances, it has required the placement of inmates in a furlough program before applications for reduction in the minimum sentences could be considered. If this bill is passed in its present form, inmates who may be worthy candidates for reduced minimum sentences based on their records would be forced to serve the bulk of their sentences at which time the submittal of applications for reduction of minimum prison terms would be meaningless.

Your Committee is also concerned that the bill would permit special out-of-state furloughs for inmates who are not otherwise eligible for furlough. The Department of Social Services and Housing testified in opposition to this aspect of the bill indicating that furloughing these types of inmates would unduly jeopardize public safety by permitting special out-of-state furloughs to "medium" or "high" security type inmates who present security problems. Further, the Department pointed out that the current practice is to transport these types of inmates under the escort and supervision of correctional officers. Therefore, a mechanism is already in place for inmates who present security risks to be escorted outside of the facility to attend to family funerals.

Your Committee also believes that it would not be necessary to restrict the discretion of the Department to furlough misdemeanants or felons serving a prison term of one year or less as a condition of probation because of the non-serious nature of their crimes.

Your Committee has, therefore, amended the bill to provide for the following:

a. Deletion of the phrase "within the eighteen month period preceding the committed person's parole eligibility date" on page 1, lines 4 to 6, and insertion of the phrase "after the committed person has served at least two-thirds of his minimum term of imprisonment as mandated by law or as set by the paroling authority."

b. Insertion of a new sentence beginning on page 1, line 11, and ending on page 2, line 4, clarifying the discretionary powers of the director or his agent in granting a furlough to a committed person prior to the time limitations as stated in this section.

c. Insertion of a new paragraph on page 2, lines 5 to 9, providing: "any person convicted of a misdemeanor or a felony, who is imprisoned for a term of one year or less, pursuant to the person's conditions of probation imposed under section 706-624, may be exempted from the time limitations of this section by the director or his authorized agent."

Your Committee has further amended this bill to correct technical drafting errors.

Your Committee on Corrections and Rehabilitation is in accord with the intent and purpose of H.B. No. 683, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 683, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 371      Judiciary on H.B. No. 28

The purpose of this bill is to amend the Hawaii rules of evidence by adding a new rule which would permit the use of videotaping testimony of a child victim in the prosecution of a child abuse or a sexual offense case.

Presently, there is no provision in the rules of evidence which would allow the use of videotaping of a child's testimony, and therefore, relieve the child of testifying in court.

For a child victim, testifying can be a traumatic experience; this bill minimizes the courtroom trauma. A child may be intimidated by the presence of the defendant, by strangers or even by the proceedings itself. In addition, the remoteness in time of the trial from the offense, the relationship of the victim and the de-

fendant, and the effect of having the child relive the details of the offense may make full and accurate testimony in court difficult.

At least twelve states now have statutes authorizing the videotaping of testimony of child victims of sex offenses.

This bill is designed to minimize the potential harm a child victim may suffer from being forced to testify. The bill permits the introduction into evidence of videotaped testimony under three circumstances: (1) where the child is interviewed in a non-adversarial setting prior to trial; (2) at trial, where the child's testimony is taken in a room other than the courtroom and televised by closed circuit equipment to the court and the finder of fact; and (3) where the testimony of the child is taken on videotape and shown later in court.

The rule will be extremely useful in protecting the child from the potentially forbidding setting of a public courtroom. Full cross-examination will be allowed and the trier of fact can observe the child. Direct confrontation between the defendant and the child is restricted to prevent the possibly chilling effect the defendant's presence may present.

Your Committee heard testimony in support of the measure from Victim/Witness Kokua Services, Honolulu Police Department, Sex Abuse Treatment Center, department of social services and housing, and the office of the prosecuting attorney, City and County of Honolulu. All testifiers expressed concern with the multiple interviews, in addition to the testifying at the trial, the child must go through during the course of the prosecution. As a result, the proceedings may serve to further traumatize the child. Videotaping would reduce the number of times the child must relive the incident.

The prosecutor's office expressed a concern that there may be constitutional problems if the defendant is denied the right to confront his accuser. In order to address this concern, your Committee amended the bill to provide under subsection (d) of the rule: that testimony of the child at trial be televised by two-way closed circuit equipment; that the defendant be allowed to view the testimony in the courtroom; and that the court be authorized to supervise the video monitoring. Because of the potential constitutional problem, subsection (e) was deleted by your Committee. Your Committee believes that a defendant's right to confrontation is not absolute and may be modified by a legitimate governmental interest. That interest being that the ends of justice are served and that the well-being of the child is protected.

Your Committee also made other minor non-substantive changes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 28, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 28, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 372      Water, Land Use, Development and Hawaiian Affairs on H.B. No.  
989

The purpose of this bill is to allow the chairperson of the Board of Land and Natural Resources, rather than the Board itself, to approve the mortgaging of, or creation of a security interest in, any lease, license, permit, or other instrument issued by the Board.

Under present provisions of Section 171-22, Hawaii Revised Statutes, the Board is required to grant such a consent. Your Committee received testimony from the Board in support of this bill. Given the authority to act on consent to mortgage requests, the chairperson of the Board would be able to expedite the process of obtaining consent. The number of consent to mortgage requests averages eight to ten per month, and the bill would help to reduce the workload of the Board itself and, in many instances, permit interest saving on the part of the applicants.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 989 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 373      Water, Land Use, Development and Hawaiian Affairs on H.B. No.  
699

The purpose of this bill is to amend Section 209(1), Hawaiian Homes Commission Act, 1920, as amended, by allowing the Department of Hawaiian Home Lands to pay, upon the death of a lessee, the net proceeds of the lease to a surviving spouse and children who are not qualified to succeed to the homestead lease.

Under present statute, the Department is not authorized to pay-out net proceeds to a non-qualified spouse and children of a deceased lessee. The payment of net proceeds is permitted only upon the cancellation or surrender of a leasehold interest. In the case when a lessee dies, leaving a non-qualified spouse or child, and there are no qualified relatives to succeed, the lease is cancelled and pay-out of the net proceeds made. However, in the case when the lessee dies, leaving a non-qualified spouse or child, and when there are qualified relatives to succeed to the homestead lease, no such payment is authorized, and the successor receives the entire value of the homestead interest.

According to testimony from the Department of Hawaiian Home Lands, this administration bill would protect the rights of a deceased lessee's surviving non-qualified spouse and children to receive the value of net proceeds of leasehold improvements. The pay-out would be made from the home loan fund and further considered a cash advance to the designated successor.

Your Committee finds that H.B. No. 699 is similar to last year's H.B. No. 2194-84, H.D. 1, S.D. 1, which was vetoed by the Governor because of a legal technicality. H.B. No. 699 rectifies the technicality by including SECTION 3 which allows for the validity of any amendments to the Hawaiian Homes Commission Act, 1920, as amended, that may be pending before the U.S. Congress or that may be acted upon by the Congress before or after the effective date of enactment of this bill.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 699 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 374      Water, Land Use, Development and Hawaiian Affairs on H.B. No.  
698

The purpose of this bill is to amend Section 207(a) of the Hawaiian Homes Commission Act, 1920, as amended, by allowing the Department of Hawaiian Home Lands to award leases less than the minimum acreage limits which the law now sets for designated pastoral lands.

According to testimony from the Department of Hawaiian Home Lands, there are now 69 pastoral leases in the State, 59 of which are on the Big Island of Hawaii. These 69 leases comprise approximately 15,000 acres. There are also approximately 540 applicants statewide for pastoral leases, of which 445 are for the Island of Hawaii. Given the present statute, the Department would have to provide for a minimum of 44,500 acres of first-class pastoral lands, or 111,250 acres of second-class pastoral lands, on the Big Island in order to accommodate these applicants on the pastoral waiting list. However, the Department owns 107,450 acres on Hawaii, of which over 19,000 acres are already in homestead use, and not all of the remaining lands are pastoral. Moreover, the estimated cost for site improvements, such as roads and domestic water, by the Department would reach \$35,000,000 to deliver homesteads to the 540 eligible applicants on the pastoral waiting list.

Your Committee is in agreement that this administration bill, in making it possible for the Department to award pastoral lots of smaller sizes than permitted now, should be approved for the following reasons:

(1) The site improvement cost per unit would be less, allowing more awards for the same amount of funding;

(2) Because many existing pastoral leases are too large for an individual ranch operation, thereby forcing many homesteaders to enter into grazing agreements

with other ranchers, the reduced size of pastoral lots would allow homesteaders to be more independent in land use;

(3) The concept of higher densities will allow the development of more pastoral lots on a given amount of land; and

(4) Pastoral lot lessees would be able to use intensive ranching techniques to increase carrying capacity of a given unit of pasture.

Your Committee is of the opinion that another amendment to this bill would be desirable. Item 2, on page 1, lines 9-10, may raise a question as to whether it is the intent of the bill that the Department be authorized to lease up to 1,000 acres of irrigated pastoral lands. The bill intends merely to remove the minimum acreage now specified by law. Therefore, the following recommended amendment would retain the present statutory ceiling on the maximum acreage that can be awarded in the case of irrigated pastoral lands:

"(2) [not less than one hundred nor] not more than [five] one hundred acres of irrigated pastoral lands and not more than one thousand acres of [first-class] other pastoral lands".

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 698, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 698, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 375      Water, Land Use, Development and Hawaiian Affairs on H.B. No.  
921

The purpose of this bill is to amend Section 206E-14, Hawaii Revised Statutes, by deleting the repurchase price formula and allowing the Hawaii Community Development Authority to consider each project individually, or a portion of each project, and to establish a repurchase price formula based on market considerations such as interest rates, land values, construction costs, and federal tax laws.

Under present statute, speculation in the sale or lease of redevelopment projects by the Authority is to be controlled within the first ten years of the original sale or lease. This assurance is provided in the form of a mandatory repurchase, or "buy back", provision tied to the consumer price index. This bill does not alter this intent.

According to testimony from the Authority, uncertainties occur in the area of financing and federal tax laws, and developers are often forced to rely heavily on long-term returns and present and future tax considerations. The present statute requires the use of a fixed repurchase formula which cannot accommodate these considerations and which may have adverse effects on the Authority's ability to work with private sector participants in achieving redevelopment goals. Your Committee is in agreement that this bill would enable these developers to earn a fair return for their efforts while maintaining a desired curb on potential speculation.

Your Committee is of the opinion that the Authority should be allowed to waive the "buy back" requirement if any of the Authority's redevelopment projects, or a portion of a project, is to be sold at market prices. Therefore, your Committee recommends the following amendment to the bill on page 1, line 14, following the phrase "property within ten years":

provided that this requirement may be waived by the authority if the authority determines that such a waiver will not be contrary to the intent of this section.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 921, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 921, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.



SCRep. 376      Water, Land Use, Development and Hawaiian Affairs on H.B. No.  
957

The purpose of this bill is to amend Section 171-17, Hawaii Revised Statutes, by requiring that the new lease rental rate for a lease of State land be determined nine months prior to the time of reopening and that the lessee be promptly notified of such determination.

Subsection 171-17(d) provides that the rent upon reopening "shall be the rental for the immediately preceding period or the fair market rental at the time of reopening, whichever is the higher". Testimony received by your Committee indicates that the present law almost always increases the rent because the current rent is the minimum allowed when a lease reopening becomes due--and economic conditions are considered only when land values are rising.

Also, the fair market rental is determined by an independent appraiser at the time of reopening. According to testimony from the Department of Land and Natural Resources, delays have occurred in rent reopenings and this bill would prevent such delays by the imposition of a time requirement.

Your Committee is in agreement with the intent of the bill; however, two amendments are proposed:

(1) Page 1, lines 5-7: To delete any reference to "the rental for the immediately preceding period" and "whichever is the higher". Your Committee is of the opinion that any rent determined on a basis other than a fair market rental is inherently an unfair rent.

(2) Page 1, line 7: To change the time requirement from "at the time of reopening", not to "nine months prior to the time of reopening", but to "at least six months prior to the time of reopening". Your Committee is of the opinion that a six-month minimum is more realistic than a rigid nine-month requirement in accommodating legitimate delays.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 957, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 957, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 377      Water, Land Use, Development and Hawaiian Affairs on H.B. No.  
700

The purpose of this bill is to amend two sections of the Hawaiian Homes Commission Act, 1920, as amended:

(1) Section 208, by permitting a lessee to mortgage a homestead with a private bank, financial institution, or any other investor, provided that the mortgage loan is insured or guaranteed by a federal agency authorized to do so; and

(2) Section 213, by allowing the Department of Hawaiian Home Lands to use the Hawaiian home trust fund to receive and account for moneys deposited and held as a reserve for loans insured or guaranteed by a federal agency.

Under present statute, a lessee is not permitted to mortgage or pledge the lessee's interest in a homestead lease, although the lessee is allowed to transfer the lease to another native Hawaiian. According to testimony from the Department of Hawaiian Home Lands, the present statute restricts it from accelerating its award of lands to qualified native Hawaiians unless loan fund or guarantee authorizations are provided. Your Committee is in agreement that this administration bill would enable the Department in meeting conditions required for participation in the mortgage insurance or guarantee programs of the federal Housing and Urban Development office. Potential lessees would then be able to receive funds and other financial assistance for homesteading purposes.

Your Committee, however, is of the opinion that the intent and purpose of this bill may be strengthened with two recommended changes:

(1) Page 3, lines 12-15: To delete the sentence, following the phrase "freely

assignable", in its entirety. Your Committee finds that this amendment to the bill is to correct an inadvertent drafting error. As the Department concerned testified:

"The reason [for the amendment] is that security for loans made under the HUD program lies in the loan guarantee rather than the leasehold interest itself. In the event of a default, HUD will repay the lender and the Department will reimburse HUD through the reserve fund established for this purpose."

(2) Page 3, following line 16: To insert a second paragraph to clarify subsection (6) in the following manner:

"Further, notwithstanding the authorized purposes of loan limitations imposed under section 214 of this Act and the authorized loan amount limitations imposed under section 215 of this Act, loans made by lending institutions as in this paragraph (6) provided, insured or guaranteed by the Federal Housing Administration, Veterans Administration, or any other federal agency and their respective successors and assigns, may be for such purposes and in such amounts, not to exceed the maximum insurable limits, together with such assistance payments and other fees, as established under Section 421 of the Housing and Urban Rural Recovery Act of 1983 which amended Title II of the National Housing Act of 1934 by adding Section 247, and its implementing regulations, to permit the Secretary of Housing and Urban Development (HUD) to insure loans secured by a mortgage executed by the homestead lessee covering a homestead lease issued under section 207(a) of this Act and upon which there is located a one to four family single family residence."

Your Committee finds that this amendment, proposed by the Department, is necessary to clarify the intent of the bill that "the loans and loan amount limits shall be as provided for by the federal programs" mentioned in the amendment made above.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 700, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 700, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 378 Education and Judiciary on H.B. No. 697

The purpose of this bill is to require the Board of Education to adopt rules to require reporting by school officials of certain criminal offenses occurring on school property during school hours or during department supervised activities. This bill also provides immunity to school officials involved in making such reports in good faith.

Your Committees heard testimony in favor of this bill from representatives from the Department of Education, Hawaii State Teachers Association, and the Honolulu Department of the Prosecuting Attorney.

Your Committees are in agreement that a safe and secure school environment is a necessary prerequisite for enhancing the educational opportunities afforded by the public schools. This bill will help to promote such an environment by its reporting requirements. It will also encourage such reporting by protecting school officials from civil or criminal liability in making good faith reports.

Your Committees made the following amendments to this bill: (1) firearms, dangerous weapons, and harmful drugs were added to the list of offenses due to their serious nature; (2) a statement was added to include attempts to commit the offenses listed in Section 296-71(1); HRS, (3) enumeration of the criminal offenses was deleted and general language was substituted to avoid the problem of correcting Section 296-71, HRS, should the State's criminal laws be amended in the future; and (4) the term "officers and employees" in Section 296-71, HRS, was changed to read "school officials" to be consistent with the same term used in Section 296-72, HRS. The intention of the term "school officials" is to mean any officer or employee of the Department of Education.

Your Committees have further amended this bill to correct technical drafting errors.

Your Committees on Education and Judiciary are in accord with the intent and purpose of H.B. No. 697, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 697, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 379      Consumer Protection and Commerce and Judiciary on H.B. No. 570

The purpose of this bill is to amend Chapter 490, Hawaii Revised Statutes, to provide for punitive damages against persons writing "bad checks".

Your Committees received favorable testimony from the Department of the Prosecuting Attorney of the City and County of Honolulu, the Hawaii Food Industry Association, the National Federation of Independent Business and the Hawaii Business League.

The Department testified that this bill would have the effect of encouraging more settlement between writers of bad checks and payees, which would reduce the number of bad check cases currently being referred to authorities for prosecution.

The National Federation testified that nationwide estimates amount to \$5 million a year in losses for small businesses as a result of bad checks. Also, rough estimates from the Honolulu Police Department show that approximately 6,860 bad checks were written over the past two years.

Your Committees, upon further consideration, have made the following amendments:

1. On page 1, line 13, the word "who" has been deleted;
2. On page 1, line 14, "thirty" has been deleted and replaced with "ten";
3. On page 2, after the end of line 2, new additional language has been added.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 570, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 570, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 380      Consumer Protection and Commerce on H.B. No. 1050

The purpose of this bill is to amend section 467-14, Hawaii Revised Statutes, to allow the Real Estate Commission to revoke any license or suspend the use of a license if the licensee converts other people's monies for his/or her own use.

Your Committee received favorable testimony from the Real Estate Commission and the Hawaii Association of Realtors. The Association testified that providing the Real Estate Commission with additional statutory authority would protect consumers by prohibiting licensees from utilizing clients' funds for their own use.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1050 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 381      Judiciary on H.B. No. 173

The purpose of this bill is to add and delete controlled substances from the present schedules to conform with the federal law and to make minor changes to the Uniform Controlled Substance Act, Chapter 329, Hawaii Revised Statutes.

The Department of Health, Honolulu Police Department, Hawaii Pharmaceutical Association, and the Office of the Prosecuting Attorney presented testimony in

favor of updating schedules of controlled substances in accordance with the Federal Register and clarifying the language regarding synthetic cocaine.

Your Committee is in agreement with all above-mentioned testifiers that the schedules of controlled substances conform with that of federal law as required by Chapter 329 of the Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 173 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 382      Judiciary on H.B. No. 361

The purpose of this bill is to amend Section 286-109, Hawaii Revised Statutes, by citing the chapters of the Hawaii Revised Statutes which for failure to respond to a traffic citation or summons for the violation of any of said chapters, the examiner of drivers may refuse to issue or renew a driver's license or instruction permit and by clarifying that the license or permit will not be reissued or renewed as long as the citations or summons remain delinquent.

Currently, Section 286-109, Hawaii Revised Statutes, does not specify the traffic laws the violation of which would preclude issuance or renewal of a driver's license or instructor's permit.

The Judiciary testified that there are approximately 3,000 traffic cases calendared each month on Oahu. Of these cases, a majority will be required to return to district court at a later date, for payment of a fine. In some instances, the defendant may fail to appear. Thus, each month cases are added to the backlog which remain inactive until the defendant's appearance is secured through a bench warrant. The use of a bench warrant to secure appearance is slow and expensive. Placing a hold on the issuance or renewal of a driver's license or instruction permit would provide a less expensive way to ensure compliance with traffic citations or summons.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 361 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 383      Judiciary on H.B. No. 574

The purpose of this bill is to amend Section 291C-170, H.R.S., to provide for license revocation or suspension for up to thirty days for those convicted of a stopping, standing, or parking violation when a warrant has been issued for the driver's arrest.

Your Committee heard testimony in support of this measure from the Prosecuting Attorney of the City and County of Honolulu and a private citizen.

This bill clarifies and codifies the power of the court to effectively deal with those defendants who abuse the system by ignoring warrants based upon non-moving violations. The court under this measure will have the option of suspending or revoking a license for up to thirty days for certain offenses. It currently only has such recourse for moving violations.

Your Committee on the Judiciary is in accord with the intent and purpose of H.B. No. 574, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 384      Judiciary on H.B. No. 597

The purpose of this bill is to provide that nonpayment of restitution ordered by the court have the same consequences as nonpayment of a court ordered fine.

Your Committee recognizes that restitution is a critical part of our criminal justice system. Through restitution a victim is compensated monetarily for losses and a defendant assessed for his crimes. Unfortunately, restitution which has been ordered by the court is not always paid. The importance of restitution provides justification that nonpayment of restitution be equal to penalties for nonpayment of court ordered fines.

Concern in written testimony was expressed by the Department of Social Services and Housing on provisions calling for imprisonment for nonpayment of restitution. However, it was recognized by your Committee that this penalty is reserved for those whose failure to pay is of a contumacious nature, while serving as a warning to all defendants that the obligation to pay restitution is a serious one.

Furthermore, the measure would afford the prosecuting attorney an opportunity to be heard before revocation of a fine or restitution was ordered by a court. This provision prevents a court from overturning restitution orders based only upon a unilateral request by the defendant.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 597 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 385      Judiciary on H.B. No. 801

The purpose of this bill is to amend Chapter 709, Hawaii Revised Statutes, by redefining the crime of endangering the welfare of a minor.

Presently, a person commits the offense of endangering the welfare of a minor when he knowingly endangers the minor's physical or mental welfare or interferes with any legal duty of care or protection owed such minor.

The bill will repeal the present law and will reclassify the crime into two degrees.

Your Committee heard testimony in support of the bill from Victim/Witness Kokua Services, Honolulu Police Department and the Juvenile Justice Interagency Board.

There has been growing public concern over the reported incidents of physically and sexually abused children. The ability to prosecute persons responsible for abusing children has been hampered at times by inadequate criminal statutes covering this type of conduct. The bill will add a felony offense of endangering the welfare of a minor and further, serve as a deterrent against parents who tend to mistreat their children.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 801, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 386      Judiciary on H.B. No. 317

The purpose of this bill is to establish a three-year statute of limitations for all federal claims brought in state courts where the applicable federal statute does not specify any particular limitation period.

In recent years, litigation in federal courts pertaining to civil rights violations (42 U.S.C. Section 1983) has increased dramatically. Because Congress did not provide for a specific limitation for 1983 claims, the federal courts must use the appropriate state statute of limitations. According to testimony from the Attorney General, the state statute of limitation has not been applied uniformly by federal judges. Several federal district court judges have applied Section 657-11, H.R.S. while another federal district court judge has held that the section unconstitutionally "discriminated" against federal claims. In a recent Ninth Circuit Court of Appeals case, Lai v. City and County of Honolulu, No. 84-1616, the court held that Section 657-11, H.R.S. was not applicable to Section 1983 claims because liability under Section 1983 was not "new" and because it found that the legislature

apparently had not intended Section 657-11 to apply to claims other than those under the Fair Labor Standards Act.

Your Committee finds that the bill does not address all of the concerns that were stated by the Attorney General. The present statute applies only to federal statutes which provide for "an imposition of civil liability or liquidated damages or imposes a new liability or endangers any existing liability." The intended meaning of the phrase is unclear and as interpreted by the Ninth Circuit apparently only intended to apply to claims under the Fair Labor Standards Act.

To clarify the intent of Section 657-11, H.R.S., the bill was amended by your Committee to apply said section to any federal statute which provides for damage or equitable relief and not limit application to only federal statutes which impose a new liability or enlarge an existing liability. Your Committee is of the opinion that the statute of limitations set forth in Section 657-11, H.R.S. is applicable to all federal claims for which no conflicting statute exists.

The bill was further amended to provide a two-year statute of limitation. This period would be more consistent with other Hawaii statutes of limitations than would a three-year period. It would also address the concern that the section "discriminated" against federal claims.

The bill, as amended, will create uniformity in the treatment of state and federal claims.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 317, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 317, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 387      Judiciary on H.B. No. 105

The purpose of this bill is to provide legal recourse to a parent who cannot obtain the consent of the non-custodial parent to the name change of a minor because the absent parent cannot be located and to provide for the acceptance in Hawaii of judicial name change orders from other jurisdictions of the United States.

Under present law, if a minor's custodial parent petitions the Lieutenant Governor to change the minor's name but cannot obtain the consent of the non-custodial parent, the office cannot effectuate the name change.

The Office of the Lieutenant Governor, the State Family Court and the department of health testified in support of this bill. The Lieutenant Governor receives approximately three inquiries a month which involve parents who cannot locate the non-custodial parent and therefore cannot obtain the name change order for the minor child. This bill would authorize the Family Court to grant a change of name to a minor upon proof that effort was made to locate and notify the absent parent and if the Family Court determines the change to be in the best interest of the minor.

In addition, this bill would allow the Registrar of Births to issue a birth certificate bearing the changed name of those persons born in Hawaii who obtain a change of name in another United States jurisdiction. At present, the Registrar cannot issue a certificate in such cases.

Your Committee noted the testimony of the Family Court. It is the intent of the Committee that the Family Court have jurisdiction to determine whether the name change is in the best interest of the minor in situations where the non-custodial parent cannot be located or fails to respond. On page 2, line 5 of the bill, the word "family" was inserted before the word "court" to clarify the Committee's intent.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 105, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 105, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.



## Screp. 388      Judiciary on H.B. No. 333

The purposes of this bill are: (1) to provide authority for the prosecuting attorney to apply to court for an order adding to or modifying the requirements which were previously imposed on a defendant as a condition of probation or suspension of sentence; (2) to add the requirement of a hearing, before the court modifies the requirements which were previously imposed on a defendant as a condition of probation or suspension of sentence; (3) to provide that the prosecuting attorney, probation officer and defendant shall be notified in writing of the hearing and the grounds upon which action is proposed; (4) to provide that the parties notified may appear and submit evidence, but that the court shall not be bound by the rules of evidence except those which pertain to privileges; and (5) to repeal Section 706-627, Hawaii Revised Statutes.

Under present law the statutory provisions dealing with revocation of probation or suspension of sentence and those dealing with modifying or increasing the conditions are unnecessarily fragmented.

Your Committee heard from the judiciary and a prosecuting attorney for the City and County of Honolulu. Both parties testified that it would be inappropriate to repeal Section 706-627(1), Hawaii Revised Statutes, unless Section 706-625 was amended to include revocation of probation or suspension of sentence and that Section 706-627(2) and (3), Hawaii Revised Statutes, should be retained. Your Committee agreed with the testimony presented.

Your Committee finds that the procedure for revocation, modification or addition of further requirements should be identical and that this uniformity would be served by combining portions of Sections 706-625, 706-627 and 706-628.

Your Committee has amended the bill to achieve the desired uniformity in the following particulars: (1) by modifying the title of Section 706-625, Hawaii Revised Statutes, to indicate that the section also includes provisions dealing with revocation of probation and the addition of further requirements; (2) by adding revocation to the courts authority under Section 706-625, Hawaii Revised Statutes; (3) by providing that the defendant has the right to an attorney at a hearing to revoke probation or suspension of sentence or to modify or increase the condition attendant to probation or suspension of sentence; (4) by adding new subsections (c) and (d) to transpose the substance of Section 706-628, Hawaii Revised Statutes, into Section 706-625, Hawaii Revised Statutes; (5) by repealing the proposed definition of "prosecuting attorney" as being unduly restrictive; (6) by retaining Sections 706-627(2) and (3), Hawaii Revised Statutes, with appropriate renumbering and amendment of the title to reflect the retention; and (7) by repealing Section 706-628, Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. 333, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 333, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## Screp. 389      Judiciary on H.B. No. 373

The purpose of this bill is: (1) to designate prostitution as a misdemeanor offense with increased penalties of a \$1000 fine and not more than one year imprisonment; (2) to reclassify the promoting prostitution in various degree offenses; and (3) to include promoting prostitution in the first and second degree in the repeat offender statute.

Under the present law, prostitution is a petty misdemeanor. This bill would increase prostitution to a misdemeanor offense. Presently, promoting prostitution in the first degree is a class B felony, promoting in the second degree is a class C felony and promoting in the third degree is a misdemeanor. The bill calls for making promoting prostitution in the first degree a class A felony, promoting in the second degree a class B felony and a class C felony for promoting in the third degree. In addition, promoting prostitution in the first and second degree would fall under the repeat offender statute, where presently only promoting in the first degree is included.

Your Committee received testimony from the Honolulu Police Department, the

Prosecuting Attorney of the City and County of Honolulu, the Waikiki Improvement Association and the Waikiki Residents Association.

Your Committee feels that upgrading the punishment for the crime of prostitution will have a positive effect on decreasing the volume of prostitution in this State. It is with this in mind that the committee has agreed to the following amendments.

Your Committee has amended the bill to provide for imprisonment of not more than six months rather than the proposed one year. The rationale is to prevent those convicted of prostitution from demanding a jury trial and thus cause unnecessary and expensive congestion of the judicial system. It is a common strategy of those persons accused of prostitution to engage in court delaying tactics and this provision would encourage such activity.

In an effort to not pass counterproductive legislation, your Committee agreed to keep the offense as a petty misdemeanor. This amendment would prevent a demand for a jury trial and in keeping with this, the Committee has provided for the maximum allowable fine of \$500.

The bill was further amended by your Committee to not apply promoting prostitution to the repeat offender statutes of Hawaii Revised Statutes. These provisions should remain confined to the more serious crimes that society holds in particular contempt and those crimes of violence. Furthermore, your Committee agreed to keep the classification of promoting prostitution offenses as prescribed under present law.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 373, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 373, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 390      Judiciary on H.B. No. 460

The purpose of this bill is to allow attorneys to collect fees, costs and expenses in pursuing post-judgment remedies where a judgment debtor fails to voluntarily satisfy the judgment.

Presently, additional costs incurred by the judgment creditor to satisfy a judgment are irreversible.

Mr. Robert Toyofuku testified in support of the bill. He noted that very often a judgment creditor may incur considerable expense and attorney's fees in collecting the judgment. It is not unusual for a judgment creditor to take many months to collect the judgment. The language of the bill provides that the judge may award costs and fees in his discretion. This would be a check against any abuses of a harassing judgment creditor. Mr. Toyofuku suggested that since the bill addresses post-judgment action, the word "attachment" should be deleted from page 2, line 7 of the bill. It was noted that attachment is usually a pre-judgment remedy.

A question was raised whether expenses incurred for the examination of a judgment debtor were included.

Your Committee amended the bill by deleting "attachment" and by inserting "examination of judgment debtor" on page 2, line 7.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 460, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 460, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 391      Judiciary on H.B. No. 603

The purpose of this bill is to correct an apparent misspelling in the gambling statute of Section 712-1224, H.R.S.

This bill clarifies the existing statutes by changing the word "mutual" to "mutuel". It is believed by your Committee that this is the original intent of the Legislature in reference to pari-mutuel gambling schemes.

Your Committee heard testimony in favor of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu.

Your Committee has adopted the recommendations of the prosecuting attorney to amend the bill to further clarify the statute to read "pari-mutuel" rather than just "mutuel".

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 603, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 603, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 392      Judiciary on H.B. No. 326

The purpose of this bill is to amend Section 711-1109, Hawaii Revised Statutes, to include poisoning of any animal in the offense of cruelty to animals and to amend Section 711-1109.3, Hawaii Revised Statutes, to include any animal owned or trained with the intent to fight another animal.

Under the present law, it is not clear whether poisoning of an animal is considered an offense of cruelty to animals. This bill will clarify Section 711-1109(1), Hawaii Revised Statutes, by adding poisoning to the litany of cruel offenses to an animal. The Hawaiian Humane Society testified that there are increasing incidences of intentional paraquat poisoning of animals. Food laid out for animals is doused with paraquat, an odorless poison. Once ingested by the animal, the results are oftentimes fatal.

Section 2 of the bill would amend Section 711-1109.3, Hawaii Revised Statutes, by including in the offense of cruelty to animals, persons who own or train any animal with the intent to fight another animal. The present law limits the offense to a person who owns or trains dogs for dog fighting. According to testimony from the Department of the Prosecuting Attorney, Honolulu Police Department and the Hawaiian Humane Society, this amendment would strengthen the law by including in the offense other animals such as fighting cocks.

To clarify Section 711-1109(1), Hawaii Revised Statutes, your Committee added the word "intentionally" to the states of mind of a person who commits the offense of cruelty to animals. In the original draft of the bill, "intentionally" was included only for the poisoning of an animal.

In addition, the title to Section 711-1109.3, Hawaii Revised Statutes, was amended to reflect the change to "animals".

Your Committee amended the bill by amending the definition of animal under Section 711-1100(5) to exclude human beings. Concern was raised by your Committee that the present definition of animal could be interpreted to include boxers or prizefighters, therefore, a person would be committing the offense of cruelty to animals if he owns or trains a boxer with the intent to fight another boxer. It is not the intent of this Committee to include boxers or prizefighters under Section 711-1109 and 711-1109.3, Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 326, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 326, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 393      Judiciary on H.B. No. 364

The purpose of this bill is to amend (1) Section 586-3(b), H.R.S. to allow an applicant to file a petition on behalf of an incapacitated adult family or household member, and (2) Section 586-4, H.R.S., to authorize the family court to grant a

protective order for the petitioner's immediate family or household members.

Presently, Section 586-3(b), H.R.S., provides that a petition for relief under Chapter 586 may be made by a family or household member on his or her own behalf or on behalf of a minor. Under Section 586-4, H.R.S., a family court judge may grant a temporary restraining order to prevent acts of abuse against children or other relatives of the applicant residing with the applicant.

The Family Court testified in support of both amendments. In support of the amendment to Section 586-3(b), H.R.S., they testified that there are cases where a person must petition the court for the protection of another adult who is unable to do so because of age or infirmity.

The amendment to Section 586-4, H.R.S. is necessary because it would provide protection to other persons besides the children and relatives who are residing with the petitioner. The purpose of Chapter 586 is to protect persons from harm or the threat of harm by another family or household member. In addition to the applicant, protection should also be given to a select group of people who have a significant interest in the matter. There is no purpose to be served by restricting this protection to only the children and relatives of the applicant who are residing with the applicant at a particular time, i.e. the granting of the order.

The term "children and other relatives" was included in the original version of Chapter 585. When this section was revised and recodified as Chapter 586 and references to "family or household members" were inserted, the original phrase "children and other relatives" was carried over. There is no indication that this carry over was intended to restrict the scope of protection. In keeping with the intent of this statute, protection should be afforded to those persons residing with the applicant and also to particular members of the applicant's immediate family.

Your Committee made a technical change to page 1, line 9 of the bill to correct an error in drafting.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 364, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 364, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 394      Water, Land Use, Development and Hawaiian Affairs on H.B. No.  
1490

The purpose of this bill is to amend Section 171-63, Hawaii Revised Statutes, by including leases of public lands in subsection (a).

Subsection 171-63(a) presently allows the Board of Land and Natural Resources to amend or waive the conditions restricting the use of land contained in any conveyance document upon a grantee's or patentee's payment of the difference between the fair market value of the land based upon its restricted use and the fair market value with the restrictive condition amended or waived. The present statute applies only to land that was sold by the Territory or State in fee simple. H.B. No. 1490, H.D. 1, intends to apply the same process as above to leases of public lands.

Your Committee received favorable testimony from the Board of Land and Natural Resources. The uses to which lessees of public lands are required to put these lands to may become outdated over time. Your Committee is in agreement that the amendment of the use restrictions serves the public interest.

Your Committee, however, is of the opinion that three substantive amendments are in order:

(1) Page 1, line 3: To replace the word "lessor" by "lessee". This change corrects an inadvertent error; when read in context "lessor" makes no sense.

(2) Page 1, line 10: To insert the phrase "or lessee" after the word "patentee". This amendment is a technical adjustment to conform to the first amendment above. The words "grantee or patentee" do not encompass "lessee".

(3) Page 1, line 11: To insert the word "annual" just before the second "fair market" phrase. This change is made because lease rents are expressed in terms of annual payments.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1490, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1490, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 395      Water, Land Use, Development and Hawaiian Affairs and Public  
Employment and Government Operations on H.B. No. 455

The purpose of this bill is to amend Section 84-17, Hawaii Revised Statutes, by making public the financial disclosure statements of the trustees of the Office of Hawaiian Affairs (OHA).

Article XIV of the Hawaii State Constitution, as amended in 1979, provides that all elected officers for elective office are required to file public financial disclosures. However, OHA trustees were not included as elected officers required to file public disclosures, and their disclosure statements are not considered public records.

According to testimony from the State Ethics Commission, the failure to include OHA trustees was an oversight and the intent of the bill is to correct this omission. Your Committees also received testimony from the Office of Hawaiian Affairs which has no objection to this bill.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Public Employment and Government Operations are in accord with the intent and purpose of H.B. No. 455 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 396      Housing and Consumer Protection and Commerce on H.B. No. 1353

The purpose of this bill is to amend Chapter 514A, Hawaii Revised Statutes, by substituting the word "unit" or "units" wherever the word "apartment" or "apartments" appears.

Your Committees find that this amendment is a technical, "housekeeping" amendment.

Your Committees on Housing and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 1353 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 397      Consumer Protection and Commerce on H.B. No. 995 (Majority)

The purpose of this bill is to address the problem facing Native Hawaiians who have mastered the art of "lomilomi" and other forms of Hawaiian massage from kupuna but are precluded from becoming licensed massage therapists. This knowledge has been passed on to each generation without the benefit of licenses or statutory recognition. However, because they are unable to meet the present statutory requirements, they must either practice illegally or without due compensation.

Your Committee recognizes the problem and recommends that Native Hawaiians be exempted from the apprenticeship requirements of Chapter 452, Hawaii Revised Statutes. However, Native Hawaiians will still be required to complete the practical and written examinations and conform to the character and health requirements of the Statute.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 995, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 995, H.D. 2, and be placed on the calendar for Third Reading.

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

SCRep. 398      Judiciary on H.B. No. 33

The purpose of this bill is to provide for the possibility of an extended term of imprisonment for certain felony offenses against children under the age of six.

Your Committee received testimony in favor of this bill from the Department of the Prosecuting Attorney and the Honolulu Police Department.

Presently, under subparagraph (5) of Section 706-662, H.R.S., the court may sentence a person to an extended term if he is convicted of a felony against: (1) those over age 60; (2) the blind; (3) paraplegics or; (4) quadraplegics. This law addresses the needs of specific groups of people who cannot protect themselves and also expresses society's contempt for those individuals who commit crimes against persons in these groups.

Your Committee recognizes young children as being another group particularly defenseless to violent acts. Young children are physically incapable of defending themselves and in addition, their emotional development has not yet been completed.

Recognizing these facts, your Committee was in agreement to amend the bill by changing the age from those children under age six to those under age eight. This follows the basic principles of child development. According to Stevens and Berliner in Schultz' *The Sexual Victimology of Youth* (1980), a child between the ages four through six "still depends totally on her [his] family to meet all physical and emotional needs." A period of transition in a child's development occurs between ages six through eleven. At this stage "the child is beginning the gradual shift from total reliance on family to a peer culture," thus the bill as amended, addresses the needs of those children most vulnerable to society, both physically and emotionally.

Further, the Prosecuting Attorney, City and County of Honolulu, testified that at trial even seven year olds have an extremely difficult time verbalizing the acts committed against them and often refuse to do so. The psychological trauma of the trial together with the trauma of the crime itself are devastating.

Your Committee also made several technical, nonsubstantive amendments.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 33, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 33, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 399      Judiciary on H.B. No. 330

The purpose of this bill is to amend Section 712-1270, Hawaii Revised Statutes, by authorizing law enforcement agencies to close down places used to promote gambling, maintain gambling records, or house gambling devices.

The nuisance abatement law presently provides for closing establishments involved in prostitution, displaying indecent matter, and promoting pornography. As a consequence, there is no relief from the problems of illegal gambling. Many illegal gambling operations continue to exist in Hawaii since the present penalties amount to a mere annoyance to their continuing operations.

According to testimony from the Honolulu Police Department and the Waikiki Improvement Association, the law has been effective in closing prostitution operations and the proposed amendment to include gambling should prove effective in curbing illegal gambling activities. The bill should be particularly effective in



closing organized gambling games, cockfighting and video parlors. The Department of the Prosecuting Attorney also testified in support of the bill and further stated that this bill would not affect social gambling.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 330 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 400      Finance on H.B. No. 275

The purpose of this bill is to conform the Hawaii income tax law with the amendments made to the federal Internal Revenue Code during the 1984 calendar year.

The contents of this bill were provided by the Department of Taxation after reviewing all of the federal legislation for the preceding year and as required by section 235-2.3, Hawaii Revised Statutes. Although the federal amendments during the calendar year 1984 were massive with the main Act being the Tax Reform Act of 1984, Public Law 98-369, the result for Hawaii is not great, although revenue positive, as most of the amendments dealt with a tightening of the Code and with administrative matters in taxation.

Some of the major amendments of interest to Hawaii are as follows:

(1) The long-term capital gain holding period for capital assets acquired after June 22, 1984, and before January 1, 1988, is decreased from one year or more to six months or more.

(2) The ability to make contributions to individual retirement accounts after the deadline for filing income taxes due to extensions is terminated. Henceforth, such contributions must be made by the legal date for filing taxes.

(3) For tax years beginning January 1, 1985, and after, gross income includes fringe benefits, unless specifically exempted by statutory provisions such as qualified employee discounts and working condition fringes.

(4) The new law makes any transfer of property between spouses during marriage or between former spouses incident to a divorce nontaxable and clarifies the taxation of and alimony exemptions between divorcees.

(5) In addition the Tax Reform Act tightens the rules relating to golden parachute payments in excess of a base established by the Internal Revenue Code and amends the partnership provisions to close loopholes in certain areas and provide a more uniform method of correctly accounting for income, deductions, and transfer of partnership interests.

(6) The child care credit is retitled as a credit for "expenses for household and dependent care services necessary for gainful employment" and the restriction that the amount of the credit cannot exceed the amount of income tax liability reduced by other credits is deleted.

Finally, the department has recommended splitting section 235-2.3, Hawaii Revised Statutes, into three sections, so that future amendments to this section, which is performed on a yearly basis, will be facilitated.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 275, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 401      Ocean and Marine Resources on H.B. No. 1547

The purpose of this bill is to assist fishermen by increasing the allowable length of bullpen traps from 750 feet to 2,000 feet and by extending the period for leaving the trap in one place from twelve hours to fourteen hours.

Your Committee finds that there is a lack of documented information as to the

impact that bullpen traps have on the fish population. In testimony presented in opposition to this bill, the University of Hawaii's Environmental Center argued that allowing a 170 per cent increase in the length of bullpen traps would result in serious additional depletion of an already exhausted reef fish resource. However, according to several Molokai bullpen fishermen, the traps have not resulted in any depletion of fish over the years.

Your Committee finds that although bullpen traps capture various types of fish and marine life indiscriminately, all except the marketable sized fish are released, thereby promoting the conservation of the resources. Your Committee further finds that the present law seriously restricts bullpen fishermen from pursuing their livelihood, and that there was no scientific basis to limit the length of bullpen traps to 750 feet. At the same time, your Committee is also concerned that safeguards are needed in the laying of nets to allow some fish to avoid capture and replenish the reefs. Accordingly, your Committee has amended the bill by inserting a new subsection (d) making it unlawful for anyone to place bullpen traps closer than 500 feet from shore.

Because your Committee concedes that the proposed figures to regulate bullpen traps are arbitrary, there is a need to establish a more rational basis for these figures over the long term. Therefore, your Committee agrees with the Department of Land and Natural Resources's suggestion that the Department hold public meetings to develop recommendations for better regulating bullpen traps. Your Committee also agrees that the Department should also examine the appropriateness of utilizing the Administrative Rules as the vehicle for regulating bullpen traps instead of the statutes.

Your Committee has also reformatted this bill for the purpose of inserting the new subsection (d).

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 1547, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1547, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 402      Judiciary and Consumer Protection and Commerce on H.B. No. 503

The purpose of this bill is to correct technical errors appearing in various portions of the Hawaii Revised Statutes (hereafter "H.R.S.") which have resulted in inconsistencies, redundancies, unnecessary repetition, and lack of clarity.

This bill proposes the amendment of twenty-nine separate sections of the H.R.S. The proposals originate from the legislative directive contained in section 23G-20, H.R.S., which directs the revisor of statutes to conduct a continual review of the laws of the State for the purpose of removing inconsistencies, redundancies, unnecessary repetitions and otherwise improving their clarity. This bill also makes technical and nonsubstantive amendments throughout the respective sections.

Section 1 amends section 26-9, H.R.S., by deleting reference to the factory built housing advisory board. Act 225, Session Laws of Hawaii (hereafter "S.L.H.") 1983, section 1, repealed section 359L-6, H.R.S., which established a factory built housing advisory board.

Section 2 amends section 91-3(b), H.R.S., by deleting brackets around the word "or". Act 64, S.L.H. 1979, section 1, amended section 91-3, H.R.S., by adding subsection (d). Through an apparent clerical error, subsection (b) of section 91-3 was affected when the second "or" from the language "without prior notice or hearing or upon such abbreviated notice" was omitted from the text of subsection (b). The revisor of statutes, pursuant to statutory authority, corrected this omission by reinserting the second "or". The revisor indicated the change by the use of brackets and a revision note.

Section 3 amends section 187-18, H.R.S., by deleting a reference to part III of chapter 189, H.R.S. Act 79, S.L.H. 1973, section 1, repealed sections 189-31 through 189-35, H.R.S., which constituted part III of chapter 189. A reference to part III of chapter 189 remains in section 187-18, H.R.S., and should be deleted.

Section 4 amends section 226-52, H.R.S., by reinstating the word "federal" in subsection (b). When Act 236, S.L.H. 1984, section 4, made amendments to section 226-52, H.R.S., the word "federal" in the phrase "all proposed federal projects", in section 226-52(b)(3), appears to have been inadvertently deleted.

Your Committees received testimony from the director of planning and economic development that the wording of subsection (b)(3) should be amended to reflect the fact that the state clearinghouse does not review all federal projects but only those federally-assisted and direct federal development projects which are covered under Presidential Executive Order 12372, "Intergovernmental Review of Federal Programs". The director also suggested that reference to A-95 be deleted, inasmuch as Circular A-95 was rescinded in 1982 and replaced with Presidential Executive Order 12372. Your Committees adopted these recommendations and amended section 4 of the bill accordingly.

Section 5 amends section 227-2, H.R.S., by changing "marine affairs coordinator" to "marine affairs advisor". Act 281, S.L.H. 1982, section 1, repealed the office of marine affairs coordinator, chapter 218, H.R.S. Act 247, S.L.H. 1984, section 1, amended section 188E-1, H.R.S., by changing the term "marine affairs coordinator" to "marine affairs advisor". Due to an apparent oversight, the term "marine affairs coordinator" remained in section 227-2, H.R.S.

Section 6 amends section 334-59(e), H.R.S., by changing a reference to section 334-60(b)(2) to 334-60.3. Act 188, S.L.H. 1984, section 2, repealed section 334-60, H.R.S., and added new sections to chapter 334, concerning voluntary and involuntary admission to a psychiatric facility. Former section 334-60(b)(2) covered "Involuntary hospitalization: . . . Initiation of proceeding." That subject is now covered by section 334-60.3, "Initiation of proceeding for involuntary hospitalization."

Section 7 amends section 334-61, H.R.S., by changing a reference to section 334-60(b)(3) to 334-60.4. Act 188, S.L.H. 1984, section 2, repealed section 334-60, H.R.S., and added new sections to chapter 334, concerning voluntary and involuntary admission to a psychiatric facility. Former section 334-60(b)(3) covered "Involuntary hospitalization: . . . Notice; waiver of hearing on petition." That subject is now covered by section 334-60.4, "Notice; waiver of notice; hearing on petition; waiver of hearing on petition for involuntary hospitalization."

Section 8 similarly amends section 334-71, H.R.S., by changing a reference to section 334-60(b)(3) to 334-60.4, for the same reasons as the change made in section 7 of this bill.

Section 9 amends section 334-74, H.R.S., by changing a reference to section 334-60(b) to, collectively, sections 334-60.1 to 334-60.7. Act 188, S.L.H. 1984, section 2, repealed section 334-60, H.R.S., and added new sections to chapter 334, concerning voluntary and involuntary admission to a psychiatric facility. Former section 334-60(b) covered "Involuntary hospitalization." That subject is now covered by sections 334-60.2 to 334-60.7.

Your Committees find that the collectively referenced sections should begin with section 334-60.2 and has amended section 9 of the bill accordingly.

Section 10 amends section 334-76, H.R.S., by changing references to sections 334-60(b)(6) and 334-60(b)(1) to sections 334-60.7 and 334-60.2, respectively. Act 188, S.L.H. 1984, section 2, repealed section 334-60, H.R.S., and added new sections to chapter 334, concerning voluntary and involuntary admission to a psychiatric facility. Former section 334-60(b)(6) covered "Notice of intent to discharge." That subject is now covered by section 334-60.7. Former section 334-60(b)(1) covered "Involuntary hospitalization: Criteria." That subject is now covered by section 334-60.2, "Involuntary hospitalization criteria."

Section 11 conforms section 408-18, H.R.S., to the new terminology and renumbered sections of chapter 476. Act 86, S.L.H. 1984, made extensive amendments to chapter 476, H.R.S., to take effect on July 1, 1985. The title of chapter 476 is to be changed from "Retail Installment Sales" to "Credit Sales". Section 476-1 was amended by substituting new definitions, including the substitutions of "credit sale" for "retail installment sale", "credit sale contract" for "retail installment contract", "credit buyer" for "retail buyer", and "credit seller" for "retail seller".

Section 12 similarly relates to the amendment of chapter 476; H.R.S. Section 437-1.1, H.R.S., is amended to conform to the new terminology of chapter 476 by

adding the definition of "credit sale contract" and deleting the definition of "retail installment contracts".

The numbers before the definitions have been deleted to facilitate future amendments.

Section 13 amends section 442-6(c), H.R.S., by deleting references to "the subjects" contained in section 442-2. Section 442-6(c), H.R.S., contains references to "subjects enumerated" and "subjects mentioned" in section 442-2. Act 240, S.L.H. 1984, section 2, deleted the portion of section 442-2 which included the list of subjects referred to.

Section 14 amends section 453-2, H.R.S., by deleting brackets around a phrase that appears to have been inadvertently omitted during typing. Act 168, S.L.H. 1984, section 7, amended section 453-2, H.R.S., which requires a license to practice medicine or surgery in the State. Through an apparent clerical error, the language "when in actual consultation with a licensed practitioner of this State if the practitioner from another state" was omitted from section 453-2(3) when the bill was typed as Senate Bill No. 1744-84, S.D. 1, H.D. 1, C.D. 1, Twelfth Legislature, 1984, State of Hawaii. The revisor of statutes, pursuant to statutory authority, remedied this error by the use of brackets and a revision note.

Section 15 amends section 465-7, H.R.S., by reinstating four paragraphs that appear to have been inadvertently omitted during typing. Act 142, S.L.H. 1984, section 1, purported to amend section 465-7, H.R.S., by setting forth psychologists' licensing requirements in four enumerated paragraphs. Through an apparent clerical error, these paragraphs were omitted when the bill was typed as House Bill No. 2028-84, H.D. 1, S.D. 1, C.D. 1, Twelfth Legislature, 1984, State of Hawaii. Section 465-7 is amended by reinstating paragraphs (1) to (4) as they appeared in the section prior to the 1984 amendment.

Section 16 amends section 481C-6, H.R.S., for the same reasons as the changes made to other H.R.S. sections by sections 11 and 12 of this bill.

Section 17 amends section 486K-3, H.R.S., by changing a reference to chapter 523 to 523A. Act 37, S.L.H. 1983, repealed chapter 523, H.R.S., "Revised Uniform Disposition of Unclaimed Property Act", and enacted a new chapter entitled "Uniform Unclaimed Property Act", which was subsequently designated chapter 523A, H.R.S.

Section 18 conforms section 490:9-203, H.R.S., to the new title of chapter 476, H.R.S., resulting from Act 86, S.L.H. 1984, which also effected the changes made under sections 11, 12, and 16 of this bill.

Section 19 amends section 502-52, H.R.S., by changing a reference to section 622-23 to section 626-1, rule 901 or 902. Act 164, S.L.H. 1980, section 1, enacted the Hawaii Rules of Evidence, codified as chapter 626, H.R.S. Sections 5, 6, and 7 of Act 164 repealed chapter 622, entitled "Documentary Evidence". Among the sections repealed was section 622-23. The subject of that section is now covered by section 626-1, rules 901 and 902.

Sections 20 through 28 amend the respective H.R.S. sections listed below by changing references to section 523 to 523A, for the same reasons as the change made to another H.R.S. section in section 17 of this bill.

Section 20 - section 507-15, H.R.S.

Section 21 - section 507-65, H.R.S.

Section 22 - section 507-66, H.R.S.

Section 23 - section 531-33, H.R.S.

Section 24 - section 531-34, H.R.S.

Section 25 - section 532-14, H.R.S.

Section 26 - section 560:3-1210, H.R.S.

Section 27 - section 560:3-1212, H.R.S.

Section 28 - section 560:2-1213, H.R.S.

Section 29 amends section 634-36, H.R.S., by deleting the term "the notice". Act 209, S.L.H. 1984, section 4, amended section 634-36, H.R.S., by deleting from the first sentence, language requiring that notice of the service of summons be served upon the defendant. Through an apparent oversight, reference to "the notice" remained in the second sentence of section 634-36.

Your Committees on Judiciary and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 503, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 503, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 403 Finance on H.B. No. 19

The purpose of this bill is to change the submittal date of the program memoranda from the opening day of the legislative session to twenty days before the legislative session begins in every odd-numbered year. This would mean that the program memoranda would be due at the same time as the multi-year program and financial plan, the executive budget, the variance report.

Your Committee finds that changing the submittal date of the program memoranda to coincide with the due date of the multi-year program and financial plan, the executive budget, and the variance report is based on sound rationale. Section 37-70(2) and (3), Hawaii Revised Statutes, require that each program memoranda include (1) a statement of the major program changes being recommended for the budget and planning period and (2) a discussion of emerging conditions, trends, and issues including the actual or potential impact on the State and its programs, as well as possible alternatives for dealing with the specific problems occasioned by the emerging conditions, trends, and issues, respectively.

Your Committee finds that the consideration of the program memoranda by the Legislature is an important step in the formulation of the biennium budget. Further, requiring the submittal of the program memoranda not less than twenty days before the legislature is not totally contrary to the intent of the present law in that paragraph (6) of Section 37-70, Hawaii Revised Statutes, states that "If it is deemed more desirable, the program memoranda and the six-year program and financial plan may be combined into single document containing all the information required for each separate document."

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 19, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 404 Human Services and Health on H.B. No. 434

The purpose of the bill is to specify that care homes and adult boarding homes shall, for the purpose of regulation under a county's life safety code, building code, fire code, or any other ordinance of a similar purpose, be considered single family dwellings if living accommodations are provided for not more than five persons incapable of self preservation because of age, or physical or mental limitations.

Your Committees, while desirous of increasing the number of residents permitted in care homes and adult boarding homes, are likewise concerned about the safety of residents in these homes. To this end and in response to testimony received from the Department of Health and the Honolulu Fire Department, your Committees have amended the bill by providing that of the five residents, no more than two who are incapable of self-preservation shall be allowed.

The Department of Health also testified that more stringent rules for life safety then are provided in county fire codes are necessary for those residents incapable of self preservation. Your Committees have, therefore, further amended the bill by adding language to subsection (b) on page 3 to ensure that the Department's most stringent rules remain in effect.

Your Committees have also made stylistic and technical changes to the bill to provide for greater clarity and consistency.

Your Committees are in accord with the intent and purpose of H.B. No. 434, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. 434, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Cavasso, Hirono, Jones, Kiyabu and Morgado.

SCRep. 405      Consumer Protection and Commerce and Judiciary on H.B. No. 558

The purpose of this bill is to amend section 294-30(a), Hawaii Revised Statutes, by allowing reasonable attorneys' fees and costs to a claimant who has effected a tort recovery, whether by suit or settlement, and is sued by his insurer who is seeking subrogation under section 294-7, Hawaii Revised Statutes.

The Hawaii Supreme Court has repeatedly upheld the stated policy behind the Hawaii no-fault laws of protecting and compensating injured parties. See Walton v. State Farm Mutual Automobile Insurance Company, 55 Haw. 325 (1974). This policy is embodied in section 294-30. The section currently provides that any insured no-fault claimant may be awarded costs and reasonable attorneys' fees in bringing an action against his or her insurance company which denies no-fault benefits.

Your Committees received favorable testimony from the Insurance Division, Department of Commerce and Consumer Affairs and the Hawaii Academy of Plaintiffs' Attorneys (HAPA). HAPA testified that this proposed amendment would allow the court, in its discretion, to award reasonable costs and attorneys' fees in the event the insured no-fault claimant is sued by his or her own no-fault insurance carrier. This amendment furthers the original intent of section 294-30, that an insured no-fault claimant shall be reimbursed for costs and attorneys' fees incurred in conjunction with a lawsuit involving the interpretation of insurance coverage.

Your Committees, upon further consideration, have amended page 1, line 8 of the bill by adding "by or" after the word "brought". Your Committees find that this modification would further effectuate the purposes of this section by allowing the court, in its discretion to award the insured no-fault claimant reasonable costs and attorneys' fees when the insured no-fault claimant's own insurance company files suit against him or her. This modification would allow the court to award reasonable costs and attorneys' fees to the insured no-fault claimant in suits of no-fault coverage disputes, regardless of who happened to file suit first, the insured or the no-fault insurance company.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 558, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 558, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 406      Consumer Protection and Commerce and Judiciary on H.B. No. 223

The purpose of this bill is to revise the securities law to allow greater protection for the investing public. The revisions include authorization to permit the Commissioner of Securities of the Department of Commerce and Consumer Affairs to issue cease and desist orders, allow investors an extended period to void sales made in violation of the securities law, and establish separate civil and criminal penalties with stiffer penalties and a longer statute of limitation.

Your Committees heard testimony from the Department of Commerce and Consumer Affairs, and the Office of the Prosecutor for the City and County of Honolulu which distinguished securities fraud from ordinary property crimes and the far reaching economic and social harm caused by securities fraud. In terms of economic effect, securities fraud is capable of draining millions of dollars from the economy's capital formation market place resulting in impeding new businesses from hiring employees and paying taxes. In terms of the devastating social impact, securities fraud has resulted in leaving the elderly destitute with the loss of life savings and family discord.



After hearing testimony of the millions of dollars taken in recent cases involving Bishop Baldwin and the "container cargo scam" your Committees are in agreement with the bill's purpose of imposing stiffer criminal penalties in an attempt to deter sophisticated schemes from preying on unwary Hawaii investors. Your Committees believe that the imposition of class A, B, and C felony penalties is justified in these types of cases. Also, restitution as a remedy in criminal situations is not a realistic alternative to stiffer criminal penalties when the monies taken have in most cases been spent and the defendants are incapable of repaying the millions of dollars taken from their victims.

In Section 1 of the bill, the Commissioner of Securities would be allowed to issue cease and desist orders against those who violate the securities statutes. This authority would be used when a clear cut violation has taken place or will take place (for example, the Commissioner of Securities may be informed of the proposed publication of an advertisement for a securities offering to be made by an unregistered securities dealer and a cease and desist order could be issued before any unregistered securities are sold). This action would prevent public investors from continuing to invest funds into questionable investments while a violator prepares for a hearing on the matter. This provision is similar to the authority granted in most other states.

When a cease and desist order has been issued, the respondent has the right to a hearing, if a request is made within 30 days of the order. The respondent is granted a hearing within 15 days of notifying the Commissioner. Therefore, the respondent's rights to due process and a speedy hearing are addressed. Also, a receiver or conservator may be appointed if a court of competent jurisdiction deems it necessary to protect the investors.

Sections 2, 3 and 4 of the bill provide extensions to the statute of limitations because of the length of time required to investigate violations. Your Committees heard testimony from the Department of Commerce and Consumer Affairs on changes which may be necessary to clarify these provisions to withstand judicial scrutiny in both civil and criminal situations and has amended the bill accordingly.

Your Committees also agree with the Department of Commerce and Consumer Affairs suggestion of raising the maximum civil penalty to \$100,000 in Section 3 of this bill and has amended the bill accordingly. Your Committees have also amended the bill to correct typographical and grammatical errors.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 223, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 223, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 407      Judiciary on H.B. No. 122

The purpose of this bill is to amend Section 28-11, Hawaii Revised Statutes, to permit investigators from the attorney general's office to review records of any state department, agency, board, commission, authority, or committee or a political subdivision of the State to obtain information necessary for the prosecution of fraud or other crimes.

The attorney general testified that their investigators have been hampered in conducting medicaid fraud investigations because other state agencies have been reluctant or have refused to release information for fear of criminal liability or violation of privacy laws. This bill would allow the investigators to review records necessary to gather information for their medicaid fraud investigations. Similarly, statutory authority has been granted to the department of social services and housing (DSSH) investigators for investigating fraud and other crimes relating to public assistance, locating absent parents, establishing paternity, and obtaining and enforcing support orders.

The State Ethics Commission testified that the bill would have a serious detrimental effect on its functions since its records are by law considered confidential.

Your Committee expressed concern that the bill would give blanket authorization to the attorney general's investigators to investigate fraud and other crimes without any limitation as set forth for DSSH investigators. Since the primary concern

of the attorney general is in the area of medicaid fraud, your Committee amended the bill to limit the investigators to medicaid fraud investigations.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 122, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 122, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 408      Health and Education on H.B. No. 156

The purpose of this bill is to require a child to be adequately immunized against vaccine-preventable diseases in order to attend any school in the State of Hawaii, and to authorize the director of health to suspend provisional entry to schools in the event of an epidemic.

Under present provisions of the law, only a child entering school for the first time can be denied entrance to a school unless the child is properly vaccinated. Until recently, this practice was the only practicable one since the science of vaccination and immunology was not advanced enough to support a requirement that all children be vaccinated before being permitted to enter school. However, because of the development of new vaccines and the increased understanding of the immunologic response of the body to the use of various antigens, it is now scientifically supportable that changes in recommendations of vaccine usage for school-age children can be appropriately made.

The department of health presented testimony in support of this bill and stated that the changes called for by this bill give school and preschool officials the authority to enforce a program which will ensure that all students attending school are well protected against vaccine-preventable diseases.

The bill also provides that provisional entrance to school may be suspended by the department of health when there is danger of an epidemic from any of the communicable diseases for which immunization is required. Presently, the statute merely provides that a child may enter school provisionally upon submission of written proof that the child is in the process of receiving the required immunizations.

Your Committees on Health and Education are in accord with the intent and purpose of H.B. No. 156 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Pfeil.

SCRep. 409      Health and Public Employment and Government Operations on H.B. No. 160

The purpose of this bill is to make changes for purposes of clarity including common parlance substitutions, which are basically housekeeping changes, and to make additional functional clarifications to chapter 326, which relates to Hansen's Disease.

This bill will amend chapter 326, Hawaii Revised Statutes, in the following respects:

1. By law, in 1981, the term Hansen's Disease was substituted for the word "leprosy". To conform with the change and to make changes to suit common parlance, the words "facility", "facilities" and "place" have been substituted for the words "settlement", "settlements" and "receiving station". Also, the phrases "isolation and confinement of persons", and "the care, custody and control of all" have been replaced with more appropriate terms, and the chapter has been made gender neutral.

2. Section 326-1 has been amended to include the phrase "or protect the health of the public" to make the section more appropriately reflect disease prevention program efforts.

3. Section 326-30 has been amended by deleting the phrase "other than

members of the staff" to make the section more restrictive in the making or taking of patient pictures.

4. Sections 326-35, 326-36 and 326-38 have been amended to include functional clarifications in the appointment of the sheriff of Kalaupapa, the effect and intent of which is to provide for a larger pool of interested and qualified candidates.

Your Committees on Health and Public Employment and Government Operations are in accord with the intent and purpose of H.B. No. 160 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 410      Housing on H.B. No. 270

The purpose of this bill is to exempt dwelling units which are financed under a federally-subsidized mortgage program from HHA's "buy-back" provisions.

The Hawaii Housing Authority testified that high mortgage interest rates have been a major factor in preventing many of Hawaii's low- and moderate-income families from purchasing homes of their own. Because financing is such a key element in determining a family's ability to purchase a home, it is imperative for the State to utilize available Federally-subsidized mortgage interest programs to the greatest extent possible.

The United States Farmer's Home Administration (FmHA) provides subsidized mortgage loans to low-income families in rural areas of 10,000 people or less. Under the provisions of the FmHA 502 mortgage program, interest subsidies are provided to lower eligible homebuyers effective interest rates, sometimes to as low as 1%. However, FmHA requires that upon foreclosure, all of its interest subsidy must be recaptured. Because of the HHA's buyback provision, enforcement of this recapture requirement has proven to be a problem. Since the buy-back limits the amount of equity a homebuyer would realize upon the sale or transfer of an HHA sponsored unit during the initial 10 years from loan closing, FmHA may not be able to recapture the full amount of the subsidy. Thus, HHA has not been able to participate in any FmHA programs in recent years, thereby excluding a number of low-income families who would otherwise be eligible to purchase a home. Since FmHA operates only in rural areas, the neighbor islands are particularly impacted by the unavailability of this financing option.

In addition to the FmHA 502 program, the U.S. Department of Housing and Urban Development has a similar mortgage subsidy program, the FHA Section 235 Homeownership Assistance Program. Although the FHA 235 program has been dormant for the past several years, it has recently been reactivated. Like the FmHA 502 program, the FHA 235 program has provisions requiring the recapture of assistance payments.

While your Committee feels that the buy-back provision is necessary and helps to prevent speculation of HHA's lower cost homes, your Committee also feels that these restrictions should be waived for homes financed under federally-subsidized mortgage programs. Because of the large interest subsidies provided through the FmHA 502 and FHA 235 programs, homes can be affordable to those who would not otherwise qualify to purchase a home. Further, the requirement that subsidies be recaptured upon the sale of a unit would be similar to HHA's buy-back provision. The recapture provision in the federally-subsidized mortgages would prevent homebuyers from making windfall profits upon the sale of their units.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 270, and recommends that it pass Second Reading and be placed in the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 411      Housing on H.B. No. 1450

The purpose of this bill is to increase the feasibility of private development of housing under Section 359G-10.5, HRS.

This section allows the Hawaii Housing Authority (HHA) to enter into an agree-

ment with a private developer for the development of a housing project. Under the current statutes, the developer is required to sell at least 60 percent of the units in the project at a sales price affordable to low-income families. This requirement has made the development of projects under this section unfeasible because the developer would be required to subsidize the majority of the units. To date, HHA has not utilized this section in the development of any of its projects.

H.B. 1450, as amended, proposes that at least 20 percent of the units shall be "affordable" units, with the exact percentage being negotiated by the Authority and the developer.

Your Committee received favorable testimony on this bill from the Hawaii Housing Authority, the City and County of Honolulu's Departments of Land Utilization and Housing and Community Development, and the Consumers' Housing Task Force. However, suggestions for amending H.B. No. 1450 were also offered, and based upon these recommendations, your Committee has amended the bill as follows:

1) Page 1, line 9 - the words "between twenty and sixty percent are replaced with "at least twenty percent". This would provide for a minimum percentage of units which have to be "affordable" but would not establish a maximum.

2) Page 1, line 12 - semicolon is placed after the word "authority", with the rest of the sentence being deleted. Your Committee believes that it would not always be practicable to require affordable units in a development to be randomly dispersed horizontally and, if applicable, vertically. In one development proposal submitted to the HHA, for example, the developer had planned to develop one of two high-rise towers specifically for low-income elderly. Although the project was not developed with HHA assistance, this would have been one example in which a horizontal and vertical mix would not have been in the best interest of the tenants, since elderly citizens generally prefer to live among people their own age.

3) Page 2, line 7 - the words "section 359G-9.2;" are deleted and replaced with "sections 359G-9.2, 359G-9.3 and 359G-9.4;" Section 359G-9.3 concerns the owner-occupancy requirement for HHA units and Section 359G-9.4 concerns the effect of amendment or repeal of restrictions on use, sale and transfer of HHA dwelling units.

4) Page 2, lines 8 through 16 - Paragraph (3) is deleted in its entirety. This paragraph is inconsistent with Section 359G-4.1, HRS, which provides HHA with certain exemptive powers.

5) Page 3, lines 3 to 5 - The requirement that HHA adopt rules on standards which relate the degree of significance of regulatory waivers to set aside requirements has been deleted. Your Committee agrees that each project submitted to the Authority with regard to the feasibility of development participation must be reviewed on a case-by-case basis, and that it would not be practical to set forth in the rules what should be provided in terms of regulatory waivers.

Your Committee does, however, strongly believe that standards should be established by HHA related to the degree of significance of regulatory waivers to set-aside requirements. This would provide both housing agencies and developers with a common base of understanding. These standards, which should serve as guidelines for negotiations between housing agencies and project developers, should be established in conjunction with affected county agencies. Your Committee realizes that if county governments are not in agreement with established guidelines, it is possible that housing projects involving regulatory waivers which are objectionable to the county government, will be disapproved by the county council. This would defeat the purpose of liberalizing this section.

6) Page 4 - Section 359G-10.5(c) is amended to conform to Section 359G-4.1(a) and clarifies that exemptions from planning standards are also to be allowed.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 1450, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1450, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 412      Agriculture on H.B. No. 116

The purpose of this bill is to permit the Department of Agriculture to promulgate administrative rules to require grade labeling of agricultural commodities for export.

Your Committee finds that in order to maintain the high standards of the fruit, vegetables, nuts, and coffee exported from our state, it is necessary for the department to adopt appropriate administrative rules for grade labeling of these products.

Your Committee has made one technical, non-substantive amendment to this bill.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 116, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 116, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Tam.

## SCRep. 413      Ocean and Marine Resources on H.B. No. 190

The purpose of this bill is to clarify that every commercial marine licensee, unless exempted, is required to submit a monthly catch report to the Department of Land and Natural Resources and that the department may 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.

The department testified that the existing wording of Section 189-3, of the Hawaii Revised Statutes is unclear, resulting in a recent court decision dismissing a citation issued to a commercial marine licensee, because no profit was gained by the taking of fish. Amending the wording of Section 189-3 will make clear that the intent of this bill is to require that all fish taken shall be reported, regardless of whether a profit was gained.

The department further testified that data from fish catch reports is valuable to the department for monitoring and managing our aquatic resources. Testimony from fishermen indicated that such aggregate reports that are translated into trend data are useful and important to their fishing enterprises by identifying areas that promise greater fishing catch potential.

This bill further proposes the exchange of information among government agencies for the purpose of managing marine life. The department testified that this bill will allow cooperative agreements between government agencies for the exchange and use of fish catch data for management of fisheries.

Your Committee is in agreement that regardless of whether fish caught is actually sold, offered for sale or presents the potential for profit, such information is valuable and should be included in monthly fish catch reports. Such data enables the department to provide the type of fish trend information vital to our local fishing industry.

Your Committee agrees that information shared with government authorities of the United States is useful for the management of our fisheries, however, your Committee is concerned that such information sharing shall focus on benefitting our local fishing industries and not lead to competition from certain fishing interests that may infringe on fishing activities within our Hawaiian waters.

Over the years, certain fishing interests have exploited fishing grounds in the Pacific, causing undue hardship to small local fishing enterprises that are unable to compete. Our local fishing industry is presently faced with national and international strategies that threaten its economic health and welfare.

Under present law, the department is required to secure the cooperation and assistance of appropriate agencies of the United States or other governmental authorities having an interest in promoting the purposes of Chapter 187 of the Hawaii Revised Statutes. Your Committee finds that while the intent of this law has merit, there is a need to ensure that the economic health and welfare of our local fishing industries is preserved and protected from indiscriminate exchanges of information.

Your Committee amends this bill, notwithstanding any other law to the contrary, that such information provided by the department relative to fish catch reports, shall be limited to the governments of the United States. Your Committee further amends this bill to require that the department shall establish such procedures necessary to preserve the confidentiality of individuals submitting information.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 190, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 190, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 414      Health on H.B. No. 488 (Majority)

The purpose of this bill, as written, is to allow hospital patients to have their personal pets visit them in the hospital.

There was a general consensus among those testifying on this bill that there are beneficial results accruing to patients who are permitted visitations by pets. It appears, however, that beneficial visitations by "pets" do not necessarily mean visitations by "personal pets," for the so-called pet therapy, i.e., visitations of patients by pets, generally refers to a program where a carefully screened animal is brought to a health care facility to visit with patients, especially the elderly.

Permitting visitations by personal pets, it was pointed out, would raise many concerns with respect to infection control, health risks to other patients and staff, problems of monitoring visitations, and the possibility of hospital liability resulting from permitted visitations.

Testimony was also received to the effect that pet visitations to patients in long term health care facilities, such as nursing homes, are very beneficial and should be allowed. However, it was argued that visitations should not and need not be allowed in acute care facilities where the risks of infections are greater, where the patients are generally younger, and where the hospital stays are much shorter.

The director of health testified in favor of the intent of the bill and stated that the department has already developed procedures whereby pet visitations can take place. However, it was recommended that the language of the bill be changed from being mandatory to being permissive because of the need for infectious disease control and the possible need to exclude pets under certain circumstances.

Your Committee agrees that the intent of the bill is sound, but your Committee also agrees that the changes to the bill recommended by those who testified have merit and cannot be disregarded. Therefore, your Committee has amended the bill in the following respects:

1. The word "hospital" has been deleted and the words "long term health care facility" have been appropriately added in sections 1 and 2 of the bill. This amendment reflects your Committee's belief that animal visitations should be allowed for patients of long term health care facilities but not for patients of acute care facilities.

2. The words "pet" and "pets" have been replaced by the words "animal" and "animals," respectively. This reflects your Committee's concurrence with the testimony presented that "pet therapy" pertains to animals which are considered to be pets and do not pertain to personal pets.

3. The word "shall" has been replaced by the word "may" in section 2 of the bill to reflect your Committee's agreement with the department of health that "animal therapy" should be permissive rather than mandatory under guidelines to be adopted by the department.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 488, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 488, H.D. 1, and be placed on the calendar for Third Reading.

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



## SCRep. 415      Transportation 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; and 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.

Your Committee finds that the airport currently charges \$6.00 for parking for a 24 hour period. Utilizing the airport's fee assessment as a base to reflect the actual cost of storing a vehicle for a 24 hour period, the \$3.50 fee that towing companies are presently allowed to assess on towed vehicles appears to be inadequate.

Your Committee received testimony from the Hawaii Automotive and Retail Gasoline Dealers Association favoring this bill. Due to the cost of property and inflation, the Hawaii Automotive and Retail Gasoline Dealers Association felt that a maximum \$6.00 storage fee for a 24 hour period was a more realistic reflection of the actual cost of storing a vehicle.

Your Committee also finds that on the neighbor islands towing companies are reluctant to service areas not within close proximity to their premises because they receive inadequate compensation for their services due to the low ceiling on allowable towing charges. The provision to add a mileage fee of \$2.50 per mile on tows over five miles will address the problem of the lack of available towing services in outlying areas.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 519 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 416      Corrections and Rehabilitation on H.B. No. 1132

The purpose of this bill is to require the Director of the Department of Social Services and Housing to consider the participation of a committed person in educational and training programs during the period of commitment when determining the appropriate housing and custodial arrangement for that person. In addition, this bill also requires the Hawaii Paroling Authority, when selecting individuals for parole, to consider whether an individual has participated in a basic reading and writing skills program, or has acquired a General Education Development degree (GED).

Your Committee finds that prison inmates were generally low academic achievers prior to their incarceration, and lack the basic reading and writing skills that are necessary for successful reintegration into the community upon their release. Your Committee also finds that in order to address this problem, incentives are needed for inmates to participate in educational programs along with improvements in the scope and delivery in educational programming.

Your Committees received favorable testimonies from the Hawaii Paroling Authority, the Department of the Prosecuting Attorney, and the National Association of Social Workers, Hawaii Chapter. The Department of Social Services and Housing expressed concern that the bill would mandate participation of an inmate in educational programs before changes in the inmate's housing and custodial arrangements could be approved. The Department felt that this situation would negatively impact upon the Corrections Division's ability to manage its limited resources.

In order to address the concerns of the Department, your Committee has amended this bill to clarify that both the Department and the Hawaii Paroling Authority are to consider the participation of an inmate in an educational and training program "to the extent possible" and as only "one factor" in making management and parole decisions. Therefore, the Department and the Authority will have the discretion to consider the limitations of educational programming and other factors in deciding the appropriate placement of the inmate.

Accordingly, your Committee has amended this bill as follows:

(a) Insertion of "to the extent possible" on page 3, line 8, and "as one factor" on page 3, lines 10 and 11.

(b) Deletion of "in selecting individuals for parole" on page 5, line 13, and insertion of "to the extent possible" on page 5, line 13.

Your Committee on Corrections and Rehabilitation is in accord with the intent and purpose of H.B. No. 1132, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1132, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 417 Human Services on H.B. No. 262

The purpose of this bill is to amend section 346-71(c), Hawaii Revised Statutes, to discontinue general public assistance payments to children living in licensed foster family homes and child care institutions.

Currently, in addition to financial assistance provided to children living in licensed foster family homes and child care institutions now provided by the Department of Social Services and Housing through its child welfare program, the Department can also provide general public assistance payments to the same group of children.

The Department of Social Services and Housing testified in support of this measure, and indicated that while there is at the present time no incidence of duplication of payments, this bill is necessary as a housekeeping measure to prevent the possibility of duplication by insuring that the above-mentioned children receive support from the child welfare program and not from the general assistance program.

Your Committee has made technical, nonsubstantive amendments to this bill for purposes of style and clarity.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 262, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 262, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cavasso, Hirono, Jones, Kiyabu and Morgado.

SCRep. 418 Human Services on H.B. No. 259

The purpose of this bill is to amend Section 346-15, Hawaii Revised Statutes, by: (1) eliminating use of the term "indigent persons" and substituting the phrase "public assistance recipients or unclaimed corpses"; and (2) exempting the Department of Social Services and Housing (Department) from bidding requirements necessary to establish a list of certified providers for mortuary and crematory/burial services.

Currently the statute requires the Department to establish a list of certified providers under contract. This requirement necessitates competitive bidding on a regular basis for crematory or burial services. However, for the past several years the Department has been unsuccessful in obtaining an acceptable bid from Hawaii's mortuaries as all bids exceeded the maximum of \$400 for mortuary or crematory/burial services. The proposed revisions would allow the Department to pay any licensed provider of these services up to a maximum to be established by law.

Your Committee heard testimony from the Department of Social Services and Housing in support of the bill, and indicating its belief that these amendments will provide a more reasonable mechanism for the Department to insure that these needed services are performed.

Your Committee has made a revision to line 3 on page 1 of this bill by deleting the words "an indigent", and substituting the phrase "public assistance recipients or unclaimed corpses". In addition, line 5 on page 1 has been revised by deleting

the word "deceased". The former merely amends the title of the section to reflect the substantive change within the section; the latter deletes a redundant word.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 259, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 259, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cavasso, Hirono, Jones, Kiyabu and Morgado.

SCRep. 419      Judiciary on H.B. No. 1162

The purpose of this bill is to include surviving immediate family members to be given notice of parole or final unconditional release and provide that such notification be given not less than thirty days prior to parole or release.

Your Committee received testimony in favor of this measure from the Department of Social Services and Housing, the Hawaii Paroling Authority, the Victim/Witness Kokua Services of the City and County of Honolulu, and the Victim/Witness Coordinator for the County of Kauai.

This measure provides that a surviving immediate family member of a victim be notified of the parole or final unconditional release of the defendant. Currently, only the victim is notified of such action. Your Committee recognizes that families of homicide victims are excluded under the present law.

The Hawaii Paroling Authority testified that they concur with the intent of the measure, however, a thirty-day notice may unnecessarily delay release or parole of a prisoner. A ten-day notice prior to release would be adequate. Your Committee adopted this recommendation and amended the bill accordingly.

Your Committee also made several nonsubstantive, technical amendments to the measure.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1162, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1162, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 420      Judiciary on H.B. No. 465

The purpose of this bill is to impose mandatory penalties for a violation of Chapter 339 of the Hawaii Revised Statutes, relating to littering, including, a mandatory fine of \$250 for each offense and a mandatory order requiring the violator to pick up and remove litter.

At the present time, violators of litter laws are subject to a fine or pickup and removal of litter, while "major offenders" may be subject to both penalties.

Your Committee finds that this bill would deter littering by imposing a mandatory fine and by making each violator liable for removal of litter. Thus less litter would accumulate in public places and private property because each violator would be required to participate in a litter pickup and removal program.

Your Committee is in accord with the intent and purpose of H.B. No. 465 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 421      Judiciary on H.B. No. 401

The purpose of this bill is to authorize the court to order the surrender or forfeiture of an animal whose treatment was the basis of a cruelty to animals conviction and to prohibit a person convicted of such an offense from having

custody of any other animal for a set period of time.

Your Committee heard testimony in favor of this measure from the Hawaiian Humane Society, the Honolulu Police Department and the Department of the Prosecuting Attorney of the City and County of Honolulu.

This measure gives a clear indication that animals should be protected from further abuse. Individuals may be less inclined to perpetrate abusive acts knowing that upon conviction, the animal may be surrendered or forfeited. Further, your Committee recognizes that a court ordered hiatus in the ownership of an animal would insure that there would be no further harm to the animal whose treatment was the basis of the conviction or to any other animal.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 401 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 422      Judiciary on H.B. No. 691

The purpose of this bill is to create a new chapter in the Hawaii Revised Statutes concerning civil liability for shoplifting.

The attorney general and the Hawaii Food Industry Association testified in support of this measure.

Your Committee recognizes that shoplifting is a serious problem in this state. According to data from the "Crime in Hawaii" report, over half a million dollars in property was shoplifted in 1983 by 6,500 offenders. Currently, the tremendous burden of shoplifting is placed on the consumer and merchants of Hawaii.

This proposed measure seeks to provide a deterrent and also to reduce the substantial economic hardships that shoplifting creates for society. To achieve this, the bill provides a civil penalty in the amount of the retail value of the merchandise, provided said amount does not exceed \$500. In addition, a civil penalty shall be paid to the store owner of not less than \$100 or more than \$250. Furthermore, this civil liability would extend to the parents of minor children who shoplift.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 691 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 423      Judiciary on H.B. No. 657

The purpose of this bill is to amend Section 706-602 of the Hawaii Revised Statutes by requiring that the pre-sentence report include information concerning the effect of the crime upon the victim.

Presently, there is no express requirement that this information be included.

Your Committee believes that one of the purposes of the criminal justice system is to satisfy the victim's desire that the sentence imposed be fair and just. The degree to which a victim is satisfied that the sentence imposed is fair and just, often depends upon the degree to which the victim was adversely affected by the crime.

This bill, by expressly requiring that such information be included in pre-sentence reports, ensures that the court be provided with this type of information.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 657 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 424      Judiciary on H.B. No. 794

The purpose of this bill is to amend Section 708-836, Hawaii Revised Statutes, to add "mopeds" to the definition of a "propelled vehicle".

Your Committee received testimony in support of this measure from the department of the prosecuting attorney for the City and County of Honolulu and the Honolulu Police Department.

In 1983, a total of 422 mopeds were reported stolen in the City and County of Honolulu.

Presently, the police department must attempt to charge a suspect in control of a stolen moped with theft. The police department testified that such charges are difficult to prove unless you have an admission or witness to the theft. The police department has encountered problems with charging a suspect for unauthorized control of a propelled vehicle because it is unclear whether "moped" is included in the definition of a propelled vehicle.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 794 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 425      Judiciary on H.B. No. 1605

The purpose of this bill is to add a new section to Chapter 706 of the Hawaii Revised Statutes to provide for restitution to certain purchasers of stolen property from persons convicted of the theft of such property.

Your Committee received testimony from the Department of the Prosecuting Attorney for the City and County of Honolulu in support of this measure.

Under present law, if a person buys stolen property that is subsequently recovered by the police, the buyer has no recourse to get the amount paid for the property back. Such persons currently may sue the thief, however, they stand little chance of recovering their loss.

This bill provides that persons who purchase stolen merchandise may be entitled to restitution for the amount paid for the property. However, two conditions must exist in order to receive restitution, namely: (1) that the buyer must be reasonably unaware at the time of purchase that the property was stolen, and (2) that if the purchase price is far below its reasonable value, the buyer should have known it was stolen and no restitution can be ordered.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1605 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 426      Judiciary on H.B. No. 1615

The purpose of this bill is to amend Section 712-1242, Hawaii Revised Statutes, to make it consistent with Section 712-1241, Hawaii Revised Statutes. It also amends the definition of "dosage unit" in Section 712-1240, Hawaii Revised Statutes, to reflect the above-mentioned amendment.

Under present law, the term "dosage unit" is included in Section 712-1241, Hawaii Revised Statutes, relating to promoting a dangerous drug in the first degree. However, the term is not included in Section 712-1242, Hawaii Revised Statutes, concerning promoting a dangerous drug in the second degree. This bill will add the term "dosage unit" to the other forms presently used to define promoting a dangerous drug in the second degree.

Your Committee received testimony from the department of the prosecuting attorney and the Honolulu Police Department in support of this bill. The testimony indicated that the term "dosage unit" was left out of the law due to an oversight

by the 1979 Legislature. This proposal would correct the oversight in our existing drug laws.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1615 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 427      Judiciary on H.B. No. 1386

The purpose of this bill is to amend Section 11-206(c), Hawaii Revised Statutes, in order to clarify the purpose for which campaign contributions may be used after general or special elections.

Under present law, campaign contributions may be used after an election for fund raising activities and other politically related activity sponsored by the candidate.

This bill permits the use of campaign contributions after an election to pay for expenses incurred by the candidate relating to his or her duties as a holder of an elected state office. It also allows the use of campaign contributions for donations to community service, educational, athletic, charitable, scientific, or literary organizations. Further, the campaign spending commission, by adopting rules as provided by law, may designate other organizations to which donations may be made.

Testimony presented by the campaign spending commission indicated that this measure reflects the present administrative practices of the commission relating to the expenditure of campaign contributions and further incorporates the allowances provided under Federal election laws.

Your Committee finds that the expenditures of campaign contributions allowed under this bill are consistent with sound public policy and further provide for clearly defined uses of campaign contributions.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1386 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 428      Judiciary on H.B. No. 1493

The purpose of this bill is to amend Section 706-624.5, Hawaii Revised Statutes, concerning the giving of notice of suspension of sentence or probation to victims of crime.

Under present law, a victim may make a written request for notification of the release of the person convicted of the crime against them. However, only those offenses against the person are included.

This bill would expand notification to victims under the following circumstances: (1) where an accused enters a plea of guilty or nolo contendere; (2) where the offender is a minor; and (3) the offenses of first and second degree robbery.

Your Committee recognizes that all victims of violent crime should be notified in order to prepare themselves for the emotional struggle they face when the defendant is returned to the community.

Your Committee expressed concern about the financial impact of this measure on the Adult Probation Division. They indicated that based on past experience, such requests are not too numerous to pose a workload problem.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1493 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.



## SCRep. 429      Judiciary on H.B. No. 1492

The purpose of this bill is to require that victims be informed of the reason they are not receiving restitution payments in cases where the offender is a minor.

Your Committee received testimony in support of this measure from the Victim/Witness Kokua Services of the City and County of Honolulu, the prosecuting attorney for the County of Kauai and the Kauai Victim/Witness Program.

This measure adds a new section in Chapter 571, Hawaii Revised Statutes, concerning a juvenile defendant's nonpayment of court ordered restitution. If such nonpayment persists for more than 90 days the victim shall have a right to know the reasons why and what efforts are being made in attempting to comply with the restitution order. Your Committee believes that this proposal will further efforts to aid the victims of crime.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1492 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 430      Judiciary on H.B. No. 1488

The purpose of this bill is to authorize the family court to hold parents accountable for the actions of their children in cases where restitution may be warranted.

Currently, the family courts are precluded from ordering parents to pay for restitution that their children have been ordered to pay. Your Committee finds that such orders against children often are meaningless as they lack the jobs or resources to make restitution.

This measure allows the family court the discretion to order the parents of an adjudicated minor to make restitution to those parties who suffer loss as a result of the child's action. Your Committee believes that such a provision will further attempts of the judicial system to address the needs and concerns of the crime victim.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1488 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 431      Judiciary on H.B. No. 1487

The purpose of this bill is to add a new section to Chapter 706, Hawaii Revised Statutes, that will provide for the rights of victims concerning compliance with restitution orders by defendants.

This bill provides that a victim shall receive notice of the defendant's non-compliance with restitution orders. After 90 days of nonpayment, an inquiry as to the reasons for nonpayment shall be made by the defendant's probation officer and such information shall be available to the victim.

Your Committee recognizes the importance of restitution in our judicial process. Restitution provides both a method of punishment and an attempt to repair the harm, at least monetarily, the crime has caused to the victim. This measure provides for notification of nonpayment of court ordered restitution, thus reinforcing society's commitment to protect victims of crime.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1487 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 432      Judiciary on H.B. No. 1470

The purpose of this bill is to create a new chapter in the Penal Code creating three degrees of incest and to repeal Section 707-741, Hawaii Revised Statutes, relating to incest.

Under present law, the crime of incest is defined as committing an act of sexual intercourse with another who is within the degrees of consanguinity of affinity within which marriage is prohibited. This currently is punishable as a class C felony.

The bill proposes to repeal the present section and create three degrees of incest. Incest in the first degree would be engaging in sexual intercourse or deviate sexual intercourse with a related child under the age of 18. Such an offense would be a class B felony. Incest in the second degree would be defined as engaging in sexual contact with a related person under the age of 18. Incest in the second degree would be a class C felony. Incest in the third degree uses the present definition and would be a misdemeanor.

Concern was expressed by your Committee over defining incest in the second degree as sexual contact, since sexual penetration would not be required. Your Committee believes that the original intent of incest provisions in the law is to prevent dangerous birth defects that may occur when two closely related persons engage in sexual intercourse. Sexual contact between related persons does not fit this definition and should be placed in a more appropriate section of the statute.

Furthermore, the Honolulu Police Department testified that they have reservations about downgrading incest under all circumstances to a misdemeanor as provided in the bill. The Department believes that such an offense should remain a class C felony.

Your Committee amended the bill to delete all of Section 2 concerning incest defined as sexual contact. The Committee further amended the bill to provide that the present definition of incest become incest in the second degree and be a class C felony.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1470, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1470, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 433      Judiciary on H.B. No. 283

The purpose of this bill is to amend Section 291-4, Hawaii Revised Statutes, to mandate a ninety-day suspension of a person's driver's license for the first conviction of the offense of driving under the influence of intoxicating liquor.

Under the present law, there is <sup>a</sup>thirty-day absolute suspension and a sixty-day restricted license which disqualifies the State from certain federal incentive funds.

This bill clarifies the intent of the law by stating that the ninety day absolute suspension can be modified during the last sixty days if there is no public transportation available. Further, the restriction allows the offender to drive for work related and mandated alcohol education or treatment program purposes only.

Your Committee heard testimony in support of the bill from the department of transportation (DOT). DOT stated that the amendment was necessary in order to qualify for basic federal 408 alcohol incentive growth.

The prosecuting attorney, City and County of Honolulu, testified that the use of published guidelines for license restrictions was ambiguous. Your Committee amended the bill to provide that license restrictions be adopted in accordance with Chapter 91, Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 283, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 283, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hirono, Liu and Shito.

SCRep. 434      Judiciary on H.B. No. 1298

The purpose of this bill is to amend Section 560:3-1201, Hawaii Revised Statutes, to raise the net value of an estate that simplified probate procedures may be used.

Under present law, the Uniform Probate Code provides a simplified probate procedure if several conditions have been met and where the net value of the estate of a decedent is not over \$1000. This measure will raise the ceiling to \$3000.

Your Committee finds that the ceiling has been at its present level since 1978. The increase as proposed in this bill recognizes the effect of inflation. The measure will allow more people to take advantage of the simplified probate procedures provided in this section.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1298 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 435      Judiciary on H.B. No. 1257

The purpose of this bill is to amend several statutes relating to elections and election procedures in order to improve and clarify the administration of and procedures relating to elections in Hawaii.

This bill makes the following specific changes:

(1) It amends Section 11-18 of the Hawaii Revised Statutes by allowing the challenge procedure in Section 11-25 where there is a questionable change of registration based upon a change of residence. Section 11-18 provides for a transfer of registration of a registered voter who changes residence from one precinct to another in the same county by notifying the county clerk. Section 11-25 sets forth the procedure under which a registered voter may challenge the right of a person to be a registered voter either before or on election day.

(2) It amends Section 11-21 by allowing the challenge procedure set forth in Section 11-25 if a person is registered in the wrong precinct and refuses to correct the registration in accordance with Section 11-21. Presently, Section 11-21 merely states that a challenge may be made in accordance with law. This bill specifically provides for a challenge to be made in accordance with Section 11-25.

(3) It amends Section 11-25 by allowing 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. This bill emphasizes that a person who is challenged must be given the opportunity to correct his or her registration before the challenge procedure can go forward.

(4) It amends Section 11-112 to allow consolidation of offices, candidates, questions, or issues on the same ballot unless prohibited under the State constitution. Essentially this amendment allows the use of both sides of a single ballot form and therefore provides for a reduction in the administrative expense of an election.

(5) It amends Section 11-119 by requiring, where the chief election office is responsible for the printing of ballots, that the exact wording appearing on the ballots be submitted to the chief election officer not later than sixty calendar days prior to the election. The purpose for this provision is to allow sufficient time in advance of the election for ballots to be printed and distributed.

(6) It amends Section 11-139 to allow a blind, disabled, or illiterate voter the option of having any person of his or her choice to assist in marking an election ballot. Under present law, such a voter may obtain assistance only from two precinct officials or a qualified voter.

Further, this bill amends the section in order to conform Hawaii's voting assistance statute to that of the Federal Voting Right Act.

(7) It amends Section 12-3(a) by requiring that the nomination paper of a candidate contains a certification stating that the candidate, on the day of filing, is a qualified voter of the district from which the candidate seeks to be elected. This provision eases administration of elections by setting a firm date when candidates for the State Senate and House of Representatives must establish residences in their districts.

(8) It amends Section 12-42(a) by clarifying the term of office where a candidate is the sole candidate for a state office in a special election or in a special primary election. Under present law, such a candidate is deemed to be elected as of the close of filing of nomination papers. 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 amends Section 12-42(a) by providing that a candidate for state office who is unopposed after nomination in a special primary election begins his or her term of office the day of the special general election.

(9) It amends Section 13D-3 by providing that the county clerk be required to place on the general county voting register and thereby register to vote in all State elections those persons who, on November 6, 1984, were registered to vote only for the board of trustees of the Office of Hawaiian Affairs.

According to testimony presented, there are only 600 voters who fall in this category. This modification would facilitate the record-keeping and the general administration of elections by eliminating this category of voters.

(10) It amends Section 15-9 by requiring that only return envelopes containing absentee voting ballots which arrive after the closing of the polls be time-stamped by the county clerk or election officials. Under present law, all absentee ballots, except those delivered to regular polling places and deposited in the ballot box by a precinct official before the closing of the polls, must be time-stamped. Since time-stamping is the method used to determine whether absentee ballots are received too late to be considered, only those ballots which were received too late need to be time-stamped. Therefore, this bill eliminates unnecessary and burdensome time-stamping.

Your Committee finds that these modifications promote efficient administration of elections in Hawaii by clarifying election procedures and by reducing unnecessary administrative costs.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1257 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 436      Judiciary on H.B. No. 1254

The purpose of this bill is to amend the Uniform Controlled Substance Act, Chapter 329, Hawaii Revised Statutes, to provide a new section on drug paraphernalia.

This bill would amend the present law to include a definition of drug paraphernalia and add corresponding penalties.

Representatives from the department of the prosecuting attorney, the Honolulu Police Department, the department of health and Retail Merchants of Hawaii submitted testimony in support of this bill. Testimony indicated that passage of this measure will afford enforcement agencies a new avenue to combat the drug problem in our society.

Your Committee also heard testimony from the American Civil Liberties Union of Hawaii and a private attorney in opposition to the measure. Their testimony indicated that passage of the bill would be unconstitutional, and eliminating paraphernalia shops would not reduce drug abuse.

However, your Committee finds that this bill has been constitutionally tested numerous times in other states and in federal courts and has always passed constitutional muster. In addition, only those persons who sell with knowledge of the use of such paraphernalia can be convicted under this proposal. Further, this measure is derived from the Drug Enforcement Administration Model Act which is designed to assist state and local jurisdictions in coping with the ever-growing sale of drug paraphernalia which has reached epidemic levels.

Your Committee made a nonsubstantive, technical amendment on page 3, line 7 and 8, in order to conform with standard bill drafting requirements.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1254, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1254, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 437      Judiciary on H.B. No. 1248

The purpose of this bill is to repeal the Hawaii Uniform Gifts to Minors Act (HUGMA), Chapter 553, Hawaii Revised Statutes and to substitute in its place the Uniform Transfers to Minors Act (UTTMA).

The present Hawaii Gifts to Minors Act was enacted in 1957 and has been amended several times since then.

In 1983, the uniform law commissioners promulgated the Uniform Transfers to Minors Act (UTTMA). This act incorporates the desirable provisions of the HUGMA and further expands the scope of transfers of gifts to minors. Presently, three states, California, Colorado, and Idaho have adopted the UTTMA.

The new UTTMA serves the same purpose as the HUGMA. Irrevocable transfers can be made to minors to satisfy tax requirements. Control of the property will be held by adults or institutions until the minor reaches the age of majority.

Mr. Robert Toyofuku from the Hawaii commission to promote uniform legislation testified in support of the act. He stated that the UTTMA is a significant improvement over the HUGMA. He briefly summarized the major differences between the two acts:

(1) Under the UTTMA any kind of property may be transferred to a minor. The HUGMA only permits transfers of securities, life insurance policies, annuity contracts or cash.

(2) The UTTMA permits transfers based on occurrence of a future event, such transfers as, by powers of appointment, by a personal representative or a trustee pursuant to a will or trust agreement. The HUGMA permits only present gifts.

(3) The UTTMA provides for jurisdiction over transfers under UTTMA and sets forth choice-of-law rules to address conflict-of-law problems.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1248 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 438      Judiciary on H.B. No. 329

The purpose of this bill is to provide for mandatory imprisonment for driving with a suspended or revoked license that was ordered because of a driving under the influence of intoxicating liquor (DUI) conviction and to amend Section 291-4, H.R.S., concerning penalties for DUI convictions.

Your Committee received testimony on this measure from the department of transportation, the judiciary, the department of social services and housing (DSSH), the prosecuting attorney for the City and County of Honolulu, the Honolulu Police Department (HPD), and Mothers Against Drunk Drivers.

At the present time, the penalty for driving with a suspended or revoked license is a fine of not less than \$250 but not more than \$1000 or imprisonment of not more than one year. This bill will mandate a minimum thirty-day imprisonment to a person convicted of drunk driving while their license was suspended or revoked.

This bill would delete the present five-year time limit on the sentencing of a first offense DUI charge. The measure provides several changes for a first offense conviction: (1) a ninety-day suspension rather than the thirty-day suspension and sixty-day provisional license; (2) an increase in community service work from 72 to 100 hours; and (3) a deletion of all fines. For a second offense within five years of a prior conviction, the bill deletes all provisions for community service and fines while instead calling for a minimum ten days imprisonment. For a third offense within five years, the measure provides for a three year revocation of a license rather than the present one to five years and a minimum of 120 days imprisonment rather than the present ten to 180 days.

Your Committee recognizes the danger that drunk drivers pose to our community. While the threat of license suspension has been found to be the greatest single deterrent to drinking and driving, those convicted of DUI offenses and driving on suspended or revoked licenses deserve harsher treatment. However, your Committee heard testimony from DSSH about the serious overcrowding in our prisons. It was determined that not less than two-days and no more than thirty-days in prison represents reasonable punishment to serve as a deterrent. The amended bill allows the judge the discretion to sentence the offender up to sixty-days imprisonment.

Your Committee has deleted Section 4 of the bill concerning amendments to Section 291-4, H.R.S. for several reasons. The judiciary testified that the paperwork requirements on the change of definition, would result in ten to fifteen times more records, which would be an enormous burden for the courts. There was concern by both DSSH and HPD concerning the length of imprisonment called for under the bill. Furthermore, under the DUI law passed last year, Hawaii has a mandatory alcohol problem assessment and possible court-ordered treatment program. This program has not yet gone into effect and therefore we have no experience with how the system functions. Your Committee is amending Section 291-4, Hawaii Revised Statutes, in H.B. No. 283.

In addition, your Committee amended the bill to include those convicted under Section 286-155, H.R.S. concerning refusal to take either a breath or blood test. This covers all aspects of DUI offenses.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 329, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 329, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 439      Judiciary on H.B. No. 34

The purpose of this bill is to clarify the sentence for murder and attempted murder for class A felonies and to make it clear that the sentence for murder and attempted murder is life imprisonment with or without possibility of parole and not twenty years as set for class A felonies. The bill also clarifies that for murder or attempted murder, the sentence is without possibility of suspension or probation.

Section 706-659, Hawaii Revised Statutes, provides, in pertinent part, that "[n]otwithstanding section[s]...706-606, and any other law to the contrary, a person who has been convicted of a class A felony shall be sentenced to an indeterminate term of imprisonment of twenty years...". Sections 706-606 and 706-606.1, Hawaii Revised Statutes, which set forth the sentence for murder and attempted murder, respectively, provide for a term of life imprisonment with or without possibility of parole.

Because murder and attempted murder are classified as class A felonies, arguably, they may be subject to the class A felony sentence.

The Department of the Prosecuting Attorney testified in support of the bill stating that this bill should correct an apparent inconsistency in the law and make it clear that the legislative mandate is to sentence those convicted of murder and



attempted murder to life imprisonment with or without possibility of parole.

The bill also amends Sections 706-606 and 706-606.1, Hawaii Revised Statutes, by including a provision that a sentence imposed for murder or for attempted murder is without possibility of suspension or probation.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 34, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 440      Judiciary on H.B. No. 32

The purpose of this bill is to amend Section 706-602 to require the comments of the victim of the crime to be included in the pre-sentence report, if the victim desires and to require that victims be notified of the procedure to apply to the criminal injuries compensation commission.

Your Committee heard testimony in support from the Hawaii Paroling Authority and Victim/Witness Kokua.

The Judiciary testified that at the present time, at the victim's request the victim's comments are included in the report and that the proposed amendment will increase their workload if they are required to notify the victim. Victim/Witness Kokua further testified that notification should be given only to those victims eligible for criminal injuries compensation.

To address the concerns of the Judiciary and Victim/Witness Kokua, your Committee recommends that the bill be amended to provide that victims' comments be included only if the address of the victim is known at the time the pre-sentence report is prepared and that notification of criminal injuries compensation be given to eligible victims.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 32, as amended herein, and recommends it pass Second Reading in the form attached hereto as H.B. No. 32, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 441      Judiciary on H.B. No. 29

The purpose of this bill is to propose an amendment to Article I, Section 13, of the Hawaii Constitution to change the jurisdictional amount required for jury trials in civil cases.

This bill would preserve the right of trial by jury in cases tried in the circuit courts. Under the Hawaii Constitution, the right to trial by jury is preserved in civil cases where the amount in controversy is in excess of one thousand dollars.

Presently, district court has exclusive jurisdiction when the amount in controversy is less than \$5,000 and limited jurisdiction when the amount in dispute is between \$5,000 and \$10,000. District courts, however, try and determine all actions without a jury. Therefore, a case may be commenced in or removed to circuit court if the amount in controversy exceeds \$1,000 and one of the parties demands a jury trial. Rather than expediting the disposition of a case, removing a case to circuit court will usually result in prolonging the case and add to an already congested circuit court calendar.

Your Committee raised a concern that the jurisdictional amount will be dependant upon another section or sections of the Hawaii Revised Statutes. In the event the section(s) is not amended there may be contradictory jurisdictional amounts which would render the law invalid. It was your Committee's conclusion that the jurisdictional amount be determined by law and that the legislature establish said amount. The bill has been amended to reflect the concern of your Committee.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 29, as amended herein, and recommends that it pass Second Reading in the

form attached hereto as H.B. No. 29, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 442      Water, Land Use, Development and Hawaiian Affairs and Planning,  
Energy and Environmental Protection on H.B. No. 1063

The purpose of this bill is to amend Section 205-4.5, Hawaii Revised Statutes, by allowing the establishment of golf courses and golf driving ranges within the State Agricultural District on lands classified A or B by the Land Study Bureau's Detailed Land Classification System.

Your Committees find that the need for recreational facilities on the Island of Oahu has remained unfulfilled as the State's population continues to increase. The use of land for golf courses and golf driving ranges has been restricted in recent years, not only because there is limited land classified urban where golf courses and golf driving ranges have been developed, but also because other available lands classified non-urban where these golfing recreational areas may be developed have not been easily made available.

Your Committees are of the opinion that the purpose of this bill is generally worthy of serious consideration. However, your Committees are also of the opinion that agricultural lands classified A or B should not be used for the purpose of this bill.

Your Committees have, therefore, amended the bill to permit golf courses and golf driving ranges in agricultural districts, provided that they are not located in A and B classified areas. Section 205-2 has been amended accordingly.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Planning, Energy and Environmental Protection are in accord with the intent and purpose of H.B. No. 1063, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1063, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Crozier, Hagino, Honda, Pfeil and Tam.

SCRep. 443      Planning, Energy and Environmental Protection and Water, Land  
Use, Development and Hawaiian Affairs on H.B. No. 1239

The purpose of this bill is to amend the State district boundary review process in non-controversial cases by reducing the time span allotted to Land Use Commission for decision-making on petitions from one hundred eighty days to forty-five days.

Your Committees find that the Land Use Commission is currently allowed to take up to one hundred eighty days to issue decisions on petitions requesting a district boundary amendment irregardless of the level of controversy over a particular request. In this regard, commission decisions regarding uncontested or non-controversial boundary amendment petitions may take as long as six months. Your Committees find that prolonged delays in land use decision-making, especially in cases where all parties recommend approval of the reclassification request, subjects the applicant to an unfair burden.

Your Committees have amended this bill by reducing the commission's post-hearing contested case decision-making period from a maximum of one hundred eighty days to a maximum of ninety days. Your Committees find that a period of ninety days will allow the commission sufficient time to process and expedite decisions regarding contested reclassification requests.

Your Committees on Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 1239, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1239, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Pfeil.

## SCRep. 444 Planning, Energy and Environmental Protection on H.B. No. 183

The purpose of this bill is to amend Chapter 344, Hawaii Revised Statutes, by specifically defining aquaculture as a preferred economic activity that is consistent with the State's environmental policy.

Under current law, the State's environmental policy guidelines relating to economic development only recognizes agriculture as an industry that should be promoted and fostered, because agricultural practices are generally consistent with the conservation of natural resources as well as with the enhancement of the quality of life.

Your Committee finds that aquaculture is a new, environmentally sound, economic activity that is also consistent with the State's environmental policies and goals. Your Committee further finds that the inclusion of aquaculture into Section 344-4(5) would also assist regulatory agencies, in conjunction with Chapter 343, in determining whether a proposed aquaculture project constitutes a "significant effect" on the environment. Under environmental impact statement regulations, a "significant effect" is defined as ". . . those effects that conflicts . . . with the State's environmental policies or . . . goals and guidelines as established by Chapter 342 and 344, Hawaii Revised Statutes . . ."

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 183 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Pfeil.

## SCRep. 445 Planning, Energy and Environmental Protection on H.B. No. 167

The purpose of this bill is to make housekeeping amendments to Chapter 343, Hawaii Revised Statutes, in accordance with the results of a 1982 EIS workshop sponsored by the Environmental Quality Commission (now the Environmental Council).

Your Committee finds that the proposed amendments to Chapter 343 are noncontroversial and effective improvements to the EIS system.

Your Committee received testimony indicating inadvertent errors in wording, and has amended this bill according to consensus on wording appropriate to the intent of the bill.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 167, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 167, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Pfeil.

## SCRep. 446 Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs on H.B. No. 949

The purpose of this bill is to provide for direct appeals to the Supreme Court of Hawaii for any contested case hearings regarding geothermal land development activities.

Your Committees find that under the State's present appeal procedure regarding contested case hearings relating to geothermal resource development activities, preliminary appeals are directed to the circuit courts prior to the State Supreme Court. In essence, this unnecessarily redundant procedure creates situations in which the final outcome of any such appeal remains uncertain until the decision of the ultimate authority has been rendered. Presently, this procedure has resulted in costly delays and prolonged periods of uncertainty for both the aggrieved party and the developer. Your Committees find that the direct referral of an appeal to the Supreme Court will not affect the rights of aggrieved parties with legitimate claims to have a judicial review.

Your Committees on Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and

purpose of H.B. No. 949 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Pfeil.

SCRep. 447      Planning, Energy and Environmental Protection on H.B. No. 220

The purpose of this bill is to exempt State Functional Plan Advisory Committee members from the provisions of section 26-34(a) and section 78-4(a), Hawaii Revised Statutes.

Your Committee finds that concern has been expressed as to the applicability of sections 26-34(a) and 78-4(a), HRS, in regard to the membership of the various State Functional Plan advisory Committees.

Section 26-34(a), HRS, requires that board or commission members be nominated and appointed by the Governor "... with the advice and consent of the Senate...". The role of an Advisory Committee is to advise the agencies in the administration of the various functional plans. The committees are solely advisory in nature and are not decision-making bodies. State Functional Plans are adopted by the Legislature, not the committees. In this regard, legislative confirmation of Advisory Committee membership may have little meaning and, in fact, would pose a burden on the State Senate.

Your Committee further finds that section 78-4(a) provides that "...no person shall be allowed to serve on more than one board or commission of a public character..." Vis-a-vis the advisory nature of a State Functional Plan Advisory Committee, your Committee find that this restriction lacks application. In fact, this restriction has the potential to seriously limit the field of qualified Advisory Committee members.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 220 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Pfeil.

SCRep. 448      Public Employment and Government Operations; Agriculture; and Ocean and Marine Resources on H.B. No. 214

The purpose of this bill is to amend the language of statutes relating to inter-departmental committees, to allow designated alternate representatives to serve in lieu of primary members.

Under present law, designated alternate representatives cannot attend or serve in lieu of statutorily designated members of the Governor's Agriculture Coordinating Committee, the Hawaii Fisheries Coordinating Council, and the Interagency Committee of the Commission on Manpower and Full Employment.

The Director of the Department of Planning and Economic Development testified that the changes proposed by this bill would allow the primary members of these committees to determine on a case-by-case basis the most efficient use of their staff and time, and to select, as alternate representatives, staff members directly involved with programs affected by these committees.

Your Committees are in agreement that allowing designated alternate representatives to attend or serve in lieu of the statutorily designated committee members will help assure the continued participation of member agencies, and will allow participation of representatives who are more directly involved with the relevant programs.

Your Committees have amended this bill to refer to the "designated representatives" as "respective deputies."

Your Committees amended section 1 of the bill to provide that the three farmers chosen as members of the Governor's Agriculture Coordinating Committee not be allowed to designate representatives, as the original bill provided; and that the dean of the college of tropical agriculture and human resources only be allowed to designate the director of the Hawaii Institute of Tropical Agriculture and Human Resources as alternate representative.

The original bill provided that the four ex-officio members of the Hawaii Fisheries Coordinating Council could designate alternative representatives. Your Committees have amended the bill to provide that, of these four, only the chairperson of the board of land and natural resources, the director of planning and economic development, and the director of transportation can designate alternate representatives, while the marine affairs advisor cannot.

The original bill provided that all members of the Interagency Committee on Manpower and Full Employment could designate alternate representatives. Your Committees have amended the bill to provide that only the governor's administrative director, the heads of certain departments, and the president of the University of Hawaii can designate alternate representatives.

Your Committees on Public Employment and Government Operations; Agriculture; and Ocean and Marine Resources are in accord with the intent and purpose of H.B. No. 214, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 214, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Isbell, Kamali'i, Nakasato and Pfeil.

SCRep. 449      Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs on H.B. No. 430

The purpose of this bill is to allow churches to locate on lands within the State Agricultural District classified "A" or "B" by the Land Study Bureau's Detailed Land Classification System without the requirement that such land be used for agricultural purposes.

Your Committees find that churches are an integral part of many communities throughout the State. Churches serve as a place of religious congregation, and they are quite often the focal point of a community's social activities. In keeping with the expanding needs of Hawaii's growing communities, several churches throughout the State have expressed the need to expand or establish additional church facilities. In many circumstances, churches are obliged to pursue such expansion or development on agricultural land. However, due to the current constraints on the use of agricultural lands, the development of church facilities upon such lands has become difficult and quite often poses a hardship on the party wishing to do so. Your Committees find that the use of agricultural lands for the purpose of church development will not adversely affect the integrity of agricultural lands on a statewide basis.

Your Committees find that this bill, as drafted, proposes to allow the development of church facilities only on lands designated "A" or "B" by the Land Study Bureau. Whereas this provision would only serve the needs of those parties arbitrarily situated near or specifically considering the use of "A" or "B" lands for the purpose of church development, your Committees have amended Section 2 of this bill to allow the development of churches in all classes of agricultural lands by inserting the amended language into Section 205-2, Hawaii Revised Statutes, instead of Section 205-4.5, Hawaii Revised Statutes.

Your Committees have further amended this bill to broaden the definition of churches and temple buildings by inserting the phrase "including but not limited to" to line 3 of page 4 of the original bill; by inserting the words "for churches" to line 4 of page 4 of the original bill so that it reads: "for church and religious purposes"; and by deleting the phrase "necessarily related thereto" from line 5 of page 4 of the original bill.

Finally, your Committees have further amended this bill by limiting the incremental development of church and temple buildings to not more than fifteen acres in order to prevent large scale church facilities within the Agricultural District.

Your Committees on Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 430, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 430, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Pfeil.

SCRep. 450      Public Employment and Government Operations and Health on H.B.  
No. 169

The purpose of this bill is to relocate the Hawaii Advisory Commission on Drug Abuse and Controlled Substances from the Office of the Governor to the Department of Health for administrative purposes.

The Director of Health testified in support of this bill which would place the advisory commission in the executive department which is consistent with the commission's functions and from which it currently receives administrative support.

Your Committees on Public Employment and Government Operations and Health are in accord with the intent and purpose of H.B. No. 169 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hirono, Kiyabu, Levin and Liu.

SCRep. 451      Public Employment and Government Operations on H.B. No. 692

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

Section 26-34, Hawaii Revised Statutes, originally specified a beginning date of January 1 and an ending date of December 31 for each term of a board or commission member appointed in accordance with the procedures of the section. However, An Act Relating to the Board of Regents, Act 54, Session Laws of Hawaii 1984, amended section 26-34 to delete those beginning and ending dates. Consequently, there is no express statutory beginning or ending date for the term of a member of a board or commission appointed under section 26-34.

As introduced, this bill specified a beginning date of January 1 and an ending date of December 31 for each term. During hearings, however, the Attorney General pointed out that a beginning date of July 1 and an ending date of June 30 may be more appropriate. Ordinarily, the name of a person nominated to serve on a board or commission is submitted to the Senate for confirmation during the legislative session which begins after January 1. If terms were to begin on January 1, several months of a term would elapse before the nomination is confirmed by the Senate and the appointed person is officially sworn in. On the other hand, if the beginning date of a member's term were July 1, the member would serve a full term. Moreover, the member's predecessor would not have to serve as a holdover member.

However, if the July 1 - June 30 term were established, the terms of the chairmen and chairperson of the board of land and natural resources, the board of agriculture, and the Hawaiian homes commission, would also expire on June 30 unless specific provisions were made for another result. Since these three members are also members of the governor's cabinet, your Committee believes that the most appropriate solution is to make the terms of these three particular board and commission members coincide with that of other members of the governor's cabinet.

Your Committee agrees with the purpose of this bill. It also believes that the bill as originally introduced should be amended to effect the changes discussed above. Finally, realizing that transitional provisions are needed to alter the terms of current board and commission members, your Committee has amended this bill to extend all the terms of current members so that the terms of all board and commission members will uniformly end on June 30 within four years of this bill's enactment.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 692, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 692, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Nakasato.



## SCRep. 452      Public Employment and Government Operations on H.B. No. 110

The purpose of this bill is to amend Section 103-55, Hawaii Revised Statutes, to allow contractors to correct any noncompliance with the wages and labor law requirements under that section.

The current statute provides that a contract shall be cancelled if a contract is not in compliance with the requirements of section 103-55, Hawaii Revised Statutes.

Your Committee finds that in a majority of cases, contractors do perform satisfactorily. However, in those instances where noncompliance is found, your Committee believes that it would be in the State's best interest to allow the contractor to correct the deficiency rather than cancel the contract and go through a new bidding process.

As received by your Committee, the bill provides for any noncompliance to be corrected within a reasonable time period as determined by the contracting officer. To ensure that any deficiency be corrected as soon as possible, your Committee has amended the bill to provide that the final payment or release of bonds or both shall not be made until the contracting officer has determined that the noncompliance has been corrected. The bill was also amended to correct certain typographic and technical errors.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 110, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 110, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 453      Public Employment and Government Operations on H.B. No. 674

The purpose of this bill is to simplify the statutes relating to reemployment and recall lists by updating terminology, and incorporating section 76-40, Hawaii Revised Statutes, into section 76-25, Hawaii Revised Statutes, since both govern reemployment and recall lists.

Your Committee has made nonsubstantive technical and stylistic amendments to this bill.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 674, as amended herein, and recommends that it pass second reading in the form attached hereto as H.B. No. 674, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Nakasato.

## SCRep. 454      Public Employment and Government Operations on H.B. No. 824

The purpose of this bill is to provide that an agency of the State or a county which purchases goods or services may pay the provider within thirty days of the invoice date or date of delivery with the approval of the comptroller or director of finance of each county.

Under present law, the counties must obtain the State comptroller's approval in order to make payment within thirty days.

Your Committee has amended the bill to delete entirely the provision that payment cannot be made within thirty days without the prior approval of the comptroller or the respective county finance director. Instead, to encourage the prompt payment of bills, your Committee has also amended the bill to require that payments shall be made no later than forty-five calendar days following receipt of the statement or satisfactory delivery of the goods or the delivery of service, whichever is later.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 824, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 824, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 455      Consumer Protection and Commerce on H.B. No. 762

The purpose of this bill is to extend the repeal date of Chapter 451A (Board of Hearing Aid Dealers and Fitters), Hawaii Revised Statutes, from December 31, 1985 to December 31, 1991.

Your Committee heard testimony in support of this bill from the Hearing Aid Dealers and Fitters Board and received favorable written testimony from Robert McKay of Kyoto University in Japan. They felt that continued licensure was necessary in order for dealers to maintain the highest technical competence possible and a high standard of business ethics.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 762 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hirono.

SCRep. 456      Consumer Protection and Commerce on H.B. No. 761

The purpose of this bill is to extend the repeal date of Chapter 457B (Board of Examiners of Nursing Home Administrators), Hawaii Revised Statutes, from December 31, 1985 to December 31, 1991.

Your Committee received testimony in support of this bill from the Board of Examiners of Nursing Home Administrators. They stated that mandatory State licensing of nursing home administrators is required under a 1967 Congressional Amendment to the Social Security Act if the State is to continue participation in the federal Medicaid program.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 761 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hirono.

SCRep. 457      Consumer Protection and Commerce on H.B. No. 760

The purpose of this bill is to extend the repeal date of Chapter 463E (Podiatry), Hawaii Revised Statutes, from December 31, 1985 to December 31, 1991.

Your Committee received favorable testimony from the Board of Medical Examiners who supports the amendment.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 760 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hirono.

SCRep. 458      Consumer Protection and Commerce on H.B. No. 759

The purpose of this bill is to extend the repeal date of Chapter 461 (Board of Pharmacy), Hawaii Revised Statutes, from December 31, 1985 to December 31, 1991.

Your Committee received favorable testimony from the Board of Pharmacy who felt that the absence of regulation would unnecessarily expose the public to possible harm.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 759 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hirono.

## SCRep. 459 Consumer Protection and Commerce on H.B. No. 758

The purpose of this bill is to extend the repeal date of Chapter 462A (Board of Pilot Commissioners), Hawaii Revised Statutes, from December 31, 1985 to December 31, 1991.

Your Committee received favorable testimony from the Board of Pilot Commissioners.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 758 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hirono.

## SCRep. 460 Consumer Protection and Commerce on H.B. No. 757

The purpose of this bill is to extend the repeal date of Chapter 448H (Elevator Mechanics Licensing Board), Hawaii Revised Statutes, from December 31, 1985 to December 31, 1991.

Your Committee heard testimony in favor of the bill from the Elevator Mechanics Licensing Board, Hawaii State AFL-CIO, International Union of Elevator Constructors, Hawaiian Pacific Elevator Corp., and the United Brotherhood of Carpenters and Joiners, all of whom testified on the need to continue to provide for the licensing and regulation of elevator mechanics.

In 1983, the repeal date for the Board was extended from December 31, 1983 to December 31, 1985, on the condition that certain improvements occur in the areas of Board composition, examinations for licensing, and improved communication with the State Department of Labor and Industrial Relations. Your Committee is satisfied that these improvements have taken place, and that the Board is functioning as statutorily mandated.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 757 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hirono.

## SCRep. 461 Consumer Protection and Commerce on H.B. No. 756

The purpose of this bill is to amend the repeal date of Chapter 455 (Board of Examiners in Naturopathy), Hawaii Revised Statutes, from December 31, 1985 to December 31, 1991.

Your Committee received testimony in opposition from the Department of Health. The Department testified that it is apparent from the report of the Legislative Auditor and the Department's experiences that the practice of naturopathy poses significant potential risks to the public and that continued licensing may present more harm than benefit to the public.

Further, the Department agrees with the recommendation of the Legislative Auditor that Chapter 455, Hawaii Revised Statutes, be amended to permit those naturopaths who are currently licensed to continue to practice, but that no new licensing of naturopaths be permitted; that the scope of practice be amended as recommended; and that the term "physician" should not be associated with naturopathy as it is misleading and increases risks to the public for reasons stated in the report of the Legislative Auditor.

Your Committee received favorable testimony from the Board of Examiners in Naturopathy, the Hawaiian Society of Naturopathic Physicians and naturopathic physicians.

Your Committee finds that the practice of naturopathy does pose a significant risk to the public. Clearly, the incompetent practitioner can cause considerable and significant harm to the health, safety and welfare of consumers. Accordingly, your Committee finds that the Board of Naturopathy should be carefully scrutinized in light of Auditor Report No. 85-8 and the testimony of the Department of Health.

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

(1) Section 1 has been amended by inserting Chapter 455 (Board of Examiners in Naturopathy), relating to the Board of Examiners in Naturopathy, with a listing of the chapters to be repealed effective December 31, 1987; and

(2) A new section 2 has been added which provides language for the revocation or suspension of any naturopathic license, if the licensee uses the designation "physician" to describe the person's self or professional practice.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 756, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 756, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 462      Consumer Protection and Commerce on H.B. No. 755

The purpose of this bill is to extend the repeal date of Chapter 460 (Board of Osteopathic Examiners), Hawaii Revised Statutes, from December 31, 1985 to December 31, 1991.

Your Committee received favorable testimony from the Hawaii Board of Osteopathic Examiners who agreed that osteopathic physicians should continue to be regulated by the State.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 755 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hirono.

SCRep. 463      Consumer Protection and Commerce on H.B. No. 743

The purpose of this bill is to amend section 431-643, Hawaii Revised Statutes, by inserting in subsection (10)(B), a 30 day response requirement for insurers with respect to claims arising under their policies.

Your Committee received favorable testimony from the Insurance Division of the Department of Commerce and Consumer Affairs and the Hawaii Independent Insurance Agents Association. The Insurance Division testified that the Unfair Claims Settlement Practices Model Regulation adopted by the National Association of Insurance Commissioners (NAIC) requires insurers, upon receiving notification of a claim, to acknowledge receipt of such notice within 10 working days.

Your Committee, upon further consideration, has amended subsection (10)(B), to read "ten working days" instead of "thirty days".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 743, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 743, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 464      Consumer Protection and Commerce on H.B. No. 1382

The purpose of this bill is to require that, in order to qualify for the owner-builder exemption in Section 444-2, Hawaii Revised Statutes, the owner or lessee must register for the exemption. Each county or local subdivision of the State is also required under the bill to maintain an owner-builder registration list containing certain pertinent information.

Your Committee received favorable testimony from the Contractors License Board, the Construction Industry Legislative Organization and the Hawaii Business League.

Your Committee finds that this amendment would curb the problem of owner-builders hiring unlicensed contractors. Accordingly, this amendment would reduce the risk that, upon sale, a buyer would encounter defective workmanship and/or the use of inappropriate building materials.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1382 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hirono.

SCRep. 465      Consumer Protection and Commerce on H.B. No. 1378

The purpose of this bill is to amend Chapter 514E, Hawaii Revised Statutes, by extending the cancellation of a time share contract by either party from five to fifteen calendar days. This bill also expressly provides that a notice to cancel a time share contract would be effective upon the mailing or delivery date of the notice of cancellation to the other party at the address specified on the contract.

The Department of Commerce and Consumer Affairs and the Waikiki Improvement Association, Inc. testified in favor of this bill.

Your Committee finds that the present five-day period may be inadequate, especially since time share solicitations appear to be primarily directed towards visitors. Due to the various time constraints that are often placed upon these individuals, your Committee believes that the extension of the cancellation period from five to fifteen calendar days is needed to ensure the adequate protection of these consumers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1378 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hirono.

SCRep. 466      Consumer Protection and Commerce on H.B. No. 1360 (Majority)

The purpose of this bill is to give publicly held companies incorporated in Hawaii the flexibility to restrict or eliminate cumulative voting for the election of directors. Currently, cumulative voting for directors is mandated for all companies incorporated in Hawaii, and may not be restricted or eliminated by provisions of the articles of incorporation or bylaws. This bill would permit corporations to restrict or eliminate cumulative voting by so providing in their articles of incorporation and/or bylaws.

Your Committee heard testimony in favor of this bill from the Department of Commerce and Consumer Affairs, Amfac, Inc. and Pacific Resources, Inc.

Your Committee, after due consideration, has amended this bill to permit restriction or elimination of cumulative voting by those Hawaii corporations having equity securities registered pursuant to the Securities Exchange Act of 1934, as amended, which are listed on a national securities exchange or traded over-the-counter on the National Market of the National Association of Securities Dealers, Inc. Automated Quotation System. The amendment would clarify which corporations would be subject to this bill. In addition, your Committee has made technical, nonsubstantive amendments to this bill.

Your Committee finds that such publicly held Hawaii corporations should be permitted to restrict or eliminate cumulative voting by provision in their articles of incorporation and/or bylaws, to encourage the election of directors who would represent all stockholders in their deliberations, and to discourage the election of a director or directors who would exclusively represent the special interests of only one stockholder or a small group of stockholders rather than the interest of all stockholders.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1360, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1360, H.D. 1, and

be placed on the calendar for Third Reading.

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

SCRep. 467      Consumer Protection and Commerce on H.B. No. 1366

The purpose of this bill is to clarify the effect of Act 167, Session Laws of Hawaii 1983, entitled the "Hawaii Business Corporation Act (the "Act")", on existing articles of incorporation and bylaws of Hawaii corporations.

Currently, the Act expressly states the intention of the legislation not to impair any valid right or action taken by any Hawaii corporation prior to the effective date of the Act, but is unclear as to whether presently valid provisions of articles of incorporation or bylaws are preserved if such provisions conflict with provisions of the Act.

Your Committee heard testimony in favor of this bill from the Department of Commerce and Consumer Affairs, Amfac, Inc. and Pacific Resources, Inc.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1366 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 468      Consumer Protection and Commerce on H.B. No. 1356

The purpose of this bill is to amend section 431F-6, Hawaii Revised Statutes, by requiring members selected to the board of directors of the Hawaii Life and Disability Insurance Guaranty Association to be the appointed general agent or manager of the member insurer.

Your Committee received favorable testimony from Grand Pacific Life Insurance Company, Ltd. Grand Pacific testified that although it would be preferable to have representatives of the member insurer be a home office officer, it is not practical because of the distance involved. Accordingly, the best alternative would be to appoint the member insurer's recognized manager or general agent.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1356 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hirono.

SCRep. 469      Consumer Protection and Commerce on H.B. No. 1354

The purpose of this bill is to clarify the hour when proxies must be delivered to the secretary of an association of apartment owners for meetings of the association.

Your Committee heard testimony in favor of the bill from the Hawaii State Bar Association, Chaney, Brooks & Company, and a spokesperson for the Makaha Shores Condominium. Testimony in opposition to the bill was received from a condominium owner, who testified that the bill would provide an additional day, or a total of three business days, in which to submit a proxy.

Your Committee, after due consideration, has amended the bill to provide that a proxy must be delivered no later than 4:30 p.m. on the second business day prior to the date of the meeting.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1354, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1354, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.



## SCRep. 470 Consumer Protection and Commerce on H.B. No. 233

The purpose of this bill is to redefine the practice of nursing for registered nurses (RN) as well as for licensed practical nurses (LPN).

The Board of Nursing testified that Act 182, SLH 1984, mandated that the Board monitor and evaluate the scope of the practice of nursing in other states and make recommendations to the Legislature, if deemed desirable, for appropriate amendments to the definitions under section 457-2 and any other provision of this Chapter 457.

Accordingly, the Board's proposed definitions reflect consultation with representatives from the Hawaii Nurses' Association, and the Licensed Practical Nurses Association of Hawaii, as well as research on recent legislation in other jurisdictions, and is intended to more accurately define the current practices of the registered nurse and licensed practical nurse in Hawaii.

Further, the term "performance for compensation" has been deleted in both RN and LPN definitions. Currently, only those individuals providing services for compensation were required to be licensed. Under the proposed amendments, anyone who practices nursing, voluntary or otherwise, will require a license.

Your Committee also received favorable testimony from the nurses at Kuakini Medical Center, the Midwifery Options, Hawaii and the Nursing Department of St. Francis Hospital.

Your Committee did, however, receive opposing testimony from the Hawaii Medical Association and the Hawaii Federation of Physicians and Dentists. Their concern was that the proposed definition for a registered nurse would imply that nurses practice independently and as an "autonomous health care professional". Notwithstanding the views of the Hawaii Medical Association and the Hawaii Federation of Physicians and Dentists, your Committee was not persuaded by their argument, especially in light of their failure to support their views.

Accordingly, your Committee is in full support of revising the present outdated Nurse Practice Act in order to accurately reflect what is actually being currently practiced.

Your Committee, upon further consideration, amended page 3, line 19, by inserting "supervision and teaching of other personnel" after the word "counseling".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 233, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 233, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Jones.

## SCRep. 471 Consumer Protection and Commerce on H.B. No. 1057

The purpose of this bill is to amend Chapter 453, Hawaii Revised Statutes, by substituting up-to-date nomenclature for language that has been superceded.

Your Committee received favorable testimony from the Board of Medical Examiners. The Board testified that the new nomenclature updates the committees and councils that accredit under-graduate and post-graduate medical training programs. Also, the amendment clarifies that accreditation is given specifically to programs offered by medical schools, or colleges and hospitals.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1057 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 472 Consumer Protection and Commerce on H.B. No. 462

The purpose of this bill is to renumber Section 437-3.5, Hawaii Revised Statutes, to Section 490:2-313.1.

The Motor Vehicle Licensing Board of the Department of Commerce and Consumer Affairs testified in favor of the bill, stating that Section 437-3.5 entitled New motor vehicle; express warranties, return., would be best located under a section dealing with express warranties, that is, Section 490:2-313.1.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 462 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 473 Consumer Protection and Commerce on H.B. No. 496

The purpose of this bill is to amend Hawaii Revised Statutes Section 294-5(b) by limiting a claimant's wage loss benefits from both workers' compensation and no-fault insurance sources to the maximum of such benefits available under a claimant's no-fault insurance policy.

The Insurance Commissioner ruled in Maldonado v. Transport Indemnity that the wording of Section 294-5, Hawaii Revised Statutes, "required a finding that the payment of workers' compensation wage loss benefits would be offset against the amounts otherwise recoverable under the no-fault law for wage loss." Thus, although the claimant's total wage loss because of his accident was over \$1,500 a month, the claimant was allowed to recover a total of only \$800 a month from both workers' compensation and no-fault insurance. Through subsequent appeals, the Supreme Court reversed the Commissioner's initial ruling and held that the claimant was entitled to recover his total wage losses from both policies, subject to the benefit limits provided by each policy.

Your Committee received favorable testimony from Hawaiian Electric Company, Inc., the Hawaii Independent Insurance Agents Association and the Hawaii Business League.

The Insurance Division of the Department of Commerce and Consumer Affairs, although in support of the intent of this bill, testified in favor of H.B. No. 1774-84, which had been introduced during the 1984 Legislative Session. The Division felt that H.B. No. 1774-84, represented a more reasonable and equitable alternative to the issues and concerns of this bill.

The Division further testified that it was compelled by statutory language to reach the result it did in Maldonado, although it was not a desirable outcome for policy reasons. Accordingly, the Division added that if double insurance payments could be avoided, both sources of insurance should be available to a claimant for his injuries.

Your Committee, upon further consideration, has amended this bill to adopt H.B. No. 1774-84 in its entirety. Your Committee finds that this amendment will permit a claimant to receive his gross wage loss and provide a disincentive for malingering.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 496, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 496, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 474 Consumer Protection and Commerce on H.B. No. 499

The purpose of this bill is to allow licensed optometrists who pass a board approved general and ocular pharmacology examination to use pharmaceutical agents for eye examination purposes only.

Your Committee received favorable testimony from the Hawaii Optometric Associ-

ation and the Board of Examiners in Optometry. The Board testified that the pharmaceutical agents being proposed are in common usage and have been proven to be safe and effective. The expanded eye examination capabilities permitted by these agents will allow for improved eye or systemic eye disease detection for early referral and treatment by medical specialists. Moreover, optometrists will be required to advise patients if evidence of ocular abnormality requiring evaluation and possible treatment by a physician is warranted.

Your Committee received testimony in opposition from the Hawaii Federation of Physicians and Dentists, the Honolulu County Medical Society, the Hawaii Medical Association, the Philippine Medical Association and the Hawaiian Ophthalmological Society.

Your Committee finds that it is in agreement with the intent of this amendment, in light of the national acceptance of allowing optometrists to use pharmaceutical agents for eye examination purposes.

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

- (1) On page 1, line 13, provision (7) has been deleted.
- (2) On page 3, lines 9 through 12 have been deleted.
- (3) In section 459-9, the following new language has been inserted:

"(11) Failing to advise a patient to consult with a physician if evidence of any ocular abnormality requiring evaluation and possible treatment is determined during the eye examination."; and

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 499, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 499, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hirono.

SCRep. 475 Consumer Protection and Commerce on H.B. No. 1061

The purpose of this bill is to amend section 281-45, Hawaii Revised Statutes, by statutorily allowing the Liquor Commission to make a determination as to whether or not a liquor license can be issued to a person or corporation convicted of a felony.

Your Committee received favorable testimony from the Liquor Commission, City and County of Honolulu, the Retail Dealers Association and the Southland Corporation. The Liquor Commission testified that current statutory language imposes an absolute bar in the event of a prior felony conviction. Accordingly, in some instances this law can be unduly harsh.

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

- (1) On page 1, line 7, the following language has been bracketed: "minor or to any";
- (2) On page 2, after subsection (2), the following language has been added: "provided, however, that no license shall be issued under this chapter:"; and
- (3) On page 2, following the above stated proposed language, the following language has been added: "(1) To any minor;".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1061, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1061, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hirono.

SCRep. 476 Consumer Protection and Commerce on H.B. No. 1054

The purpose of this bill is to amend section 46-76, Hawaii Revised Statutes,

relating to the location of utility facilities in improvement districts in order to permit the total cost of relocating such facilities to be apportioned among the utility companies, the county and specially benefited properties within the district.

Your Committee received favorable testimony from Hawaiian Electric Company, Inc., GASCO, Inc. and Hawaiian Telephone Company. GASCO, Inc. testified that this amendment would clarify the existing law, and ensure that all utility companies were treated equitably. Further, GASCO has not been reimbursed whenever it has had to relocate such gas lines due to a public improvement in the area, and that such denials have been based on the rationale that gas lines did not have to be relocated from overhead to underground.

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

(1) On page 1, lines 15 and 16 have been amended by deleting "or" and by bracketing "located" and "underground";

(2) On page 1, line 16, the following statutory language was omitted: "shall constitute a public improvement, the respective legislative bodies of the counties shall determine what portion of the"; and

(3) On page 2, line 8, to add the following language between the words "same" and "for": "percentage of the total relocation cost";

(4) On page 3, lines 1 and 2 were deleted.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1054, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1054, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hirono.

SCRep. 477      Consumer Protection and Commerce and Judiciary on H.B. No. 800

The purpose of this bill is to establish a new chapter which would regulate the alarm business.

In 1984, the Honolulu Police Department responded to an average of 2,300 false alarms. This has caused an enormous drain on the resources of the Police Department.

Your Committees received favorable testimony from the Police Department of the City and County of Honolulu and the Office of Consumer Protection. The Office of Consumer Protection did, however, suggest amending Section -2(a) of this bill, in order to clarify the intent of the bonding provision.

Your Committees, upon further consideration, has amended Section -2(a) to reflect the amendments suggested by the Office of Consumer Protection.

Your Committees have also made the following amendments:

(1) On page 3, line 16, the following language has been inserted between the words "business" and "shall": "that maintains, services, or monitors alarm systems";

(2) On page 3, line 21, the following language has been added to the end of the sentence: "that are reported to the police";

(3) On page 3, lines 24 and 25, the words "servicing" and "serviced" have been respectively added after the words "maintaining" and "maintained";

(4) On page 4, line 11, the following language has been inserted between the words "for" and "911": "a municipal emergency number such as";

(5) On page 4, line 20, the following language has been inserted between the words "business" and "shall": "that maintain, service, or monitor alarm systems"; and

(6) On page 4, line 21, the following language has been inserted between the

words "information" and "needed": "about false alarms and alarm systems in operation".

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 800, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 800, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 478      Consumer Protection and Commerce on H.B. No. 557

The purpose of this bill is to amend section 294-10(b), Hawaii Revised Statutes, by requiring the medical-rehabilitative tort threshold to be statutorily set at \$2,000.

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 of third-party claims was constructed to permit only the seriously injured claimants the right to go to court.

Your Committee received testimony in opposition from the Insurance Division of the Department of Commerce and Consumer Affairs, the Hawaii Insurers Council and the Hawaii Independent Insurance Agents Association. The Division testified that a statutorily-fixed threshold would not adequately reflect the rising costs of medical care. Further, a lower threshold would encourage relatively minor third-party claims to go to court.

Your Committee received testimony in support from the Hawaii Academy of Plaintiffs' Attorneys (HAPA). HAPA testified that the present threshold of \$5,200, works an injustice on numerous accident victims, particularly those on the neighbor islands. For example, because of the limited type of medical treatment available, an accident victim residing on a neighbor island may not come close to accruing total medical bills of \$5,200, even though he may have the same injuries as another victim in Honolulu. The relative costs of medical care also contribute to the uneven result. The higher the threshold is pushed by the "90% claims experience" formula, the more glaring this disparity becomes in the rights of these accident victims.

HAPA also notes that a federal district court on December 7, 1984, struck down a threshold limit of \$5,000 as unconstitutional. Diamond v District of Columbia, No. 83-1938 (Dec. 7, 1984). The court held that the \$5,000 limit established by the District of Columbia no-fault statute violated equal protection guarantees.

Your Committee finds that the tort threshold should be retained; however, the indexing feature should be tied to medical care inflation rather than the current 90% formula. Also, your Committee finds that the threshold Consumer Price Index (CPI) calculations should start from base year 1978, the rationale being that through the years 1974-1978, the threshold remained statutorily fixed at \$1500 and only from 1978 did the threshold increase.

Your Committee, upon further consideration, has amended the bill by inserting new proposed language for section 294-10(b). This new language reflects the amended change-over to a threshold based upon medical CPI.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 557, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 557, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hirono.

SCRep. 479      Consumer Protection and Commerce on H.B. No. 520

The purpose of this bill is to extend from 30 days to 45 days the time in which a lending institution must notify an owner occupant loan applicant of the action taken on the application. The bill also exempts developers who either do not sell

or plan to sell the project to third persons or who build or convert two houses on a single lot from the statutory requirements of sales to owner occupants.

Your Committee heard testimony in favor of this bill from the Real Estate Commission of the Department of Commerce and Consumer Affairs and from the Hawaii Bankers Association.

The Real Estate Commission recommended that amendments be made to the bill as follows:

1. Amend Section 514A-102 Announcement, publication. to permit a developer to: (a) summarize the information required to be published in the announcement subject to the approval of the Commission in lieu of listing each individual unit in the announcement; (b) decrease the amount of information required to be contained in the announcement; (c) decrease the number of times the publication is required; and (d) require that notification to tenants prior to termination of the rental agreement contain the same information as is required by this section and that the notification be transmitted by registered mail.

2. Amend Section 514A-105 Sale of residential units. to increase from 30 to 45 calendar days the period by which a buyer will have obtained adequate financing or a commitment for adequate financing.

Your Committee, after further consideration, has amended the bill to incorporate the amendments as recommended by the Real Estate Commission. Your Committee has also amended subsection (b) of Section 514A-108 to read as follows: "(b) This part shall not apply to small condominium projects where the developer sells or intends to sell the project to a spouse or family members related by blood, descent or adoption."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 520, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 520, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 480      Consumer Protection and Commerce and Judiciary on H.B. No. 509

The purpose of this bill is to amend pertinent sections of Chapters 287 and 294, Hawaii Revised Statutes, in order to strengthen penalties for driving without the no-fault insurance coverage currently required under Chapter 294.

Your Committees received favorable testimony from the Insurance Division of the Department of Commerce and Consumer Affairs, the Hawaii Academy of Plaintiffs' Attorneys, the Hawaii Independent Insurance Agents Association and the Hawaii Insurers Council. The Division testified that it believes tougher penalties will provide a stronger disincentive for driving uninsured than is currently provided in the law.

Your Committees find that adding a certificate of insurance as proof section, as well as instituting a minimum \$400 fine for conviction of not having valid and current no-fault coverage will act to deter drivers from driving uninsured.

Your Committees also find, however, that these new provisions are not intended to penalize motorists whose policies have been delayed because their insurance company had failed to mail their policy expeditiously.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 509 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 481      Transportation on H.B. No. 290

The purposes of this bill are: 1) to require motor vehicles that are operated upon public highways during certain hours to utilize head lamps emitting white light of equal candle power; and 2) to specify the acceptable location and placement of such head lamps.



Your Committee finds that some vehicle owners have been attaching to and installing upon their vehicles colored, transparent plastic coverings over the white headlight lens, changing the color and diminishing the candle power of the headlight. According to standards established by the federal government, the white light and head lamp location requirements found in this bill are necessary to maintain maximum illumination and allow clear identification of any object, person, or vehicle a minimum distance of sixty feet in front of a moving vehicle during hours of darkness.

Your Committee also finds that there is currently no State law or County ordinance which requires motor vehicles to use white head lamps when lighted lamps are required. The absence of any law in this area has made the enforcement of white head lamp use impossible.

Your Committee received testimony from the Department of Transportation and the Honolulu Police Department favoring this bill, to require the use of white head lamps, installed in a suitable location on all vehicles operated on public highways.

Your Committee therefore agrees with the intent of this bill, to provide the police with the power to enforce the use of white head lamps and to require that head lamps be installed in a specified location.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 290 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 482      Transportation on H.B. No. 518

The purpose of this bill is to establish new maximum bumper height specifications for passenger vehicles and to amend such specifications presently based on a vehicle's gross vehicle weight rating.

Your Committee finds that Act 291, Session Laws of Hawaii, 1984, established certain maximum bumper heights which are scheduled to take effect on July 1, 1985. Your Committee heard H.B. No. 2275-84 during the legislative session of 1984 which established Act 291 and originally set the maximum bumper height for vehicles according to gross vehicle weight ratings. Your Committee finds, after amending H.B. 2275-84 last session, that the maximum bumper heights set in Act 291 require further revision to permit persons to pursue the business of reconstructing vehicles and the opportunity to operate reconstructed vehicles off of the road.

Your Committee finds that H.B. No. 518 proposes to establish new bumper heights which attempt to adequately balance the legitimate interests of persons who operate off-road vehicles with the interests of public safety. However, your Committee received testimony that the bumper heights proposed by H.B. No. 518, as it was originally referred to your Committee, would allow, in some cases, only a three inch modification of the vehicle.

Your Committee also received testimony from the off-road vehicle industry that, within certain reasonable limits, an increase in the bumper heights set by Act 291 will not pose an undue hazard to either the driver of the vehicle (from instability in handling) or others (from impact with a reconstructed vehicle). The maximum bumper height set by this bill for the heaviest vehicle weight category will not appreciably increase the hazard to other drivers involved in accidents with reconstructed vehicles. Under the provisions contained in this bill, if a vehicle in the heaviest weight category is reconstructed to obtain maximum bumper height, it will impact most vehicles at door level in lateral accidents, at hood level in front-end collisions and at trunk level in rear-end collisions. Your Committee finds that establishing new maximum bumper heights which protect the driver of the vehicle and other highway users from an unstable reconstructed vehicle is addressed by setting maximum bumper heights in accordance with manufacturer's specifications and by ensuring that vehicles are reconstructed properly.

Your Committee believes that greater flexibility is required in the bill to permit persons to pursue the business of reconstructing vehicles and the opportunity to operate vehicles off of the road. Your Committee finds from testimony presented that the bumper height limitations for the front and back of a vehicle should be

the same. Your Committee has balanced these considerations with the overriding public interest in safety and has amended the bill as follows:

- 1) In Section 1, at page 1, line 10, the numbers 24 and 26 have both been replaced by the number 29;
- 2) In Section 1, at page 1, line 11, the numbers 27 and 29 have both been replaced by the number 33;
- 3) In Section 1, at page 1, line 12, the number 35 has been inserted between the number 28 and the word inches and between the number 30 and the word inches; and
- 4) In Section 3, at page 2, lines 16 and 17, the words "upon its approval" have been replaced by "on July 1, 1985".

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 518, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 518, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Medeiros, Nakasato and Onouye.

SCRep. 483      Transportation and Water, Land Use, Development and Hawaiian Affairs on H.B. No. 217

The purpose of this bill is to repeal the provisions of Section 266-2, Hawaii Revised Statutes, which authorizes the Department of Transportation to plan, construct, operate, and maintain any harbor facility in the State with the approval of county agencies.

Your Committees have heard testimony generally in favor of the bill. The sponsor of the bill (the Department of Planning and Economic Development) testified in favor of the bill because the Department of Transportation's exemption has created a problem for the Department of Planning and Economic Development, relative to maintaining federal approval of Hawaii's Coastal Zone Management (CZM) program. This threatens the State's eligibility to receive federal CZM administration grants and the privilege of administering the federal consistency review process.

The federal Office of Ocean and Coastal Resource Management indicated that the exemption appears to alter the federal government's understanding at the time of program approval that all State agency activities would be subject to Special Management Area (SMA) permit requirements. The exemption of the SMA permit, administered by the county governments under Chapter 205A, Hawaii Revised Statutes, forecloses an important opportunity for local decision-makers and the public to review a harbor development's impacts on coastal zone resources.

The Department of Transportation, on the other hand, says that:

"It should be recognized that it is possible that some of the objectives of the Coastal Zone Management Program themselves may be in conflict, if given equal priority in a specific case. Harbor development, which is consistent with the Economic Use objective to provide public or private facilities and improvements important to the State's economy could easily conflict with the objective to protect and minimize adverse impacts on coastal ecosystems. At present, there is no mechanism to determine which objective of the CZM Program should be given precedence in a given situation. Without the existing exemption, a county's rejection of the SMA permit based on another CZM objective would automatically determine the fate of a project which may have a profound impact on our Statewide harbor system."

Your Committees have amended the bill to satisfy the concerns of both agencies in the following manner, by amending the paragraph starting on line 17 of page 2 of the bill, to read as follows:

"[Notwithstanding any law or provision to the contrary, the] The department of transportation is authorized to plan, construct, operate, and maintain any harbor facility in the State, including the acquisition and use of lands necessary to stockpile dredged spoils, without the approval of county agencies[.], except that

the provisions of chapter 205A shall apply. Should the department of transportation demonstrate through a statement of determination overriding State interest for any harbor facility pursuant to sections 205A-2(b)(5)(A) and 205A-2(c)(5)(C), then sections 205A-26(2)(A) and 205A-26(2)(C) shall not apply."

This amendment acknowledges the legitimate interests of both the counties and the Department of Transportation. It restores the counties' authority to influence the design and location of harbor projects for local demand through their planning and zoning responsibilities. At the same time, for projects that have important State economic interests, it retains the Department of Transportation's authority to proceed by limiting the counties' authority to assure compliance with the objectives and policies of Chapter 205A.

Your Committees on Transportation and on Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 217, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 217, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hemmings, Medeiros, Nakasato, Onouye, Pfeil, Tajiri and Tam.

SCRep. 484      Transportation and Consumer Protection and Commerce on H.B.  
No. 720

The purpose of this bill is to amend section 286-2, Hawaii Revised Statutes, to exclude from the definition of "rebuilt vehicle", those vehicles that have been declared a total loss by an insurer but that have not sustained material damage to their frame or unitized structure.

Your Committees find that this bill amends the definition of "rebuilt vehicle" to be more consistent with the intent of Act 276, Session Laws of 1984, which amended the law concerning rebuilt vehicles.

Your Committees received testimony from the Department of Transportation, the Honolulu Police Department and Mr. Van Takemoto. Your Committees find from testimony presented at the hearing on this bill that vehicles have been registered that use frames from other vehicles. Passage of this bill should lessen the unlawful use of stolen frames and other parts in reconstructed and other vehicles.

Your Committees also find that the integrity and safety of a vehicle is maintained if damage is not sustained to any part of the power train components, frame or unitized structure, or suspension system of the vehicle. Therefore, inserting "frame" and "unitized structure" into the definition of "rebuilt vehicle" is consistent with a declaration of total loss.

Your Committees amended the bill at page 1, line 5, to accurately reflect the present statute as set forth in section 286-2 of the Hawaii Revised Statutes.

Your Committees on Transportation and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 720, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 720, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 485      Transportation and Education on H.B. No. 612

The purpose of this bill is to specifically exempt passenger vans owned by associations duly incorporated with the Department of Commerce and Consumer Affairs and operated to promote recreation, health, safety, or social group functions from being classified as school vehicles.

Your Committees find that, under present law, passenger vans used to transport children from school to an afterschool or summer fun program may be required to be in conformance with relevant school vehicle regulations as established by the Department of Transportation. Adherence to these regulations, however, would result in certain private community associations bearing burdensome transportation costs.

Your Committees received testimony from the Department of Transportation and the Newtown Estates Community Association favoring this bill, to clarify existing law to specifically include within the exemptions from school vehicle regulations certain private community associations that utilize passenger vans for recreation, health, safety, or social group functions.

Your Committees find that private community associations provide programs that are similar to programs that the Department of Transportation has exempted from its school vehicle regulations and feel that it would be unfair to treat the private community associations differently. This bill will provide the Department with clearer guidelines in determining which vehicles can be exempted from the school vehicle regulations.

Your Committees amended this bill at page 1, lines 1, 2, 3 and 10 to conform the bill to recommended bill drafting style.

Your Committees on Transportation and Education are in accord with the intent and purpose of H.B. No. 612, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 612, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 486      Transportation and Consumer Protection and Commerce on H.B.  
No. 826

The purpose of this bill is to amend section 290-8, HRS, by amending the conditions under which a vehicle can be designated as derelict, to include:

- (1) that the vehicle has not been registered for the current or previous registration periods; and
- (2) that the vehicle is ten model years old or older.

Your Committees find that under the present statutes, a vehicle can only be declared derelict if major parts have been removed so as to render the vehicle inoperable and one of five corroborating conditions are present.

Your Committees have received testimony from the Deputy Director of Finance for the City and County of Honolulu indicating that the corroborating condition with respect to registration for the past two registration periods, as presently worded, has led to misinterpretations and should, therefore, be clarified to mean the current and previous registration periods.

The Deputy Director also testified that the majority of the older model vehicles which are towed by the city after being declared as "abandoned" are never claimed. Yet the Motor Vehicle Control Section must conduct extensive and time consuming search and notification actions. In the mean time, the older model vehicle must be stored by the city. By enabling older model vehicles, which meet the physical condition of a derelict to be declared derelict, regardless of the vehicle's registration status, significant time and cost savings could be incurred by the city.

Your Committees agree that derelict vehicles pose a significant problem within the City and County of Honolulu, and that additional efforts to expedite the removal and disposition of derelict vehicles is warranted.

Your Committees have amended this bill by rewording condition 4 on page two of this bill to read, "The vehicle has not been registered for the current and previous registration period", as opposed to the current or previous registration period.

Your Committees have also made technical, non-substantive amendments to correct typographical and drafting errors.

Your Committees on Transportation and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 826, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 826, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 487      Judiciary and Corrections and Rehabilitation on H.B. No. 100

The purpose of this bill is to update the Hawaii penal code by incorporating certain recommendations of the committee on penal code revision and reform of the judicial council of Hawaii.

It has been approximately twelve years since the penal code was enacted. During the intervening period, piecemeal amendments have been made to the code. Because of the community's growing concern with crime, the legislature and the judicial council of the Hawaii supreme court created the committee on penal code revision and reform to undertake a comprehensive review of the entire penal code and to recommend amendments. The committee was composed of representatives from the three major sectors of the criminal justice system: enforcement, judiciary, and corrections. The committee's recommendations were published in a report entitled, "A Comprehensive Review and Reformation of the Hawaii Penal Code". All the recommendations were not unanimously agreed to by all members and there was strong disagreement on certain recommendations. However, the report did attempt to synthesize the diverse perspectives of the committee into specific proposals.

The report of the committee, which was drafted in bill form was introduced as H.B. No. 100. The bill proposes numerous changes to the code.

Some of the more noteworthy changes are: (1) elimination of the defense of voluntary intoxication; (2) adoption of the insanity defense approved by the American Bar Association and the American Psychiatric Association; (3) establish two degrees of murder and manslaughter; (4) expand the degrees of assault from three to five; (5) rename and recategorize the rape and sodomy offenses; (6) eliminate the "voluntary social companion" from the rape and sodomy offenses and redefine certain terms in the sexual offenses; (7) reclassify and redefine the property and drug offenses; and (8) revise the sentencing scheme.

The sentencing is a major undertaking of the penal code committee and merits special attention. The proposed plan is designed to increase the rate of imprisonment while decreasing the average length of imprisonment. The penal code committee described the new plan as "just punishment" model. Under the proposed scheme, sentencing will be done under a new concept called "presumptive imprisonment" which will apply to Class B first offenders and Class C repeat offenders. Offenders in these classes must be sentenced to imprisonment "unless ... the court finds, and makes explicit in the records, its finding and supporting reasoning, that withholding a sentence of imprisonment will not jeopardize community safety, foster disrespect for law, thwart legitimate deterrence objectives, or fail to satisfy the imperative of just punishment." In addition, the mandatory imprisonment for Class B repeaters and presumptive imprisonment for Class C repeaters will produce approximately the same rate of imprisonment as the repeat offender provision. As part of the plan, certain crimes which present no danger or violence to persons, are redefined and reclassified and a new Class D felony is created. The Committee's plan also attempts to restrict judicial discretion in the initial decision to imprison but would allow for discretion in the term of imprisonment. The plan also provides guidelines for the Hawaii paroling authority in determining a minimum sentence. The theory behind the plan is to strike a balance in the distribution of discretion over the four primary institutions who play a role in the sentencing: the legislature which creates the structure and the penalties, the prosecutor who brings the charge; the court which imposes the sentence; and the paroling authority which determines the minimum term.

Your Committees heard testimony from the public defender, American Civil Liberties Union, and Professor Addison Bowman, project director, requesting that your Committees defer any action at this time and allow interim study. According to Professor Bowman, the penal code committee anticipated interim study before the recommendations would be acted upon. However, as an alternative, he suggested that certain amendments which are not dependant upon the changes in other chapters could be adopted.

Your Committees expressed concern with the suggestion of deferring the entire bill until next session. Amendments that are acceptable and that are agreed upon by your Committees should be passed out. Furthermore, those revisions that are deleted could be worked on during the interim and re-introduced next session.

Your Committees also heard testimony from the prosecutor's offices from the Counties of Maui, Hawaii and the City and County of Honolulu, generally, in opposition to the bill. However, they did support most of the amendments pro-

posed by the Chairs and your Committees which are contained in H.B. No. 100, H.D. 1.

Your Committees, after reviewing the bill and testimony, has made the following amendments:

- 1) Delete the voluntary intoxication defense.

Your Committees sought to address this concern in another bill, however, certain constitutional problems were raised and your Committees decided to defer any amendment to the voluntary intoxication section.

- 2) Retain the present sentencing plan.

Your Committees, based on the testimony, decided to retain the sentencing plan from the bill. According to the testifiers, the present sentencing scheme is working and should be retained. Your Committees heard strong testimony in support of the repeat offender section. Testifiers stated that the repeat offender section provides "teeth" to the law because it requires mandatory terms for certain repeat offenders. Your Committees believe that there are enough classes: three classes of felonies and two classes of misdemeanors and adding another felony class is not necessary, and therefore deleted the Class D category.

- 3) Retain the present insanity defense.

Your Committees heard testimony in opposition to remove the volitional test from the insanity defense. According to testimony very few defendants are found not guilty be reason of insanity under the volitional test.

- 4) Retain the present manslaughter offense.

Your Committees recommended to retain one degree of manslaughter since it did not appear that two degrees were necessary.

- 5) Retain the present negligent homicide offenses.

Your Committees were concerned that by removing the vehicle requirement from negligent homicide, doctors may be charged where as a result of their negligence, a patient dies.

- 6) Theft offense.

Your Committees decided to raise theft first to Class B felony and to increase the amount to \$10,000 and over. Your Committees discussed raising the limit for theft second to account for inflation. However, your Committees could not agree on an amount and decided not to make an adjustment at this time.

- 7) Add commercial promotion of marijuana.

Because of the increasing problem with marijuana growing, your Committees recommended that a new offense be added that would make commercial growing of marijuana a crime and that due to its seriousness, it was made a Class B felony.

- 8) Sexual offenses.

Your Committees accepted the penal code committee's recommendation to change the present sexual offenses sections to sexual assaults. All the prosecutor's offices raised concern that if the present rape and sodomy offenses are deleted and degrees of sexual assault are used, they may lose the ability to multiple count a defendant where the victim is both raped and sodomized. However, your Committees want to make it clear that even though the rape and sodomy are renamed sexual assaults offenses, the prosecutor's office can still multiple charge a defendant where he is alleged to have committed both a rape and sodomy.

Your Committees made other technical and nonsubstantive amendments to the bill for purposes of style and clarity and to correct technical drafting errors.

Your Committees on Judiciary and Rehabilitation and Corrections are in accord with the intent and purpose of H.B. No. 100, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 100, H.D. 1, and be placed on the calendar for Third Reading.



Signed by all members of the Committees except Representatives Hirono and Shito.

SCRep. 488      Finance on H.B. No. 834

The purpose of this bill is to amend section 237-24, Hawaii Revised Statutes, by: (1) adding a new paragraph (22) to exempt from the general excise tax, amounts received by an employee benefit plan in the form of contributions, dividends, interest, and other income and (2) providing that the exemption shall apply to amounts received as payment for costs and expenses from an employee benefit plan by any entity established by such employee benefit plan or group of employer benefit plans to provide administrative services to such plans.

The current general excise tax law does not specifically exempt funds received by an employee benefit plan such as employer/employee contributions, interest earned on investments, dividends, and other income from the 4 per cent general excise tax. The department of taxation has interpreted this income to be taxable. As such, the imposition of the general excise tax merely reduces the amount of funds available to provide these benefits to employee members. This bill provides an exemption from the general excise tax for such funds. This bill defines further, "employee benefit plan" as any plan described in section 1002(3) of Title 29 of the United States Code, amended. An employee benefit plan as defined by federal law provides employees with pensions, annuities, health and welfare benefits, vacation and holiday benefits.

This measure also proposes to exempt those amounts received as payment for the cost of administering such benefit plans when received by any "entity" established to provide administrative services for the subject plans. While it appears that the intent of this provision is to exempt amounts received as a reimbursement for costs incurred by personnel within an existing organization such as a union, as drafted, the measure would apply to any person engaged in the activity of administering such plans. For example, a trust company which is in the profit-making business of managing trust funds as a fiduciary would be able to qualify for the exemption if appointed to administer such benefit plans. Your Committee finds that exempting such profit-making entities would be contrary to good tax policy. Therefore, your Committee has amended this bill to eliminate the exemption granted to amounts received as payments for costs and expenses from an employee benefit by any entity established by such employee benefit plan or group of employee benefit plans to provide administrative services.

Your Committee has also made technical, nonsubstantive amendments to the bill for purposes of clarity and style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 834, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 834, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 489      Finance on H.B. No. 1350

The purpose of this bill is to lessen the tax burden on local residents; spur economic growth; and provide a reasonable level of revenue sharing with the counties.

The last major reform of our tax system was almost thirty years ago; since then our economic activity has shifted from agriculture to tourism and other service industries. As Hawaii makes the transition to a dynamic urban service-based economy, your Committee finds that our tax laws need to be realigned and our future redirected.

As amended, this bill will generate tax savings to local residents, especially the elderly and taxpayers of average means. The bill will also stimulate new business development, encourage existing firms to expand, respond to the plea of counties for a share of state resources, and provide the resources to modernize our communities' physical infrastructures.

The specific provisions of this tax savings/revenue enhancement plan are as follows:

- (1) provide property tax relief, especially for low and middle-income homeowners;
- (2) increase the renter tax credit by raising the income limit and tripling the credit, and provide an income tax deduction for excise taxes paid;
- (3) exempt groceries and prescription drugs from the excise tax;
- (4) reduce pyramiding of the general excise tax by exempting manufacturing and producing and eliminating the use tax; and
- (5) provide the counties a fair share of state revenues that will support their economic growth.

In addition to reducing the pyramiding of the general excise tax, the exemption of manufacturing and producing is designed to assist sellers of exports and encourage new business development; and the elimination of the use tax in its entirety is designed to encourage firms to invest in capital goods for expansion and modernization, thereby making Hawaii more attractive to high-tech industry and other new businesses.

The revenue sharing plan for the counties call for annual increases of at least four per cent, and more if excise tax collections increase. This will enable the counties to properly plan and budget and meet their obligations.

Hawaii is at a critical juncture; government can choose to do nothing, or it can choose to take action. Your Committee believes that the choice is clear; government must take action to act as a catalyst in bringing about economic prosperity for all of Hawaii. This will be accomplished by realigning Hawaii's tax laws to provide tax relief to our people and enhance Hawaii's economic infrastructure.

Your Committee on Finance is in accord with the intent and purpose of H.B. 1350, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 1350, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Takamine.

SCRep. 490      Consumer Protection and Commerce on H.B. No. 1270

The purpose of this bill is to clarify by disclosure to the parties in a real estate transaction (buyer, seller; lessee, lessor) the important fact of who the broker represents.

The memorandum submitted to the Hawaii Real Estate Commission by its education consultant summarized a number of studies and reports on the agency relationship issue. This material indicates there is confusion among the users of agency services, and other participants in real property transactions, about the agency relationship and the duties of agents to their principals and to other parties in those transactions. Much of this confusion can be eliminated by means of disclosure of who the broker represents in all real estate transactions, whether residential, commercial, leasehold, or fee simple. Such disclosure should be made at the outset of any agency relationship but, in any event, must be confirmed in writing at the time the parties sign the contract to sell or the contract to lease for more than one year.

Your Committee finds that it is desirable to, and that by enactment of this act that it intends to:

- (a) Further the education of the public and the licensee on the existence of various types of agency relationships in real property transactions.
- (b) Require disclosure to the parties of who the broker represents in any transaction as a means of clarifying public understanding of such relationships.
- (c) Allow brokers and broker organizations the opportunity to develop their own disclosure forms which explain in simple, comprehensive, nontechnical terms, the elements of such relationships.

(d) Delay the requirement of this act until July 1, 1987, in order to provide sufficient time to familiarize the public and brokers with the provisions of this act.

It is the intent of this Committee that failure of a licensee to make the required disclosure may result in suspension or revocation of the licensee's real estate license. Both the licensee involved in preparation of the contract and the broker are subject to disciplinary action. The burden of disclosure is also placed on the broker since it is the broker, and not the individual salesperson working under the broker, who has the direct fiduciary agency relationship with the principal. Nothing in the act shall affect the validity of any contract to transfer title to real property involving an agency relationship because of such failure to conform to the disclosure requirement in the act.

It is the further intent of this act to require the Real Estate Commission to publish guideline disclosures and to develop rules and regulations implementing this act and to develop sufficient educational programs and materials to assist the consumer and licensees in better understanding the nature of agency relationships.

Your Committee heard testimony from the Hawaii Association of Realtors in support of the intent and purpose of H.B. No. 1270.

Your Committee adopted the recommendation of the Real Estate Commission by amending Section 467-14, Hawaii Revised Statutes, by adding a new provision to read as follows: "When the licensee fails to obtain on the contract between the parties to the real estate transaction confirmation of who the broker represents."

Your Committee is in accord with the intent and purpose of H.B. No. 1270, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1270, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Jones and Metcalf.

SCRep. 491      Consumer Protection and Commerce on H.B. No. 839

The purpose of this bill is to amend section 485-1, Hawaii Revised Statutes, by amending the definition of "investment adviser".

This bill proposes to exclude in the definition of "investment adviser" the following:

- (1) A person who is registered with the United States Securities and Exchange Commission under the Investment Act of 1940;
- (2) A person who has custody of any client money, securities, or other assets;
- (3) A person who does not collect fees from clients more than six months in advance; and
- (4) A person who has discretionary authority over client money, securities or other assets only to invest in securities in which the person has no ownership interest within the meaning of Section 318 of the Internal Revenue Code of 1954.

Your Committee heard testimony in favor of this bill from Cadinha & Co., Inc. and Denny and Denny Incorporated. Cadinha & Co., Inc. testified that the current statutory language creates an unnecessary burden for the investment management industry.

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

- (1) On page 3, lines 8 and 9, the following proposed language has been deleted: "within the meaning of Section 318 of the Internal Revenue Code of 1954;" and
- (2) On page 3, the following language has been added in place of the aforementioned deleted language: ", and (v) does not advise a client whose money, securities, and other assets under management by such person have a market value of less than \$250,000 per each separate account under management on the date of the inception of the client relationship; or (I)".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 839, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 839, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Jones, Metcalf and Tungpalan.

SCRep. 492      Consumer Protection and Commerce on H.B. No. 1369

The purpose of this bill is to replace the existing Hawaii corporate takeover law with takeover legislation patterned after the Minnesota Takeover Act.

Currently, persons seeking to acquire ten percent or more of the shares of a Hawaii corporation must first register their offer with the State Commissioner of Securities, even if the buyer and seller of the shares are non-Hawaii residents. Your Committee finds that the existing takeover law may be unconstitutional in view of the United States Supreme Court decision of Edgar v. MITE Corporation. In particular, your Committee finds that the Edgar decision may render the following aspects of the existing takeover law constitutionally suspect: (a) the existing law regulates the purchase of shares nationwide rather than being limited to transactions involving Hawaii shareholders; (b) takeover bids may be delayed for 60 days or more; and (c) the Commissioner of Securities has broad discretion to deny registration.

Your Committee heard testimony in favor of this bill from the Department of Commerce and Consumer Affairs and Amfac, Inc.

Your Committee, after due consideration, has amended this bill to require that persons register their offers to acquire ten percent or more of the shares of a publicly traded corporation, if the corporation is either incorporated in Hawaii or is at least 10 percent owned by Hawaii residents, and under either of these circumstances has substantial assets in Hawaii. Among other things, the bill provides that registration of the offer is required only if the seller of the shares is a Hawaii resident, registration must be approved by the Commissioner of Securities no later than 19 days after the filing of the registration application and the Commissioner may not deny registration on the grounds of unfairness. All substantive provisions of this bill, except for the amendments noted, were contained in the Minnesota Takeover Act which was designed to comply with the requirements of the Edgar decision. The United States Court of Appeals for the Eighth Circuit has ruled that the Minnesota Takeover Act is constitutional under the Edgar decision.

The definition of target companies subject to this bill originally included those issuers having at least 20 percent of their publicly traded shares held beneficially by Hawaii residents. Your Committee amended this bill to include in the definition of target companies those issuers having at least 10 percent of their shares held beneficially by Hawaii residents to ensure fast identification of which corporations are subject to this bill.

Your Committee also amended this bill to add a severability clause. To be consistent with the existing Hawaii takeover law, your Committee further amended the bill by deleting the exclusion for insurance companies, financial institutions and public utilities. In addition, your Committee made technical, nonsubstantive amendments to this bill.

Your Committee notes that the legislature determined 10 years ago that the existing takeover law serves a legitimate and desirable public purpose. To ensure that a constitutionally valid takeover law will continue to exist, your Committee finds that the Minnesota Takeover Act version of a takeover law should replace the existing Hawaii takeover law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1369, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1369, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Jones and Metcalf.

## SCRep. 493 Consumer Protection and Commerce on H.B. No. 549

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes to provide statutory language for the enforcement of software licenses.

Software development is not unknown in Hawaii. Many software products have been developed here, including Spellguard, the IBM PC spelling checker program that won the 1981 Product of the Year award from Infoworld magazine; the Advanced Legal Software package that has been marketed to major corporations like Wang, Digital Equipment Corp., Syntrex and Exxon; Softstyle's Set Fix+, a utility program to interface between IBM PC's and Epson printers, (in fact, Softstyle products have been in the top ten best-selling IBM PC utility program list), as well as other software products like IBM PC Lisp.

The Hawaii High Tech Journal has published many articles on how software developers and other high tech entrepreneurs and managers find Hawaii well-suited for software development. In articles on Veri-Fone and Softstyle, there are programmers living on the Big Island and "telecommuting" to their headquarters in Honolulu. The office of the future already exists in Hawaii.

Your Committee received favorable testimony from Oceanic Properties, Inc. and Advanced Legal Software, Inc. Oceanic Properties testified that an anti-software piracy law in Hawaii will make Hawaii very attractive for software developers to relocate here. Louisiana, which has no software industry, has passed an anti-software piracy law almost identical to the current House bill. Georgia also has a similar law pending in its legislature.

Your Committee finds that if Hawaii is indeed serious about high tech development, an appropriate climate for software programmers must be nurtured.

Your Committee, upon further consideration, has made technical, nonsubstantive amendments as well as the following amendment:

(1) On page 2, line 11, the phrase "an average literate person", has been replaced with "the average person licensing such software,".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 549, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 549, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Tungpalan.

## SCRep. 494 Consumer Protection and Commerce on H.B. No. 569

The purpose of this bill is to amend section 431-448, Hawaii Revised Statutes, by requiring that every insurer initially issuing a policy or a renewal shall notify its insured in writing of the optional additional uninsured motorist coverage that is available under the policy.

Your Committee received favorable testimony from the Hawaii Association of Plaintiffs' Attorneys (HAPA). HAPA testified that it was their experience that consumers are not generally provided this information at the time of purchase or renewal of automobile insurance policies. HAPA believes the premium charge is generally very small for increased coverage. Unfortunately, consumers generally are unaware that increased coverages are available at low cost.

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

(1) On page 2, line 11, the following language has been added to the end of the sentence: "on the anniversary date".

This amendment was made to clarify that this information must be provided once a year.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 569, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 569, H.D. 1, and be

placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Tungpalan.

SCRep. 495 Consumer Protection and Commerce on H.B. No. 1357

The purpose of this bill is to amend section 431-296(a), Hawaii Revised Statutes, to allow a life insurer to own and invest or have invested in its home office building and branch office buildings any of its funds in an aggregate amount not to exceed twenty percent of its admitted assets, or fifty percent of the excess of its admitted assets over its liabilities.

Currently, a life insurer is limited to the lesser of the foregoing formulas relative to ownership/investments in home office or branch office property. Property/casualty insurers, on the other hand, are simply allowed to own/invest twenty percent of its admitted assets. Since twenty percent of assets are almost always more than fifty percent of surplus, the current formulas provide property/casualty insurers greater investment flexibility than life insurers. It is felt that property/casualty insurers should not have greater investment flexibility over life insurers, especially since the nature of the property/casualty business dictates that such insurers' assets be more readily liquid than life insurers'.

Your Committee received favorable testimony from Grand Pacific Life Insurance Company, Ltd. Grand Pacific Life Insurance Company, Ltd. stated, however, that the proposed amendment would still fail to treat all insurance companies fairly and equally with respect to owning or investing in home office or branch office buildings.

Your Committee, upon further consideration, has amended the bill by deleting the following language starting on page 1, line 16 to page 2, line 3: ", or fifty per cent of the excess of its admitted assets over its liabilities, other than capital stock if a stock life insurer, whichever is the lesser amount."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1357, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1357, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Tungpalan.

SCRep. 496 Consumer Protection and Commerce on H.B. No. 1351

The purpose of this bill is to amend Chapter 485, Hawaii Revised Statutes, by providing: (1) a definition of an "investment adviser representative"; (2) that broker/dealers have the authority to substitute securities or cash with the Commissioner of Securities, Department of Commerce and Consumer Affairs, in lieu of a bond; (3) the eligibility requirements for registering as an investment adviser representative; (4) the registration requirements for an investment adviser representative; and (5) the revocation, suspension and denial of an investment adviser license.

Your Committee received favorable testimony from the Business Division of the Department of Commerce and Consumer Affairs. The Division testified that it supported the bill because of the need to clarify Act 281, Session Laws of Hawaii 1984.

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

(1) On page 14, line 12, the following language has been added to the end of the sentence: "if the investment adviser has custody of or discretionary authority over client money, securities or other assets, or an unaudited, verified balance sheet and financial statements if the investment adviser has no custody of or discretionary authority over client money, securities or other assets;" and

(2) On page 25, line 12, the following language has been added to the end of the sentence: "who have custody of or discretionary authority over client money, securities or other assets."



Your Committee has also made nonsubstantive changes to the bill to correct typographical errors and omissions in the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1351, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1351, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Tungpaplan.

SCRep. 497      Consumer Protection and Commerce on H.B. No. 1333

The purpose of this bill is to amend Chapter 403, Hawaii Revised Statutes, relating to banks, to close a "loophole" in the interpretation by the Comptroller of the Currency of the definition of a traditional bank. By omitting one of the legally required functions of a bank, nonbanking corporations and bank holding companies have sought to open limited service offices across state lines (which is prohibited to traditional banks by the Federal McFadden Act) as nonbanks in Hawaii and elsewhere.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs, the Hawaii Bankers Association and the Hawaii League of Savings Institutions. The Association amended the bill to authorize the State to exercise its powers in resolving a national dilemma caused by the failure of the U.S. House of Representatives to adopt the U.S. Senate-passed ban on nonbank banks.

A nonbank bank is an institution structured so that it has all the characteristics of a bank except that it does not have all of the powers of a national bank. A nonbank either accepts demand deposits or makes commercial loans, but does not engage in both of these activities. These nonbank banks accordingly claim that they are "banks" under the National Bank Act, but at the same time are not "banks" under the Bank Holding Company Act (BHCA).

The Comptroller of the Currency charters and regulates national banks pursuant to the National Bank Act. Under the McFadden Act, a national banking association may not establish branches outside the state in which its main office is located. In order to avoid the restrictions of the McFadden Act, many state and national banks formed bank holding companies--usually corporations organized under state law to hold shares of one or more banks. Initially, bank holding companies were not Federally regulated, and no Federal law prohibited a bank holding company located in one state from acquiring banks in other states. But in 1956, the BHCA was enacted by Congress. The Douglas Amendment to the BHCA provides that the Federal Reserve Board may not permit any bank holding company to acquire directly or indirectly any voting shares or interest in, or substantially all of the assets of any bank located outside of the state where the bank holding company's subsidiary banks principally operate unless the acquisition is specifically authorized by the state laws in which the bank is located.

Congress intended the McFadden Act and the Douglas Amendment to give states absolute veto power over whether out-of-state banking organizations are entitled to engage in the business of banking within their borders.

Under section 2(c) of the BHCA, a "bank" is defined to mean any institution that both (a) accepts deposits that the depositor has the legal right to withdraw on demand, and (b) engages in the business of making commercial loans. During the past year, bank holding companies and other companies have begun to evade the BHCA restrictions on interstate banking by forming these nonbank banks (limited service facilities) by omitting one of the two required functions of a bank.

Beginning in late summer of 1983, the Comptroller of the Currency began to give preliminary approvals to the formation of these national nonbank banking associations. Because most of these nonbank banks have opted to do business in selected affluent areas of Florida, banking groups and the State of Florida have filed suit in the Florida Federal court to order the Comptroller of the Currency not to issue any final approvals for these limited service banks.

Two weeks ago, the Florida Federal District Court agreed that these nonbank banks are "clearly an anomaly" and that Congress didn't give the Comptroller the

"broad power to determine what types of financial organizations could be chartered as national associations". The Court further said the Comptroller should seek Congressional authority for such new banks "before imposing his personal policy preferences...on the banking structure of the United States".

Because of the blatant disregard of the Comptroller in issuing preliminary approvals for these nonbank banks throughout the United States, a number of states have enacted prohibitory statutes--Connecticut, Maryland, New Jersey, Pennsylvania, Florida, North Carolina and just several weeks ago, Colorado. Kansas, Iowa and other states are in the process of considering these laws to prohibit nonbank banks.

Your Committee, upon further consideration, has adopted the amendment as proposed by the Association, which adds a new section to Chapter 403, Hawaii Revised Statutes, and provides that no bank holding company or any other company may acquire or control any banking institution located in this state that does not both (a) accept deposits that the depositor has a legal right to withdraw on demand and (b) engage in the business of making commercial loans.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1333, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1333, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Tungpalan.

SCRep. 498      Consumer Protection and Commerce on H.B. No. 571 (Majority)

The purpose of this bill is to amend section 294-11, Hawaii Revised Statutes, by requiring insurers, prior to initial policy issuance and 30 days prior to policy renewal, to notify policyholders in writing of the availability of the various optional additional coverages and limits, and of the costs for such coverages and limits.

Currently, insurers provide policyholders with a declarations page for each policy which clearly sets forth the policyholder's coverages, limits and appropriate rates.

Your Committee received favorable testimony from the Hawaii Academy of Plaintiffs' Attorneys (HAPA). HAPA testified that it is their experience that most injured victims of automobile accidents are not aware of the optional packages for increased protection until it is too late because they have already been hurt in an accident. It is HAPA's understanding that the difference in cost between the statutory minimum policy and greater coverage is not much, but consumers are not generally provided specific information regarding comparative costs. Therefore, they cannot make reasoned and intelligent economic choices regarding the amount of protection they wish to carry. This legislation would correct that situation by mandating that insurance companies inform consumers at a time when the information will be most useful.

Your Committee received testimony in opposition from the Insurance Division, Department of Commerce and Consumer Affairs and the Hawaii Independent Insurance Agents Association. The Division testified that this additional requirement would result in increased costs to insurers without proving to be of significant value to the majority of the policyholders.

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

(1) On page 4, line 3, at the end of the sentence, the following phrase has been added: "on the anniversary date".

This amendment was made in order to clarify that this requirement would have to be met only once a year.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 571, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 571, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Tungpalan.  
(Representative Jones did not concur.)

SCRep. 499      Consumer Protection and Commerce on H.B. No. 1489

The purpose of this bill is to amend section 514E-30, Hawaii Revised Statutes, by abrogating the State's authority to regulate time share plans, which include units located in Hawaii but which are sold on an out-of-state basis.

Your Committee received testimony in favor of this bill from the Department of Commerce and Consumer Affairs. The Department testified that although no sales activities may be conducted locally with respect to a time share plan which includes Hawaii units, the State has an interest in ensuring that the developer for the plan meets the same disclosure and purchaser protection requirements imposed upon developers for similar plans which are offered or sold locally. While other jurisdictions may have laws which regulate time share sales within their borders, very few of these jurisdictions have laws which are as effective as our time share statute in protecting the interests of time share purchasers. If the registration requirement is deleted for plans with Hawaii units which are sold out-of-state, there is a very real possibility that the same type of time share club which created so many problems for the State prior to the enactment of our first time share statute in 1980 will again start to operate in Hawaii. To guard against this possibility, the State should continue to bear the responsibility of protecting the interests of these out-of-state purchasers, particularly in view of the fact that they are purchasing interests in Hawaii property.

Your Committee, upon further consideration, has adopted in its entirety the proposed language submitted by the Department.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1489, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1489, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Jones, Metcalf and Tungpalan.

SCRep. 500      Consumer Protection and Commerce on H.B. No. 791

The purpose of this bill is to amend Chapter 672, Hawaii Revised Statutes, to correct problems within the current statutory language.

The purpose of Chapter 672, Hawaii Revised Statutes, is to establish design professional conciliation panels in an attempt to minimize the filing of non-meritorious lawsuits against design professionals. Before passage of the Act, the number of lawsuits against design professionals were increasing at such a rate that preventive measures had to be taken to eliminate non-meritorious claims.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs, the Consulting Engineers Council of Hawaii, the Structural Engineers Association of Hawaii and practicing design professionals.

Your Committee received testimony in opposition to the bill from the Hawaii Academy of Plaintiffs' Attorneys (HAPA). HAPA testified that "it is unfair to require a claimant to incur more costs merely because the wrongdoer is a design professional. The design professional should not be singled out for special treatment. The design panel law is ineffective because of the absence of non-design professional parties, such as contractors and supply houses. In the usual situation, a claim is not only made against the design professional but also against the non-design professionals, and where only the design professional is required to appear before the panel, it does not encourage settlement because the other 'defendants' are not available to contribute to the settlement." Accordingly, HAPA recommended that Chapter 672, Hawaii Revised Statutes, be repealed.

Your Committee finds that it would be more practical to address some of the problems in the current law, rather than repealing the Chapter.

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

- (1) On page 3, line 18, the compensation rate has been amended to \$300;
- (2) On page 4, lines 3 and 6, the deposit amount has been reduced from \$750 to \$450;
- (3) On page 10, SECTION 6 has been deleted and a new section has been added which amends Section 672-10, Hawaii Revised Statutes;
- (4) On page 14, line 11, the following language has been inserted between the words "may" and "apply": "make ex parte motion";
- (5) On page 18, SECTION 12 has been amended to read as follows: "This Act shall take effect upon its approval; provided that all claims pending before the panel as of the effective date of this Act shall be deemed to have been filed on that date for the purpose of this provision".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 791, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 791, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Jones, Metcalf and Tungpalan.

SCRep. 501      Ocean and Marine Resources and Water, Land Use, Development  
and Hawaiian Affairs on H.B. No. 832

The purpose of this bill is to amend subsection 205-33(a), Hawaii Revised Statutes, by limiting the taking of sand from a public beach to not more than one gallon, and by eliminating the prohibition of sand replenishment to Hilo Bay, Waikiki, Ala Moana, and Kailua beaches only.

Testimony from the Environmental Center at the University of Hawaii at Manoa, the Department of Parks and Recreation of the City and County of Honolulu, and Council member David Kahanu from Windward Oahu supported the purpose and intent of the bill, and cited a need of sand replenishment at other State beaches. In addition, Mr. Calvin Hoe, a Windward Oahu resident, indicated that sand mining at Kualoa would have an adverse impact on an ancient fishpond adjacent to the Kualoa Park. The fishpond in question is the only fully functioning fishpond in Hawaii.

Your Committees agree that while sand mining is important and necessary for most of our public beaches, sand mining in the Kualoa area may adversely affect the above-mentioned ancient fishpond adjacent to the park. Accordingly, your Committees have amended the bill to exempt the Kualoa area from any sand mining activities by inserting the phrase, "with the exception of Kualoa Beach Park" to Section 205-33(a)(2).

Your Committees have also made some technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committees on Ocean and Marine Resources and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 832, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 832, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 502      Human Services on H.B. No. 776

The purpose of this bill is to: (1) establish registration procedures as the regulatory scheme for those providers caring for two to five children in a private home; (2) make said registration mandatory; (3) simplify the application process for family child care homes; (4) require compliance with certain minimum requirements for fire, sanitation, health, supervision and protection of children; (5) establish guidelines for the promulgation of rules for family child care homes; (6) establish guidelines for visitation and inspection; (7) provide guidelines for the development of standards to assure the reputable and responsible character of

applicants and their employees; (8) provide the Department of Social Services and Housing (DSSH) with the authority to establish family child care systems; and (9) provide for a program of incentives for registration, subject to the limits of legislative appropriations.

Your Committee finds that current rules for family day care homes are unnecessarily complex and burdensome and discourage providers from being licensed and lessen the availability of this service. With the large proportion of working mothers in our State, your Committee believes that the public interest is not being served by the current licensing system. Furthermore, your Committee has learned that states which have regulatory registration systems report lower costs by way of fewer workers being needed to register and monitor more homes.

Voluminous testimony was received in support of this bill. The Department of Social Services and Housing, the Hawaii Child Care Project, the Hawaii Association for the Education of Young Children, People Attentive to Children (PATCH), the St. Timothy's Children Center and many other concerned individuals testified favorably.

Your Committee, upon further consideration, has substantively amended the bill as received. First, subsections (4) and (5) of the new exclusionary listing, have been amended to delete references to "children from and including age five to age seventeen", as many public and private schools accept children under age 5 for enrollment. Your Committee has therefore amended subsections (4) and (5) on page 3 of the bill to state: "eligible pupils of public and private schools through age seventeen."

Second, your Committee has also amended the above-mentioned subsection (5) of the new exclusionary listing of the bill to specify that multi-service organizations such as the YMCA and the YWCA, which promote recreation, health, safety and social group functions, are likewise excluded. While the Director of the DSSH has in the past excluded the YMCA from licensing under his discretionary authority, your Committee believes that the statutory oversight should be corrected by the amendment to subsection (5).

And third, in the interest of legislative economy, the amendments approved by your Committee to H.B. No. 435 previously heard, have been added to H.B. No. 776, the subject of this report. H.B. No. 435 proposed the removal of family child care homes from licensing requirements, and amendments to the exclusionary provisions of the present statutory scheme. In short with this consolidation, H.B. No. 776 has become the primary vehicle for revisions to the State's child care licensing system.

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

Your Committee is in accord with the intent and purpose of H.B. No. 776, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 776, H.D. 2, and be placed in the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cavasso, Hirono, Jones, Kiyabu and Morgado.

SCRep. 503      Finance on H.B. No. 22

The purpose of this bill is to implement the constitutional mandate to provide a tax refund or tax credit when, under certain conditions, there is a surplus in the state general fund.

Article VII, section 6, of the Constitution of the State of Hawaii requires the legislature to provide for a tax refund or tax credit to the taxpayers of the State whenever the state general fund balance at the close of each of two successive fiscal years exceeds five per cent of general fund revenues for each of the two fiscal years. Since these factors have been met for the fourth year in a row, this bill is necessary to satisfy the constitutional mandate.

Your Committee has provided for a general income tax credit of \$1.00.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 22, as amended herein, and recommends that it pass Second Reading in the form

attached hereto as H.B. No. 22, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 504 Finance on H.B. No. 614

The purpose of this bill is to repeal HRS §46-21.5. At present, this section prohibits the various counties from increasing the salaries of their top-level elected and appointed officials.

§46-21.5 was adopted by the legislature as Section 34 of Act 129, Session Laws of Hawaii 1982. That act did three things: it increased the salaries of various top-level state officials; it put a freeze on any salary increases for top-level county officials; and it created a salary review commission to recommend to the legislature an integral salary schedule for all top-level state and county officials.

The passage of Act 129 was motivated, in part, by the fact that comparable top-level officials in the city and county of Honolulu were receiving higher salaries than their State counterparts. The State perceived this to be unfair and demoralizing to its top-level officials, especially in view of the fact that the city and county was receiving grants-in-aid from the State to bolster its budget. Further disturbing was the fact that the city and county of Honolulu has linked salary increases for its top-level officials to increases in wages under its public employees' collective bargaining agreements. This method of automatic pay raises had two obvious effects. First, because wages under collective bargaining agreements were progressively increasing, this arrangement guaranteed that the salary disparity between top-level officials of the city and county and of the State would continue to grow. Second, this arrangement created an obvious conflict of interest on the part of the city and county officials who, on the one hand, were to negotiate these collective bargaining agreements in the city and county's best interest but whose salaries, on the other hand, would increase in accordance with wage increases in such agreements.

Unfortunately, what was lost in this controversy was the fact that none of the outer island counties were contributing to these problems. The salaries of top-level officials of the outer island counties have traditionally been lower than their counterparts in both the city and county and the State. Furthermore, none of these counties had a system of automatic salary increases linked to wage increases in collective bargaining agreements.

Your Committee favors repealing HRS §46-21.5. The immediate effect of this will be to allow the outer island counties to set salary schedules more reasonably related to those in the State and the city and county.

Your Committee has amended this bill by making nonsubstantive changes for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 614, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 614, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 505 Finance on H.B. No. 1131

The purpose of this bill is to clarify the qualifying standards for any organization applying for a grant, subsidy, or purchase of service agreement.

The addition to HRS section 42-2 made by this bill allows an exception in the qualifying standards for a grant, subsidy, or purchase of service to individuals who demonstrate the necessary program experience.

Your Committee has made technical changes for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1131, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1131, H.D. 2, and be placed on the calendar



for Third Reading.

Signed by all members of the Committee.

SCRep. 506      Employment Opportunities and Labor Relations and Consumer  
Protection and Commerce on H.B. No. 962

The purpose of this bill is to require every insurer providing workers' compensation insurance to offer, at the option of the insured employer, a deductible for medical benefits.

The Department of Labor and Industrial Relations testified that they would be in favor of this bill provided that the total billing is to be paid by the insurer with the deductible to be collected from the employer. They also requested language to ensure that there would be no changes in the reporting calculations for the computing of the special compensation fund.

The National Federation of Independent Business testified in favor of the bill and suggested increasing the deductible option to \$300.

The Hospital Association of Hawaii testified in favor of the bill provided it be amended to require that billings be submitted directly to the insured for total payment with the deductible to be collected later from the employer. The Hospital Association also requested that the original language of the Hawaii Revised Statutes regarding the "liability of the employer" be retained.

The Chamber of Commerce testified that they could recommend favorable consideration of the bill if the amendments as suggested by the Hospital Association relating to billing procedures were incorporated into the bill to avoid confusion or dispute regarding legitimate payment of the deductible. They also recommend raising the deductible amount to \$300.

Your Committees find that this bill provides an incentive to employers to control safety and monitor claims more diligently.

The bill adds a new section to chapter 386, Hawaii Revised Statutes, which provides a deductible option of \$100, \$150, \$200, or \$300 for medical benefits covered by any workers' compensation insurance policy. If an employer chooses this option, the insured employer will have to ultimately pay the deductible amount although the insurance carrier will pay all costs directly to the medical services provider and collect the deductible amount from the insured employer.

The deductible medical benefit amounts will still be reported as part of the total average annual compensation paid by insurance carriers as required by Section 386-95, Hawaii Revised Statutes.

Section 431-693, Hawaii Revised Statutes, is amended to provide that if the claim does not exceed the selected deductible amount, and the employer reimburses the insurance carrier for that amount, those claims will not be calculated in the employer's loss experience rating on which premiums are based.

Your Committees amended the original form of the bill to incorporate the recommendations of the testifiers. Your Committee amended the bill as follows:

- (1) Deductible amount was changed to add the option of \$300;
- (2) An addition to the deductible option section requires the insurer to pay the entire cost of medical bills and seek reimbursement from the insured;
- (3) The language of the original Hawaii Revised Statutes regarding the "liability of the employer" has been retained;
- (4) The reporting by insurers as required by Section 386-95 will be included in the total average annual compensation, but claims which are below the deductible amount and which are reimbursed by the employer to the insurer shall not be calculated in the employers' experience rating or risk category.

Your Committees on Employment Opportunities and Labor Relations and Consumer Protection and Commerce, are in accord with the intent and purpose of H.B. No. 962, as amended herein, and recommend that it pass Second Reading in the form

attached hereto as H.B. 962, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hirono, Liu and Nakasato.

SCRep. 507 Finance on H.B. No. 23

The purpose of this bill is to establish a fund to be known as the Emergency and Budget Stabilization Fund, into which shall be transferred a designated percentage of unappropriated general fund balances.

This bill further provides that appropriations from the fund may be made for the purpose of: meeting unanticipated deficits affecting federally funded public health, safety and welfare programs; meeting unanticipated debt service costs; providing for countercyclical economic and employment programs; restoring facilities and services disrupted by disaster; and meeting other emergencies declared by the governor or determined to be urgent by the Legislature.

This bill provides that whenever the general fund balance at the end of a fiscal year exceeds two per cent of the total moneys received in the general fund for that fiscal year, the director of Budget and Finance shall transfer on July 1 of the next fiscal year an amount equal to fifty per cent of such general fund balance to the emergency and budget stabilization fund.

Your Committee has amended this bill by: (1) delineating that the emergency and budget stabilization fund shall be a special fund, and (2) providing that expenditures from appropriations from this special fund shall be exempt from the general fund expenditure ceiling established pursuant to chapter 37, part V, Hawaii Revised Statutes.

Your Committee has also amended this bill to incorporate the recommendations of the Tax Review Commission that the moneys in the fund shall not exceed twelve per cent of the total actual general fund expenditures for the preceding fiscal year.

In addition, your Committee has made technical, nonsubstantive amendments to this bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of the H.B. No. 23, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 23, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 508 Finance on H.B. No. 20

The purpose of this bill is to compensate victims of certain crimes and providers of services under the Criminal Injuries Compensation Act.

Your Committee recognizes the tremendous worth of this program which was established in 1967. In 1984, 338 persons, including victims and providers of services, were awarded compensation. The total appropriation of \$386,240.11 made by this bill is approved by your Committee.

Your Committee has amended this bill to correct technical drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 20, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 20, H.D. 2.

Signed by all members of the Committee.

SCRep. 509 Finance on H.B. No. 39

This bill would extend the provisions of Act 153, Session Laws of Hawaii 1983, relating to the deposit of a portion of fees into a special funds authorized by Section 416-97, Hawaii Revised Statutes, for a period of three years until June 30,

1988. This bill would also provide for the expedited review of documents relating to foreign corporations, partnerships, trademarks, service marks and trade names through the assessment of special handling fees.

Your Committee finds that the additional staff hired through the special fund has helped the division reduce the backlog documents from three months to three weeks.

Any current benefits to the division achieved by the special fund moneys will quickly disappear if the fund expires on June 30 of this year. All the work being handled by the special fund staff would have to be reallocated to the permanent staff. This would result in a backlog of 12 to 14 weeks for the processing of documents.

Finally, your Committee has made several nonsubstantive amendments to this bill to correct technical, stylistic, and typographical errors.

Your Committee of Finance is in accord with the intent and purpose of H.B. No. 39, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 39, H.D. 2.

Signed by all members of the Committee.

SCRep. 510      Finance on H.B. No. 49

The purpose of this bill is (1) to continue the cost-effective, long term, essential home care services, to Medicaid-eligible patients, through the Nursing Home Without Walls Demonstration Project and (2) expand the services to the Neighbor Islands.

Your Committee supports this innovative project which provides personal care services, home health aide services, homemaker and chore services to ill or disabled persons who are eligible under the medical assistance program, and who would otherwise require placement in a hospital or residential care facility for an extended period of time. During its first two years, Nursing Home Without Walls clearly demonstrated its cost-effectiveness and ability to maintain the independence of the elderly and severely disabled.

Your Committee has amended Section 3-(c), Act 192, Session Laws of Hawaii 1983, to more accurately define the duration of the project.

Your Committee has also made some technical, nonsubstantive amendments to the bill for purposes of style and clarity.

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

Signed by all members of the Committee.

SCRep. 511      Finance on H.B. No. 56

The purpose of this bill is to authorize the Hawaii Housing Authority (HHA) to issue up to the maximum in tax-exempt revenue bonds permitted by the federal government in the calendar years 1985, 1986 and 1987 to fund or purchase "eligible loans" under the Hula Mae Program. Under the Federal Mortgage Subsidy Bond Act of 1980, the IRS sets the ceiling on the amount of "qualified mortgage" bonds which may be issued by each state. The IRS limit for Hawaii is \$200 million per calendar year.

The \$200 million is allocated between the HHA and the respective counties. The HHA's allocation is 50% of the \$200 million but the counties may opt to reallocate their authorization to the HHA. This bill would authorize the HHA to use the State's entire limit in the event the counties chose to allocate their authorization to the HHA for a total of \$600 million for calendar years 1985 to 1987.

The intent of the bill is to permit HHA full utilization of Hawaii's allocation in light of the "sunset" for qualified mortgage bond programs on December 31, 1987, established by the Federal Deficit Reduction Act of 1984. It is the intent of the

bill to make it possible for the residents of Hawaii to enjoy the maximum amount of low mortgage funds which will be allowed by the federal government.

The HHA has presently issued \$471 million of the \$875 million authorized by Act 224, SLH 1984. The \$600 million (\$200 million for each calendar year 1985, 1986, and 1987) plus the \$471 million total \$1,071,000,000, the limit authorized by this bill.

Your Committee has amended this bill to correct nonsubstantive errors in drafting.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 56, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 56, H.D. 2.

Signed by all members of the Committee.

SCRep. 512      Finance on H.B. No. 57

The purpose of this bill is to enable the Hawaii Housing Authority (HHA) to issue capital appreciation bonds under the Hula Mae Program.

A capital appreciation bond is similar in concept to a savings bond, which is bought at a discount price with a payoff of its full face value at maturity. During the period between its purchase at a discount and the maturity date, a capital appreciation bonds accretes in value.

The principle of accretion is important, as a capital appreciation bond essentially increases in principal value rather than accruing interest. This has two ramifications: (1) such bonds are considered to bear no interest; and (2) there are no regular payments of interest as is typical for bonds. Both of these technical deviations from the typical characteristics of bonds are addressed in this measure.

An eligible borrower would benefit from the use of capital appreciation bonds because there would be a savings in the mortgage rate of 0.20% to 0.25%. This improvement in yield over a conventional serial/term bond structure is achieved by issuing capital appreciation term bonds in a discounted amount, usually amounting to no more than 7% to 10% of the total amount of bonds issued.

Capital appreciation bonds would enable the debt structure of a bond issue to be weighted more heavily to the lower interest serial bonds rather than the term bonds. This is accomplished because capital appreciation bonds would enable a bond issue's cash flow to support additional shorter term serial bonds. The value of capital appreciation bonds in lowering the interest cost on a bond issue has been recognized by other state housing finance agencies. Forty-seven of the states now utilize capital appreciation bonds to take advantage of the lower interest costs.

Upon recommendation of bond counsel, your Committee has amended this bill by: (1) rewriting the language added at the end of HRS, Section 356-213(a); (2) deleting all of SECTION 2; and (3) renumbering sections of the bill accordingly.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 57, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 57, H.D. 2.

Signed by all members of the Committee.

SCRep. 513      Finance on H.B. No. 79

The purpose of this bill is to extend the effect Act 275, Session Laws of Hawaii 1984, from June 30, 1985 to June 30, 1987. This bill also provides that the office of environmental control shall submit a progress report to the Legislature prior to the convening of the Regular Session of 1986.

Act 275, Session Laws of Hawaii 1984, was adopted in response to public concern over pesticide contamination and the need to coordinate the State's responsibilities relating to pesticides and environmental quality. To date, the office of environmental quality control has made significant progress in bringing together the

various agencies involved in the regulation of pesticides in Hawaii. However, due to the magnitude and complexity of the issues involved, your Committee finds that an extension of the office of environmental quality control's coordinative authority is in order.

Your Committee has amended this bill by clarifying the composition of the technical advisory committee on pesticides to allow a member of the U. S. Military in Hawaii to serve by "invitation" instead of "appointment" by the governor. Your Committee has also deleted the sum appropriated for the fiscal biennium 1985-1987 to carry out the purposes of Act 275.

In addition, your Committee has amended this bill by making technical, nonsubstantive amendments.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 79, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 79, H.D. 3.

Signed by all members of the Committee.

SCRep. 514      Finance on H.B. No. 104

The purpose of this bill is to require that only change of name orders of persons born within the State of Hawaii be reported to the registrar of births and to raise the filing fee to petition for a name change.

Current law requires that the Lieutenant Governor's Office file a copy of each name change order with the registrar of births. However, the registrar can only change the person's birth certificate if the person was born in Hawaii. Thus, the filing of orders of persons born elsewhere creates unnecessary paperwork for the department of health.

This bill increases the filing fee for a name change from \$5 to \$10.

Your Committee has also made some technical, nonsubstantive amendments to the bill for purpose of style and clarity.

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

Signed by all members of the Committee.

SCRep. 515      Finance on H.B. No. 107

The purpose of this bill is to amend sections 40-56 and 40-57, Hawaii Revised Statutes, to provide flexibility in issuing state payments by expressly authorizing certification of bills for advance payment or deposit when specified in the related purchase order or contract.

Current law does not expressly provide for advance payment or deposit. While the current requirements that payment be made only after work has been performed or goods have been received can be applied in the majority of cases, there are instances in which an advance payment or a deposit is necessary or is the common business practice.

Your Committee has amended this bill by making technical, nonsubstantive changes for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 107, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 107, H.D. 2.

Signed by all members of the Committee.

SCRep. 516      Finance on H.B. No. 108

The purpose of this bill is to amend Section 40-11, Hawaii Revised Statutes, to

provide for the destruction of State warrants which have been paid and which bear the date three years prior to the date of destruction provided that microfilm copies of the warrants are made and maintained for a period of ten years.

Under present law the State must hold all warrants of the State which have been paid and which bear any date ten years prior to the date of destruction.

Your Committee believes that this bill would reduce the cost of maintenance and the space requirements for the storage of physical warrants.

Your Committee has made some technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 108, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 108, H.D. 2.

Signed by all members of the Committee.

SCRep. 517      Finance 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 the bargaining unit representative for the Fiscal Biennium 1985-1987.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with section 89-10 (b), HRS, 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.

Since an agreement for the bargaining units is not expected to be reached in time to include the cost items in the 1985-1987 biennium budget, this separate measure is necessary.

Your Committee has amended this bill to include references to all bargaining units. Your Committee has also changed the appropriated amounts to \$1.

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

Signed by all members of the Committee.

SCRep. 518      Finance on H.B. No. 144

The purpose of this bill is to provide fund authorizations and appropriations for Unit 11 collective bargaining cost items, including the cost of salary adjustments negotiated between the state and the bargaining unit representative for the fiscal biennium 1985-87.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with section 89-10 (b), HRS, to cover the expected cost of implementing collective bargaining agreements negotiated between the state and the bargaining unit representative for the fiscal biennium commencing July 1, 1985.

Since an agreement for the bargaining unit is not expected to be reached in time to include the cost items in the 1985-1987 biennium budget, a separate measure is necessary.

Your Committee has amended this bill to change the appropriated amounts to \$1.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 144, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 144, H.D. 1.

Signed by all members of the Committee.



## SCRep. 519 Finance 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.

Since such adjustments will not be formulated in time to include the resulting cost items in the 1985-87 biennium budget, a separate measure is necessary.

Your Committee has amended this bill to change the appropriated amounts to \$1.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 146, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 146, H.D. 1.

Signed by all members of the Committee.

## SCRep. 520 Finance 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 chapter 89C, HRS. For officers and employees not covered by 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 has amended the bill to insert \$1.00 in each subparagraph of Section 2 and appropriates \$1.00 in both fiscal years.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 147, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 147, H.D. 1.

Signed by all members of the Committee.

## SCRep. 521 Finance on H.B. No. 166

The purpose of this bill is to enable the department of health to reinstitute its program of regulating the testing of newborns for congenital metabolic diseases. The bill further appropriates \$22,829 to fund one position to carry out a monitoring and follow-up program.

This bill requires that a phenylketonuria test, a hypothyroidism test and any other test for hereditary metabolic diseases, as required by rules adopted by the department of health, be administered to a newborn child. Exception would be allowed for parents, guardians or others having legal control who object to the test on religious grounds.

The bill defines a hereditary metabolic disease and allows the department to define which institution caring for the newborn is to report the names and addresses of any child to whom the test has not been administered or who receives a positive test result to the department.

The appropriated funds will provide for a nurse's position to receive and review all reports of infants with positive screening results or with no test results and provide follow-up to assure that these infants are tested.

Your Committee has amended this bill to make nonsubstantive technical changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 166, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 166, H.D. 2.

Signed by all members of the Committee.

SCRep. 522      Ocean and Marine Resources on H.B. No. 889

The purpose of this bill is to amend Section 188-14, Hawaii Revised Statutes, to make it unlawful for any individual to have in the person's possession ahi less than three pounds in weight caught within the two hundred-mile fishery conservation zone.

In testimony presented in opposition to this bill, the Department of Land and Natural Resources pointed out the uncertainty as to whether young ahi in Hawaiian waters contribute to the local adult ahi population that our fishermen depend so heavily on. The Department also pointed out that since the greatest losses to natural mortality of ahi occur in the early stages of life, it may be reasonable to harvest them for consumption before they are lost. Instead of limiting the size of ahi, the department recommended that your Committee address the depletion of opakapaka by increasing the current one-pound minimum size of opakapaka to three pounds. According to the Department, a recent scientific study estimated that such an amendment would result in a 162 per cent increase in egg production and a 25 per cent increase in harvestable size opakapaka in subsequent years.

Your Committee concurs with the recommendations of the Department and acknowledges errors in the drafting of this bill. Accordingly, your Committee has amended the bill by deleting "opakapaka" from line 9 of page 1; replacing "ahi" with "opakapaka" in line 14 of page 1; and deleting the phrase "caught within the two hundred-mile fishery conservation zone" from line 15 of page one. Your Committee has also made some technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 889, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 889, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 523      Finance on H.B. No. 174

The purpose of this bill is to repeal the Hawaii Employment Relations Board and transfer its present functions to the Hawaii Public Employment Relations Board, which is renamed the Hawaii Labor Relations Board.

Your Committee amended the bill to delete several sections pertaining to HPERB's membership. This section no longer applies since their functions have been transferred to the Hawaii Labor Relations Board.

Your Committee has also made some technical, nonsubstantive amendments to the bill for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 174, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 174, H.D. 1.

Signed by all members of the Committee.

## SCRep. 524 Finance on H.B. No. 52

The purpose of this bill is to allow an income tax credit for the care of elderly relatives.

This bill provides that (1) the credit is to be claimed against tax liability unless the taxpayer has no tax liability in which case a refund shall be made for amounts more than \$1, (2) spouses filing separate returns shall be entitled to only the credit to which they would have been entitled if they had filed jointly, and (3) taxpayers having no income and who are not claimed or otherwise eligible to be claimed as a dependent may also claim the credit. Further, claims for the credit must be filed within twelve months of the close of the taxable year or be considered waived if not filed on time.

In order to claim the tax credit, the elderly relative must: 1) be certified for an intermediate care facility by the department of social services and housing for the whole of the taxable year for which the credit is claimed; 2) be totally disabled or chronically ill; 3) have no taxable income; 4) be 65 years of age or older; 5) been cared for in the taxpayer's residence for not less than eleven months.

The bill as amended disallows any tax credit of the taxpayer who operates any nonprofit or profit care service for elderly individuals. Furthermore, a taxpayer claiming a tax credit under the chapter will not be allowed to claim the dependent care tax credit under section 235-55.6, Hawaii Revised Statutes.

Your Committee has amended this bill to provide for tax credit for each individual taxpayer in the amount of \$1,000 for the care of an elderly relative.

Your Committee is in accord with the intent and purpose of H.B. No. 52, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 52, H.D. 2.

Signed by all members of the Committee.

## SCRep. 525 Finance on H.B. No. 60

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.

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 also finds that past research efforts on the development of disease-resistant and high yielding varieties of cane have greatly benefited the industry and have been directly responsible for helping maintain industry profitably in this period of depressed prices. Continued efforts in these and related areas of research are considered essential to the future viability of Hawaii's sugar industry.

Your Committee has amended this bill to change the amount to be appropriated from \$2,750,000 to \$2,000,000. Your Committee has also amended this bill to mandate that a portion of the funds provided by this bill be used for research and development of alternative crops (i.e., other than sugar). Other nonsubstantive technical and stylistic amendments have also been made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 60, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 60, H.D. 2.

Signed by all members of the Committee.

## SCRep. 526 Finance on H.B. No. 94

The purpose of this bill is to appropriate funds for the repair and maintenance of prison facilities.

Your Committee concurs with the findings of the House Committee on Corrections and Rehabilitation that this appropriation would help the department of social

services and housing to administer properly programs designed to improve the well-being, treatment, and rehabilitation of adult and juvenile offenders by providing an adequate environment. Furthermore, your Committee agrees with the Corrections and Rehabilitation Committee that some of the prison facilities are in a rundown condition and are in serious need of repair and maintenance.

The sum of \$233,125 is to be appropriated for the purposes specified in this bill.

The department of social services and housing has been designated as the expending agency.

Your Committee has amended this bill by making technical, nonsubstantive changes for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 94, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 94, H.D. 2.

Signed by all members of the Committee.

SCRep. 527      Finance on H.B. No. 95

The purpose of this bill is to appropriate funds for expansion of educational and vocational training programs in correctional facilities.

Educational and vocational training programs are essential for developing inmate competency for integration back into the community.

The sum of \$71,316 is to be appropriated toward the purposes specified in this bill. This appropriation will provide the Department of Social Services and Housing with the resources to develop a statewide program to achieve coordination of educational and vocational programs among all of the correctional facilities.

Your Committee has amended this bill to correct a single typographical error.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 95, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 95, H.D. 2.

Signed by all members of the Committee.

SCRep. 528      Finance on H.B. No. 354

The purpose of this bill is to provide an increase in salary to the justices and judges of the State courts and to the administrative director and to the deputy administrative director of the courts.

In July 1984, the Commission on Judicial Salaries was established jointly by the Governor, Chief Justice, Senate President and House Speaker for the purpose of reviewing and recommending adjustments to the salary schedules for judges and justices. The Commission was charged with the task of reviewing the current compensation structure for justices and judges and recommending salary adjustments based on their findings.

In November 1984, the Commission issued its finding and recommendation to the members of the Legislature in a report entitled, "Report of the Commission on Judicial Salaries." The Commission concluded the present salary structure for the justices and judges is woefully inadequate, and was neither "fair" nor "just", nor was it reasonably calculated to achieve the goals of judicial compensation. These goals established by the Commission were, that compensation should: (1) be commensurate with judicial responsibilities; (2) provide security for the judge and his family; (3) attract and retain successful and experienced practitioners to the bench.

Specifically, the Commission recommended: (1) that, in accordance with the recommendation of the American Bar Association, the State should set a goal of compensating its justices and judges at a level comparable with judges of similar responsibility in the federal court system, and (2) that, pursuant to Article VI, Section 3, of the Hawaii Constitution, the Legislature establish a salary commission

to review and recommend on an ongoing basis, fair, reasonable, and just salaries for all justices and judges.

Your Committee has amended the bill as follows: (1) that the salary of a district court and district family court judge be raised to \$\_\_\_\_\_, \$\_\_\_\_\_ and \$\_\_\_\_\_; (2) that the salary of circuit court judge be raised to \$\_\_\_\_\_, \$\_\_\_\_\_ and \$\_\_\_\_\_; (3) that the salary of an associate judge of the intermediate court of appeals be raised to \$\_\_\_\_\_, \$\_\_\_\_\_ and \$\_\_\_\_\_; (4) that the salary of the chief judge of the intermediate court of appeals be raised to \$\_\_\_\_\_, \$\_\_\_\_\_ and \$\_\_\_\_\_; (5) that the salary of an associate justice of the supreme court be raised to \$\_\_\_\_\_, \$\_\_\_\_\_ and \$\_\_\_\_\_; (6) that the salary of the chief justice of the supreme court be raised to \$\_\_\_\_\_, \$\_\_\_\_\_ and \$\_\_\_\_\_. The three increments for each judicial level would be effective on July 1, 1985, July 1, 1986 and July 1, 1987.

Your Committee also provided for an annual salary increase for each judicial level whenever public employees in either or both white collar bargaining units receive a pay increase of three percent (3%) or more in any one year. The purpose of providing for these increases triggered by collective bargaining increases is to prevent the double problems of the gradual backsliding of judicial salaries to unacceptable levels, followed by desperate efforts to catch up and to bring judicial salaries current before long-term damage to the functioning of the judicial branch of government has occurred.

Your Committee, noting that the salaries of two appointive positions, the administrative director of the courts and the deputy administrative director of the courts, have in the past been reviewed at the same time that judicial salaries have been reviewed. In the past, these two positions have been ranked at levels similar to those of executive department heads and their deputies, respectively. Your Committee has, therefore, added a new section to this bill amending Section 601-3, Hawaii Revised Statutes, and providing for adjustments in salaries of these two positions consistent with their rank, and with increments structured in the same manner as our recommendations as to judicial salaries.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 354, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 354, H.D. 2.

Signed by all members of the Committee.

SCRep. 529      Finance on H.B. No. 436

The purpose of this bill is to amend section 346-64, 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 forty-five per cent of the average monthly medical assistance payment for a recipient in an intermediate care facility.

The availability of personal care services which encompass "hands-on" assistance with daily living activities such as grooming, bathing, and feeding has proven to be a major factor which allows disabled and elderly persons to live more independently in the community, thereby avoiding unnecessary hospitalization. In addition, it is anticipated that, in the long run, the provision of personal care services will save the State a considerable amount of funds which may be utilized to meet other needs of the elderly and disabled.

Your Committee has amended this bill by providing that the ceiling for payment for personal care services be sixty-five per cent of the average monthly medical assistance payment to accommodate those recipients who may need five or more hours a day of personal care.

Your Committee has also made technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No.

436, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 436, H.D. 2.

Signed by all members of the Committee.

SCRep. 530      Finance on H.B. No. 448

The purpose of this bill is to appropriate from the general revenues of the State of Hawaii the sums of \$150,720 and \$128,720 for the fiscal periods 1985-86 and 1986-87, respectively, for Kahuku Hospital as an operating subsidy.

The operating income of Kahuku Hospital is heavily dependent on the number of physicians with offices in the Northshore area. But because the Northshore population is highly medicare/medicaid reliant and also because unemployment is very high among the population, both of these factors being important indicators of poor ability to pay for private medical services, the Northshore area has lost a significant portion of its practicing physicians. This, in turn, has caused the hospital to experience a drop in operating income, since fewer doctors mean less utilization of hospital facilities. The high unemployment rate in the area has also meant that the hospital has had to render heavier than expected free care to those people who do not qualify for indigent or medically indigent care.

Your Committee has amended this bill to provide that the amounts appropriated shall be in the form of a subsidy.

Your Committee has also made technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 448, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 448, H.D. 2.

Signed by all members of the Committee.

SCRep. 531      Finance on H.B. No. 526

The purpose of this bill is to include the idea of employee stock ownership as being worthy of State support and to provide the administrative structure for the promotion and support of Employee Stock Ownership Programs (ESOPs).

To establish an ESOP, a company sets up a trust, which will hold stock and other assets contributed by the company for the employees. Employees receive their share of stock in the company either when they leave the firm or when they retire (most companies find the former works better). Stock held by the trust must be allocated to employee accounts on a "non-discriminatory" basis, meaning that it cannot discriminate in favor of officers, shareholders or highly paid employees. It can be allocated according to relative salary or on some more equal basis. With a number of exceptions, at least 70 per cent of all full-time employees meeting minimum age and service requirements set by the company must benefit under the plan in publicly-held companies; employees must have full voting rights on stock allocated to their accounts; and in closely-held firms voting rights are required only on those issues which by state law or corporation charter require more than majority vote. Stock allocated to employees is not automatically "theirs", however. That depends on the vesting schedule established when the ESOP is set up. As employees accumulate years of service with the firm, they can acquire an increasing entitlement to the stock allocated to them. Generally, employees must be 100 per cent vested within 10-15 years. These are all minimal rules--companies do provide for rapid vesting, full voting rights, and more equalizing allocation rules. These more liberal rules appear to be related to greater success in motivating employees, since they make ownership more tangible.

The Departments of Planning and Economic Development and Labor and Industrial Relations, are in favor of the idea of greater employee participation in businesses through expanded ownership. Your Committee is in agreement that ESOPs would foster greater cooperation between labor and management by providing a way for workers to become part-owners of companies that employ them.

Your Committee amended the bill to appropriate \$1 in support of the ESOPs.



Your Committee has also made some technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 526, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 526, H.D. 1.

Signed by all members of the Committee.

SCRep. 532      Finance on H.B. No. 1207

The purpose of this bill is to appropriate the sum of \$192,999 for the following purposes:

- (1) \$37,000 for educational and interpretative programs at the Richardson Ocean Recreation Center, including an on-site facility manager;
- (2) \$80,000 for plans, design and improvements to the Richardson Ocean Center; and
- (3) \$75,000 for the improvement of Reeds Bay Beach in Hilo.

The Richardson Ocean Center is an outdoor ocean recreation and interpretive center being developed cooperatively by the county of Hawaii, the university of Hawaii sea grant extension service, and residents and community organizations of the Hilo area. The Center also serves as a focal point for ocean related recreation, education and safety programs, and is of growing benefit to visitors and residents of Hawaii alike.

Your Committee has amended this bill to eliminate: (1) the \$37,000 appropriated for educational and interpretive programs at the Richardson Ocean Center and (2) the \$75,000 appropriated for the improvement of Reeds Bay Beach in Hilo. However, your Committee has retained the \$80,000 for plans, design and improvements to the Center.

Your Committee on Finance is in accord with the purpose and intent of H.B. No. 1207, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1207, H.D. 1.

Signed by all members of the Committee.

SCRep. 533      Finance on H.B. No. 1231

The purpose of this bill is to require the Department of Health to regulate individual wastewater systems by imposing requirements for plan and construction approvals for all individual wastewater systems. This bill will require the Director of Health to review all plans and specifications for the construction of individual wastewater systems prior to their construction and to inspect and approve the system prior to its use.

Your Committee finds that Chapter 57 of the Administrative Rules of the Department of Health relinquished the Department's responsibility to approve the design and performance of individual sewage disposal systems. In essence, this places the burden of such duties on the individual property owners wishing to develop an individual system.

Your Committee finds that the majority of property owners do not possess the knowledge and expertise to adequately administer these standards and safeguards. Consequently, this has left individual property owners vulnerable to the advances of unscrupulous contractors. The ultimate result may be a proliferation of sub-standard disposal systems posing a threat to individual and public safety.

The bill was amended to correct certain typographic, technical, and stylistic errors; no substantive changes were made.

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

Signed by all members of the Committee.

## SCRep. 534 Finance on H.B. No. 1244

The purpose of this bill is to transfer the functions and staff of the Hawaii Institute for Management and Analysis in Government from the Department of Budget and Finance to the Department of Personnel Services.

Your Committee supports the basic intent of the bill to transfer the functions and staff of the HIMAG from the Department of Budget and Finance to the Department of Personnel Services. The transfer will relocate in-service training functions in a single agency, eliminate duplicating and overlapping activities between two state departments, and facilitate the conduct of in-service training in more efficient and cost effective manner. Moreover, the transfer will remove the uncertainty about the status of the affected personnel at HIMAG.

Your Committee has also made some technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1244, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1244, H.D. 1.

Signed by all members of the Committee.

## SCRep. 535 Finance on H.B. No. 1271

The purpose of this bill is to increase the amount contributed to the real estate education fund from \$5 to \$20. Also, beginning July 1, 1987, this bill provides for a temporary moratorium on real estate renewal contributions if the real estate education fund balance exceeds \$1,200,000 at the end of any fiscal biennium.

In August 1984, the Real Estate Commission (REC) approved plans for a Hawaii Real Estate Research and Education Center. With the creation of such a center, it is estimated that the Real Estate Education Fund expenditures will reach approximately \$483,000 annually.

Accordingly, the REC projects that, with the addition of the Center, the real estate education fund will decline from \$1,000,000 to \$63,478. This projected decrease in the education fund is anticipated because of the disparity between the cost of the educational services offered to licensees and the proportion of fees that is contributed to the real estate education fund. With 22,278 licensees and an estimated projected budget of \$483,000, the cost of REC educational services for licensees amounts to \$21.68 per licensee per year. In contrast, for each new real estate license issued by the department of commerce and consumer affairs, only \$5 of the total \$50 license fee is deposited in the real estate education fund. Further, for each biennial renewal of a real estate license, only \$10 of the total \$50 license fee is deposited in the education fund.

Your Committee has made technical, nonsubstantive amendments for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1271, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1271, H.D.2.

Signed by all members of the Committee.

## SCRep. 536 Finance on H.B. No. 1275

The purpose of this bill is to provide civil service status to public utilities commission assistants. This bill further specifies that public utilities commission assistants shall become civil service employees without loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination.

Your Committee has amended this bill by making technical, nonsubstantive changes and to correct drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1275, as amended herein, and recommends that it pass Third Reading in

the form attached hereto as H.B. No. 1275, H.D. 1.

Signed by all members of the Committee.

SCRep. 537 Finance 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 or treatment facilities.

Public Law 98-473 provides for the allotment of federal funds for training of child care service operators, staff, state licensing officials and parents if a state enacts legislation to require a nationwide criminal history record check for all operators, staff, or employees of child care facilities.

Your Committee received favorable testimony on this measure and feels it is consistent with your Committee's commitment to protect the children of the State.

However, your Committee is not fully aware of the impact or level of program activity involved in establishing such a program. Therefore, your Committee has amended H.B. No. 1285, H.D. 1, to require the Hawaii Criminal Justice Data Center to submit a report to the 1986 legislature on the progress of implementing the program and its future direction.

Your Committee has amended this bill by making technical nonsubstantive changes for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1285, H.D. 1, as amended herein, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as H.B. No. 1285, H.D. 2.

Signed by all members of the Committee.

SCRep. 538 Finance on H.B. No. 179

The purpose of this bill is to increase from \$100,000 to \$200,000 the amount of money in the special land and development fund for incidental maintenance of lands under the control and management of the board of land and natural resources.

The moneys are used for repair of sidewalks, removal of fallen trees or trees posing a danger to structures, stream clearing, and many other uses associated with the state-wide maintenance of lands under the control of the Board. The current authorization (\$100,000) is insufficient to do an adequate job of maintenance and the requested amount will permit a more comprehensive maintenance effort.

Your Committee has made several nonsubstantive amendments to this bill to correct technical and typographical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 179, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 179, H.D. 1.

Signed by all members of the Committee.

SCRep. 539 Finance on H.B. No. 184

The purpose of this bill is to establish an aquaculture advisory council to the board of land and natural resources on statewide aquaculture development.

The aquaculture advisory council will advise the board on matters relating to aquaculture and the coordination of aquaculture activities among the various federal, state, and county agencies and private industry.

Your Committee has amended this bill to make technical, nonsubstantive changes for purposes of clarity and style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 184, H.D.1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 184, H.D.2.

Signed by all members of the Committee.

SCRep. 540      Finance on H.B. No. 192

The purpose of this bill is to implement the reorganization of aquatic resources and wildlife functions of the department of land and natural resources and to consolidate certain sections of Title 12, Hawaii Revised Statutes, to specifically reflect aquatic resources.

Act 85, Session Laws of Hawaii 1981, separated the fisheries and wildlife functions of the department of land and natural resources into the divisions of aquatic resources and forestry and wildlife, respectively. However, a number of fish and wildlife provisions are still located in chapters 187 and 188, Hawaii Revised Statutes. This bill relocates and consolidates the aquatic resources provisions of subtitle 5 (Aquatic Resources and Wildlife) Hawaii Revised Statutes, under a new chapter and repeals existing sections of chapters 187 and 188.

Further, this bill will facilitate referencing and locating of specific statutes, and is intended to minimize confusion, misunderstanding, and misinterpretation of aquatic resources laws in the Hawaii Revised Statutes.

Your Committee has made technical, nonsubstantive amendments to this bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 192, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 192, H.D. 1.

Signed by all members of the Committee.

SCRep. 541      Finance on H.B. No. 193

The purpose of this bill is to: (1) consolidate various sections, pertaining to wildlife, from chapters 183, 187, 191, and 192, Hawaii Revised Statutes, into a single new chapter 183D under Title 12, in order to facilitate the referencing and locating of specific wildlife statutes, (2) update and clarify a few sections, and (3) make comprehensive changes in the powers, duties, and rules of the department of land and natural resources as they pertain to wildlife in the State.

Current wildlife laws are scattered throughout chapters 183, 187, 191, and 192. Your Committee agrees that these laws should be consolidated to make them more comprehensive and reflective of the department's present responsibilities and structure.

Your Committee has amended Section 4, by adding the words "intentionally, knowingly, or recklessly" after "shall" in what was numbered §183D-62 House draft 1 of this bill.

Your Committee has also amended this bill by making technical, nonsubstantive changes for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 193, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 193, H.D. 2.

Signed by all members of the Committee.

SCRep. 542      Finance on H.B. No. 207

The purpose of this bill is to authorize the board of land and natural resources to waive geothermal resource royalty payments from a lessee in situations where such a waiver will encourage initial or continued production of geothermal resources.

Your Committee finds that 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 to appear less cost-effective under current royalty provisions. This bill will provide the board of land and natural resources with the authority to adjust royalty requirements to provide the incentive for companies to proceed with plans to develop geothermal resources.

Your Committee has made several nonsubstantive amendments to this bill to correct technical and stylistic errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 207, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 207, H.D. 2.

Signed by all members of the Committee.

SCRep. 543      Finance on H.B. No. 208

The purpose of this bill is to amend chapter 206E, Hawaii Revised Statutes, by authorizing the Hawaii Community Development Authority to issue \$15,000,000 of revenue bonds in order to finance the development of public facilities.

Chapter 206E requires the Authority to plan, locate, and develop public facilities in the Kakaako Community Development District. One plan is the use of revenue bonds to finance the development of public parking structures and other necessary public facilities in order to encourage and stimulate major private development in the district.

The Authority currently lacks sufficient economic resources to provide public parking structures in Kakaako. Your Committee believes that the Authority should be provided with the needed flexibility to finance projects.

Your Committee has made several nonsubstantive amendments to this bill to correct technical, stylistic, and typographical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 208, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 208, H.D. 2.

Signed by all members of the Committee.

SCRep. 544      Finance on H.B. No. 209

The purpose of this bill is to enable the county governments in Hawaii to undertake a tax increment financing program wherein a county may establish tax increment districts, commit certain real property taxes, and issue tax increment bonds for the financing of public improvements in redevelopment districts.

Your Committee finds that the State of Hawaii may benefit significantly from tax increment financing as a supplement to the traditional method of general obligation bonds for raising funds for capital improvement projects. However, your Committee believes that tax increment financing must not result in adverse financial impact on any county and its redevelopment agency to repay bonds. Normal inflationary increases in property taxes and costs of providing additional county services for new projects developed within a designated redevelopment district should be considered as recompense to the county government. Your Committee believes that this bill provides for such compensation by authorizing the county director of finance to establish an adjustment rate, or rates, that will allocate the tax increment amounts so that the county may be compensated not only for the base amount but also for inflationary increases and projected cost increases for servicing new developments in the tax increment district.

Your Committee has made nonsubstantive amendments to this bill to correct stylistic and typographical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 209, as amended herein, and recommends that it pass Third Reading in the form

attached hereto as H.B. No. 209, H.D. 1.

Signed by all members of the Committee.

SCRep. 545      Finance on H.B. No. 227

This bill amends Chapter 441, Hawaii Revised Statutes, by providing the following:

1. Requires that all trust fund moneys be placed in and managed by trust companies licensed by the State of Hawaii. This would improve the current situation which permits insufficient State supervision and too much control by funeral authorities.
2. Automatic suspension of a license when a required bond is not maintained and forfeiture of the license if the bond is not reinstated within sixty days.
3. Minimum provisions be set forth in all written contracts and that copies of the contracts be filed with the Director of Commerce and Consumer Affairs.
4. That the actuarial study, audited financial statements and trust agreements filed with the Department are to be made available for public inspection.
5. Language relating to the surrender of pre-need authority licenses and authority to the Department of Commerce and Consumer Affairs to audit licensees.
6. Authority for disciplinary action when there is a failure to file actuarial studies or audited financial statements, and a failure to maintain a bond or a trust fund.

Your Committee has amended this bill by making technical, nonsubstantive changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 227, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 227, H.D. 1.

Signed by all members of the Committee.

SCRep. 546      Finance on H.B. No. 240

The purposes of this bill are to:

- (1) Clarify and specify the responsibilities of the bank examiner in light of Act 203, Session Laws of Hawaii 1982, which, among other things, established the office of the bank examiner as an officer separate from the director of commerce and consumer affairs;
- (2) Change the name of the bank examiner to the commissioner of financial institutions; and
- (3) Designate the commissioner as the head of the division of financial institutions.

Your Committee has made a number of technical nonsubstantive amendments to this bill, primarily in the form of listing, rather than setting out in their entirety, dozens of sections containing changes of only a single term or phrase. Other changes include the elimination from the bill of sections which are not being affected at all, and the amendment of other sections in the Hawaii Revised Statutes which were not included in the bill, even though they make reference to the bank examiner.

Your Committee finds that by substantially reducing the bulk of the bill, the intended changes will be easier to conceptualize, and the costs of printing or publication will be reduced substantially.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 240, as amended herein, and recommends that it pass Third Reading in the form



attached hereto as H.B. No. 240, H.D. 1.

Signed by all members of the Committee.

SCRep. 547      Finance on H.B. No. 229

The purpose of this bill is to expand commercial employment agency licensing categories in Hawaii Revised Statutes in Chapter 373 to include principal agents and branch offices, to delineate fees, to convert to a biennial licensing period, and to add prohibited conditions and requirements to maintain agency licenses.

Under the present statutes, only employment agencies are licensed. Although the agency is required to have a person successfully complete the certified employment consultant examination in order for the agency to obtain a license, the licensed agency can continue to operate even if the certified employment consultant leaves.

This bill provides licensure for principal agents or individuals and requires each agency to have a licensed agent or individual as a requirement for 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 operation, the employment agency will be required to maintain separate employment agency branch office licenses.

Further, under the present statutes, the employment agency pays a single fee for licensure. This bill incorporates administrative costs and requires separate application, examination reexamination, license renewal, and restoration fees as they apply to the aforementioned three licensing categories. A biennial license renewal period is also adopted to lessen the administrative cost of maintaining the program.

The bill also authorizes the director of commerce and consumer affairs to establish application forms to implement the new licensing categories.

In addition, this bill provides automatic suspension of the employment agency's license effective immediately upon the expiration or cancellation of the required bond. Under the present administrative procedure, the director of commerce and consumer affairs 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, the licensee is not prevented from continuing to engage in business and exposing the consuming public to potential losses.

Your Committee has amended this bill by deleting subparagraph (14) on page 11 which would have prohibited the 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 has also made technical, nonsubstantive changes for purposes of style and clarity.

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

Signed by all members of the Committee.

SCRep. 548      Finance on H.B. No. 234

The purpose of this bill is to strengthen the law, clarify terminology, restate the functions of the Board of Examiners in Optometry, assure that an optometrist Board member will have practiced optometry for at least five years prior to appointment to the Board, delete obsolete licensing requirements and establish new licensing requirements, establish new examination requirements, clarify examination and reexamination procedures, and rearrange certain sections of the law.

Your Committee has made several nonsubstantive amendments to this bill to correct technical, stylistic, and typographical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 234, H.D.1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 234, H.D.2.

Signed by all members of the Committee.

SCRep. 549      Finance on H.B. No. 236

The purpose of this bill is to amend Section 514E-10, Hawaii Revised Statutes, which sets forth the registration requirement for time share companies in the State.

The bonding requirement imposed by Section 514E-10, Hawaii Revised Statutes, is intended to cover any violation or default of an acquisition agent or plan manager or any of their employees of the duties and responsibilities under each position. However, the present \$10,000 blanket required is insufficient to provide adequate protection to purchasers who may suffer loss as a result of any potential violation, particularly where a substantial number of purchasers is involved. Additionally, as presently worded the statute does not clearly impose this requirement for each time share plan with which the acquisition agent or plan manager is registered. Thus, a plan manager providing management services for several time share plans would only be required to post a single \$10,000 bond to cover its activities with respect to each of these plans. In the event the plan manager is found to have committed any wrongful or criminal act or omission affecting one or more of these plans, the \$10,000 amount of the bond may prove to be inadequate to afford purchasers under each plan the relief which they may request. Your Committee finds, therefore, that the director of commerce and consumer affairs should be permitted to determine the nature of the bond required, the amount of the bond, and whether or not separate bond coverage should be obtained for each time share plan with which the acquisition agent and plan manager are registered so as to provide reasonable and adequate protection to time share purchasers.

Your Committee has amended this bill by making technical nonsubstantive changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 236, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 236, H.D. 2.

Signed by all members of the Committee.

SCRep. 550      Finance on H.B. No. 263

The purpose of this bill is to revise Hawaii's law on child support enforcement to fully comply with the mandates of the Federal Child Enforcement Amendments of 1984 (Public Law 98-378).

While current Hawaii law provides for the retention of state income tax refunds in cases of a debt owing the State for children receiving welfare benefits, this bill would expand that provision by allowing for the retention of the refunds for non-welfare families who apply to the State for child support enforcement services. The intent of Congress was that equal enforcement services be provided for welfare and non-welfare families alike.

Public Laws 98-378 requires the State to conform its laws on retention of State tax refunds by October 1, 1985, or face a penalty of approximately \$2 million in federal assistance payments to the State.

The additional income derived from the intercept of state income tax refunds may provide sufficient income to allow a significant number of children to remain off public assistance, thus avoiding the expenditure of public funds.

Your Committee has amended Section 4 of this bill to state that "This Act, upon its approval, shall apply to taxable years beginning after December 31, 1984."

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 263, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 263, H.D. 1.

Signed by all members of the Committee.

SCRep. 551 Finance on H.B. No. 272

The purpose of this bill is to amend provisions relating to the notification of change in restrictions on use, sale and transfer of Hawaii Housing Authority (HHA) dwelling units.

Section 359G-9.4, HRS, sets forth specific requirements regarding notification by HHA (or any other State department or county housing agency) to all purchasers of any change in "buy-back" restrictions made by law, ordinance, rule or regulation. The statutes, however, are unclear as to how such notification must be made.

HHA testified that in the past, its staff mailed out letters to all purchasers, informing them of any changes made to the buy-back provision. This has been a very costly process, involving not only postage expenses, but many man-hours of labor, as well.

The procedure set forth in this bill would require the publication of a change in a newspaper of general circulation for state agencies and in county newspapers for county agencies. This notification would be published a minimum of three times, and would be required only when there are substantial changes or amendments to the buy-back provisions.

Your Committee has amended this bill to correct nonsubstantive drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 272, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 272, H.D. 1.

Signed by all members of the Committee.

SCRep. 552 Finance on H.B. No. 281

The purposes of this bill are: 1) to transfer funds derived from the state general excise tax on retail sales of liquid fuel used for the purpose of operating motor vehicles on highways in the State, from the state general fund to the state highway fund, and to provide for the annual establishment of a formula to determine the amount of liquid fuel sold for these purposes; 2) to increase the state vehicle registration fee set in section 249-31, Hawaii Revised Statutes; and 3) to increase certain fuel tax rates.

Your Committee finds that, under present law, there are several permanent sources of revenue for the state highway fund created pursuant to section 248-9, Hawaii Revised Statutes. Primary among these are state vehicle registration fees, state fuel taxes and state vehicle weight taxes. State vehicle registration fees are now set at \$1 per year pursuant to section 249-31, Hawaii Revised Statutes. State fuel taxes are levied at the rate of 8- $\frac{1}{2}$  cents per gallon by section 243-4, Hawaii Revised Statutes. Subject to a \$2 minimum, section 249-33, Hawaii Revised Statutes, establishes the rate of the state vehicle weight tax at \$.0045 per pound of a vehicle's net weight up to 6,000 pounds, at \$27 per vehicles for vehicles weighing from 6,000 to 9,000, at \$31.50 for vehicles weighing 9,000 to 14,000, and at a maximum of \$36 for vehicles weighing more than 14,000 pounds.

Pending determination of a long-term solution to the problem of maintaining the solvency of the state highway fund, the State decided in 1981 to amend section 237-31, Hawaii Revised Statutes, to transfer the four per cent state general excise tax on the retail sale of most liquid fuels in the State from the state general fund to the state highway fund. This "temporary" transfer is scheduled to end on June 30, 1987.

In this bill the year "1987" has been replaced with the year "1991", to reflect the extension of the transfer of the general excise tax revenues collected on the state highway fund through the year 1991.

Also, in section 237-31, "1984, 1985, 1986" have been replaced by the phrase "each year from 1984 through 1990", to reflect that on July 1 of each fiscal year from 1984 through 1990, the director of taxation is to establish a formula that will determine the amount of revenues derived from the sale of liquid fuel which is to be deposited into the state highway fund.

In section 249-31, "\$1" has been replaced with "\$17 annual". Also in section 249-31, "for fiscal years 1985-1986, 1986-1987 and 1987-1988." and "Effective July 1, 1988, and each fiscal year thereafter, the vehicle registration fee amount shall be \$15." have been inserted. These amendments reflect changes in the vehicle registration fee and the relevant years such a change is to take effect. Again, in section 249-31, "for that county" has been inserted to clarify which county, if a county elects to stagger the renewal of motor vehicle registration, shall stagger its collection of state registration fees.

Your Committee felt that a tax on fuel rather than on vehicle weight was a more equitable method of generating revenue into the state highway fund. Your Committee has, therefore, 1) deleted the section pertaining to the increase of vehicle weight taxes, and 2) added subsection (b) of Section 243-4 to increase diesel oil tax.

This bill amends Section 243-4, Hawaii Revised Statutes, to provide for an increase in the fuel tax. It increases the 8- $\frac{1}{2}$  cents per gallon tax on most liquid fuels to 11 cents per gallon until July 1, 1988. Thereafter, the fuel tax would be decreased to 10 cents per gallon. Your Committee has added language to increase the tax on diesel oil from 7- $\frac{1}{2}$  cents per gallon to 10 cents until July 1, 1988. Thereafter, the tax will be decreased to 9 cents.

Your Committee has also made technical, nonsubstantive amendments to the bill to conform it to recommended bill drafting style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 281, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 281, H.D. 2.

Signed by all members of the Committee.

SCRep. 553      Finance on H.B. No. 285

The purposes of this bill are: 1) to clarify present statutory language relating to the permitted uses of appropriations by the department of transportation; 2) to allow the department to acquire rights and interests in airports owned or controlled by others for the development of joint use airport facilities necessary to meet civilian needs; 3) to prohibit explicitly other persons or agencies from performing any of the department's functions except for military purposes; and 4) to enable the department to acquire real or personal property without the assistance of the department of accounting and general services and to perform its own planning, design, and construction of airport facilities.

Under present law, the department of accounting and general services is responsible for airport construction, engineering, and land acquisition functions. The department of transportation, however, is capable of and has been carrying out these functions independently of the department of accounting and general services. The bill would conform statutory provisions to present practice by transferring the responsibility for airport construction, engineering, and land acquisition functions to the department of transportation.

Your Committee has amended §261-4 (c) by adding to the end of the sentence "...without the approval of county agencies." The amendment is needed to prevent county agencies from stopping projects which would improve the level of services by denying a permit.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 285, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 285, H.D. 2.

Signed by all members of the Committee.

SCRep. 554      Finance on H.B. No. 346

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

Under present law, professional corporations are governed by and subject general-

ly to chapter 416, Hawaii Revised Statutes, except where such provisions are in conflict with or inconsistent with provisions found specifically in part VIII of the same chapter. The business registration division of the department of commerce and consumer affairs testified in support of this bill and stated that the current statutory framework does not adequately reflect the significant differences between business corporations and professional corporations. Further, passage of the Hawaii Business Corporation Act (Act 167, 1983 Session Laws of Hawaii), a companion bill to the Hawaii Professional Corporation Act, necessitates passage of a statute governing professional corporations.

This bill provides that the "Hawaii Professional Corporation Act" shall take effect on July 1, 1987. The Division also supported changing the effective date of the Hawaii Business Corporation Act (HBCA) to July 1, 1987. The July 1, 1987 effective date would permit the business registration division of the department of commerce and consumer affairs to examine the potential effects of this bill and the HBCA on department operations.

Your Committee has amended § -11 of this bill (p. 14) by providing that the minimum amount of professional responsibility security for the professional corporation shall be the product of \$100,000 multiplied by the number of shareholders of the professional corporation. Further, your Committee has amended § -23 of this bill (p. 22) to provide that the licensing authority charge and collect a fee of \$10 for filing a statement of qualification.

In addition, your Committee has made technical, nonsubstantive amendments to this bill for purposes of clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 346, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 346, H.D. 1.

Signed by all members of the Committee.

SCRep. 555 Finance on H.B. No. 347

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

Under present law, nonprofit 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 Nonprofit Corporation Act, necessitates passage of a statute governing nonprofit corporations.

This bill provides that the "Hawaii Nonprofit Corporation Act" shall take effect, upon its approval, on July 1, 1987. This bill also changes the effective date of Act 167, Session Laws of Hawaii 1983, Hawaii Business Corporation Act (HBCA), to July 1, 1987. The July 1, 1987 effective date would permit the Department of Commerce and Consumer Affairs to examine the potential effects of this bill and the HBCA on department operations.

Your Committee has amended subparagraph (5) of § -155 of this bill (page 87) by providing that the fee for filing a corporate statement or report, other than an annual report, shall be \$5.00.

Your Committee has also made technical, nonsubstantive amendments to this bill for the purpose of style and clarity.

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

Signed by all members of the Committee.

SCRep. 556 Finance on H.B. No. 357

The purpose of this bill is to authorize the land court to collect and retain the same fee that is now collected by the circuit courts to file and appeal and also to

collect costs on appeal for transfer to the supreme court.

This bill is a judiciary housekeeping measure. Act 102, Session Laws of Hawaii 1984 streamlining land court procedures repealed both the formerly permitted appeal to the circuit court and its filing fee. In doing so, no provision was made to transfer from the land court to the supreme court the fees paid for the filing of an appeal.

This bill changes the fee for appeals from \$1 to \$30 and allows the collected costs of appeal to be transferred to the supreme court.

Your Committee has also made some technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 357, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 357, H.D. 1.

Signed by all members of the Committee.

SCRep. 557      Finance on H.B. No. 363

The purpose of this bill is to amend section 294-35.5, Hawaii Revised Statutes, by raising the drivers' education fund underwriters' fee assessed and levied upon each insurer and self-insurer of motor vehicles from \$1.25 to \$2.00 per year on each motor vehicle insured. Further, the amount of the fee allocated to the drivers' education program and administered by both the judiciary and the department of education is amended by this bill from a 40-60 split to a 50-50 split. Currently, the department of education is receiving 60 per cent of the fees collected.

Your Committee has made several nonsubstantive amendments to this bill to correct technical, stylistic, and typographical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 363, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 363, H.D. 1.

Signed by all members of the Committee.

SCRep. 558      Finance on H.B. No. 374

The purpose of this bill is to establish a program that would provide tuition loans to students who agree to study English, math, or the natural sciences, and enroll in a program that would qualify them to teach in Hawaii public schools. This bill also provides for qualifications which the students must meet to be eligible for the tuition loan that include: full-time standing, a declared major in approved course work, and a residency clause. There is a further provision for a repayment clause that makes the student liable for payment of the tuition loan should that student fail any courses during the semester.

Your Committee has discussed the advantages and disadvantages of requiring study in specific fields such as math or English, the need for a repayment clause, and the requirement that grantees of tuition loans seek employment with the Department of Education upon graduation.

Your Committee has amended this bill so that qualifying fields of study should be to only math, English, and natural science program. This will meet with immediate shortage of teachers in those subject matters.

Your Committee has also amended the bill to exclude high school cumulative grade point averages to qualify for the program. This will allow college "bloomers" to qualify for the program who do well in college.

A requirement that graduates who take advantage of this program should teach in our public schools was adopted. Although your Committee believes that regardless of the professions those graduates choose, the potential services and expertise they provide will benefit the State as a whole, nevertheless your Committee recognizes that some students might take unfair advantage of the program without any intention of becoming teachers.



Your Committee on Finance is in accord with the intent and purpose of H.B. No. 374, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 374, H.D. 2.

Signed by all members of the Committee.

SCRep. 559 Finance on H.B. No. 393

The purpose of this bill is to provide that educational resources and school personnel be expended from the school priority fund. In addition, this bill allows each student to be weighted according to grade level for funding purposes. This weighted enrollment methodology is also used by the department of education in allocating funds for school supplies, equipment, and textbooks.

Your Committee finds that the costs and quantity of specialized equipment necessary for students at the secondary (intermediate and high) schools are greater than that of elementary students at the elementary schools. This bill will provide the moneys in the school priority fund to be appropriated and allotted for grades kindergarten through twelve and appropriate instructional resource augmentation (IRA) positions allocated for elementary schools at the discretion of the district superintendent for positions in grades seven and eight. Your Committee believes that these IRA positions will help alleviate some of the unique problems associated with students in grades seven and eight.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 393, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 560 Finance on H.B. No. 383

The purpose of this bill is to make appropriations for the Department of Planning and Economic Development in promoting Hawaii as a sports center for athletes who have the potential to perform competitively in international athletic games.

Your Committee concurs with the position of the House Committees on Water, Land Use, Development, and Hawaiian Affairs and on Higher Education and the Arts that calls for the promotion of Hawaii as a site for international athletic performances, competitions, and games. However your Committee disagrees with the opinion of the subject matter committees that there is insufficient data to confirm the fact that Hawaii is an appropriate site for a sports training. Therefore, your Committee has amended this bill by reinstating references made to "training" where appropriate.

The bill appropriates \$100,000 for the sports center.

Your Committee has further amended this bill by expanding the definition of athlete to include those individuals participating in professional sports.

In addition, your Committee has made technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 383, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 383, H.D. 2.

Signed by all members of the Committee.

SCRep. 561 Finance on H.B. No. 440

The purpose of this bill is to amend section 103-43, Hawaii Revised Statutes, relating to the mandatory purchase of Hawaii products, to provide that in any expenditure of public funds a government agency review the purchase and design specifications.

Your Committee finds that when specifying products for a given public works project, architects and designers may not always be fully aware of all products on the Hawaii Products List and may inadvertently overlook their inclusion. Once the

specification is put out, it is extremely difficult to have it changed. Your Committee is of the opinion that a review of purchase and design specifications would help eliminate any such oversights.

Your Committee has made technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 440, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 440, H.D. 2.

Signed by all members of the Committee.

SCRep. 562      Finance on H.B. No. 441

The purpose of this bill is to require the Department of Transportation to actively promote harbors located within the State by pursuing the maritime and commercial interests of State harbors.

Your Committee finds that the statute setting forth the powers and duties of the Department of Transportation does not include the function of promoting state harbors. While the function of promoting state harbors may be implied by existing law, your Committee wishes to remove any potential doubt as to the Department's power and duty to promote state harbors.

Your Committee also finds that state harbors are in direct competition with various domestic and foreign ports for business, requiring that state harbors be promoted more aggressively in order to garner a greater proportion of this business.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 441, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 441, H.D. 2.

Signed by all members of the Committee.

SCRep. 563      Finance on H.B. No. 689

The purpose of this bill is to replace the advisory committee of the Hawaii criminal justice data center with a criminal justice data interagency board appointed by the Governor to promote interagency cooperation and coordination in the development of a statewide criminal justice information system.

Your Committee heard testimony in favor of this measure from the Attorney General and the Ad Hoc Committee on the Criminal Justice Information System.

At the present time, as mandated by section 846-2, Hawaii Revised Statutes, there is an interagency advisory committee to the data center. Your Committee heard testimony that this organization has not been successful because a formal representative organization has not been established with authority to oversee the implementation of an accurate, complete, and timely statewide criminal justice information system.

This bill provides that those provisions of section 846-2, Hawaii Revised Statutes, relating to the interagency advisory committee be repealed, and establishes a criminal justice data interagency board with such powers and authority necessary to achieve a functional criminal justice information system.

Your Committee has amended this bill by making nonsubstantive, technical changes for purposes for style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 689, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 689, H.D. 2.

Signed by all members of the Committee.

## SCRep. 564 Finance on H.B. No. 690

The purpose of this bill is to authorize the Hawaii Criminal Justice Data Center to select and enforce systems of identification of all persons arrested for a criminal offense, to whom penal summonses have been issued for a criminal offense and who have been convicted or granted a deferred acceptance of guilty (DAG) or nolo contendere plea or a conditional discharge, and to provide for the collection, recording, and compilation of data and statistics relating to crime.

The bill will amend Section 846-2.5, Hawaii Revised Statutes, to allow for the mandatory fingerprinting of all persons convicted by way of penal summons for statistical and informational purposes. At the present time, the statewide Offender-Based Transaction Statistics/Computerized Criminal History system does not have any penal summons, DAG or nolo contendere cases stored in its data base.

Your Committee recognizes that because of this void, a major portion of the comprehensive criminal justice information system desired by criminal justice agencies is lacking. By recording and compiling information on all offenders, great strides will be made in making a reliable, accurate and complete statewide criminal justice information system.

Your Committee has amended this bill to correct a typographical error.

Your Committee on Finance is in accord with the intent and purpose of H. B. No. 690, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 690, H.D. 2.

Signed by all members of the Committee.

## SCRep. 565 Finance on H.B. No. 693 (Majority)

The purpose of this bill is to authorize appropriations for claims filed for the refund of real property taxes, judgments and settlements against the State, and other miscellaneous payments as provided by Section 37-77, Hawaii Revised Statutes.

This bill provides for specific sums of moneys to be appropriated out of the general revenues of the State for the purpose of satisfying claims for legislative relief. This bill further provides that the sums appropriated shall be paid to the respective persons, firms, corporations, and others in the amounts set out upon warrants issued by the comptroller of the State: (1) upon voucher approved by the director of taxation as to claims for overpayment of taxes and (2) upon vouchers approved by the attorney general as to all other claims. In addition, except for the sums appropriated as interest upon judgments against the State and settlements of claims, the payment of interest shall be limited to the period from the date of judgment or settlement to thirty days after the effective date of this bill, as provided in section 662-8, Hawaii Revised Statutes, as all unexpended balances after payment shall lapse into the general fund of the State as of June 30, 1986.

Your Committee has amended this bill by deleting the amount appropriated to the City and County of Honolulu, pursuant to section 70-111, Hawaii Revised Statutes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 693, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 693, H.D. 2.

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

## SCRep. 566 Finance on H.B. No. 705

The purpose of this bill is to allow the governor to authorize the director of social services to consent to the transfer or exchange of offenders if a treaty is in effect between the United States and a foreign country which provides for the transfer or exchange of convicted persons to the country of which they are citizens or nationals.

Your Committee finds that the ability to transfer foreign prisoners could con-

tribute to the easing of crowded conditions in our State institutions. It would also allow such prisoners to be under the control of their home country. United States citizens are returned as federal prisoners, not state prisoners, so the exchange would not increase state prison populations.

Your Committee has made a nonsubstantive stylistic amendment to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 705, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 705, H.D. 1.

Signed by all members of the Committee.

SCRep. 567      Finance on H.B. No. 813

The purpose of this bill is to authorize the Counties to issue reimbursable general obligation bonds to finance a facility for the disposal and processing of solid waste and generation of electric energy.

Your Committee finds that sanitary landfills are a costly and inefficient method of disposing of solid wastes and that alternate methods of disposal must be pursued. The success of pollution control projects which also provide for waste recovery and generation of electricity has been proven; however, the high costs of such development continues to be a limiting factor in initiating and developing this industry to its full potential. The use of municipal solid waste for electrical generation will provide energy from an alternate source and will reduce pressures on existing landfills. This bill will serve as an incentive toward the development of such projects.

Your Committee has made several nonsubstantive amendments to this bill to correct technical, stylistic, and typographical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 813, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 813, H.D. 3.

Signed by all members of the Committee.

SCRep. 568      Finance on H.B. No. 838

The purpose of this bill is to add two new sections to chapter 286, Hawaii Revised Statutes, to: 1) provide for the issuance of certificates of registration for trailers; and 2) establish procedures for the transfer of such certificates of registration.

Your Committee finds that, while current law requires vehicles (including trailers) to be registered with the county director of finance, there are at present no statutory provisions describing either the requirements for such certificates of registration, or the procedures for transferring such certificates. This discrepancy occurs because trailers are not defined as motor vehicles and not, therefore, subject to the provisions relating to motor vehicle registration and transfer. This bill provides the necessary guidelines to effectively administer the registration of trailers.

Further, this bill prescribes procedures for recording transfer of ownership for trailers and authorizes the counties to establish a fee for recording such transfers.

Your Committee has also made technical, nonsubstantive amendments for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 838, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 838, H.D. 2.

Signed by all members of the Committee.

## SCRep. 569 Finance on H.B. No. 997

The purpose of this bill is to make a \$2 million appropriation for the State's Rental Assistance Program.

Your Committee agrees that, with key federal subsidy program no longer being funded for new construction, the State should help subsidize the development of affordable rental units.

The Rental Assistance Program, created under Part III of Chapter 356, HRS, provides subsidies to qualified owners of rental projects in order that rentals on all or a portion of the units in an eligible rental project can be maintained at affordable levels.

The Hawaii Housing Authority estimates the \$2 million appropriation can assist in the development of 80 to 100 new units, which would be available at rents affordable to those of lower and moderate income. The principal will be used to subsidize the rents.

Your Committee has amended this bill to correct typographical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 997, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 997, H.D. 1.

Signed by all members of the Committee.

## SCRep. 570 Finance on H.B. No. 1127

The purpose of this bill is to more clearly specify county housing agencies' powers to issue general obligation bonds and revenue bonds under housing loan programs.

This bill authorizes negotiated or competitive sale of bonds; authorizes the issuance of zero coupon bonds and variable rate bonds, permits interest rate swaps and "other methods of financing deemed desirable by the county"; and authorizes the counties to enter into support agreements, interest rate swap agreements, and remarketing agreements.

Your Committee has amended this bill to make technical, nonsubstantive changes for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1127, H.D.1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1127, H.D.2.

Signed by all members of the Committee.

## SCRep. 571 Judiciary on H.B. No. 1163

The purpose of this bill is to allow children under eighteen years to be accompanied by parents, guardians, or victim/witness counselors or other designated adult, while testifying at or attending a judicial proceeding.

Your Committee believes that a judicial proceeding, because of its formal setting, unfamiliar procedure, and adversarial nature, is often a traumatic or even terrifying experience for an adult. For a young child, a judicial proceeding is an even more traumatic and terrifying experience.

In order for a young child to participate in a judicial proceeding, particularly as a witness, it is often necessary for the child to be accompanied by an adult who can provide emotional support to the child. Unless this emotional support is provided, the child may refuse to attend or testify at a judicial proceeding. The refusal to testify may result in the inability to prosecute heinous crimes, particularly where the child is the victim of sex abuse or rape and the child's testimony is necessary for an indictment and subsequent conviction.

Your Committee believes, however, that the need for the child to be accompanied by an adult at judicial proceedings decreases as the child matures. Therefore,

this bill, in its amended form as set forth in H.D. 1, is amended to limit its application to a child who is less than fifteen years of age. Specifically, the word "eighteen" found at page 1, line 6 of H.D. 1 is deleted and replaced with the word "fifteen".

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1163, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1163, H.D. 2.

Signed by all members of the Committee.

SCRep. 572      Finance on H.B. No. 1166

The purpose of this bill is to amend section 353-22, HRS, to require the department of social services and housing to notify the victim's surviving immediate family member who has made written request for such notice. The bill further provides that notice shall be given to either the victim or surviving immediate family member, as the case may be, thirty days prior to commencement of the work furlough program, conditional release, or other such program.

The bill would basically expand the rights of victims to notification under present law to include surviving family members. Your Committee recognizes that surviving family members are psychologically victimized when a loved one is murdered, and may also be extremely concerned about the convicted person's whereabouts. This bill would insure that prison officials respond to requests for notification by surviving family members.

Your Committee also finds that some victims who have made written requests for notification have been notified about an inmate's release on the same day of release because, under present law, there is no provision for advance notification. This situation is inconsistent with the apparent intent of the original act, which was to give victims advance notice so they could prepare for the eventual release of the prisoner. This bill will require advance notice to victims prior to release.

The bill was amended to correct certain typographic, technical, and stylistic errors; no substantive changes were made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1166, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1166, H.D. 2.

Signed by all members of the Committee.

SCRep. 573      Finance on H.B. No. 1393

The purposes of this bill are: 1) to allow the purchase of fuel, oil and equipment not otherwise provided to the CAP by the United States Government; and 2) to allow assistants to the adjutant to perform certain administrative and fiscal duties.

Your Committee concurs with the findings of the House Committee on Transportation that with the increase in aviation and Civil Defense activities throughout this State there is a need to maintain the effectiveness of the air rescue operations of the CAP.

However, your Committee disagrees with the amendments of the Transportation Committee (1) enabling Civil Air Patrol (CAP) units to transfer funds to the Hawaii Wing CAP headquarters and (2) delineating a CAP unit's authority to expend funds on operations, administration, repairs, maintenance, supplies and equipment not otherwise provided by other agencies. Your Committee finds that the CAP, as condition for a grant, must comply with specific review requirements stipulated by chapter 42, Hawaii Revised Statutes. Your Committee is of the opinion that expanding or further delineating the powers of the CAP with regard to transfer and/or expenditure of funds granted by the legislature may circumvent the review of request process mandated under Chapter 42. Therefore, your Committee has amended this bill by deleting underscored subsections (d) and (e) of Section 1. Further, your Committee recommends that additional studies are desirable to determine whether expanding or further delineating the powers of the CAP with regards to the transfer and/or expenditure of its fund is in order.



Your Committee made other technical amendments to conform the bill to accepted bill drafting style.

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

Signed by all members of the Committee.

SCRep. 574      Finance on H.B. No. 1289

The purpose of this bill is to establish for the State the federal Community Work Experience Program (CWEP) which requires employable adults in the federal-state Aid to Families with Dependent Children (AFDC) program to work off their assistance grants by performing community service. States have a federal option to implement the CWEP and your Committee believes that the statutory change contained in this bill will provide the legal basis for implementation of CWEP by the Department of Social Services and Housing (DSSH).

This bill proposes that public employment be confined to families where there are two adults whose needs, income, and assets are considered in the amount of financial assistance made on behalf of a child under the Aid to Families with Dependent Children Unemployed Parent program. Selection of this categorical group is feasible since one parent can perform the community service while the other parent can remain at home to care for the minor children. Your Committee believes that this bill resolves the problem of needing funds to pay for day care or after-school care of minor children.

Your Committee on Finance has amended this bill to complete your Committee on Human Services' deletion of the term "intact households" and insertion in its place of "Aid to Families with Dependent Children Unemployed Parent Program" to more clearly define the categorical group instead.

Your Committee has also amended this bill by appropriating \$28,000.00 for the 1985-1986 fiscal year.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1289, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1289, H.D. 2.

Signed by all members of the Committee.

SCRep. 575      Finance on H.B. No. 1246

The purpose of this bill is to extend the present tax exemption for gross proceeds for the sale of gasohol to June 30, 1992. This bill also eliminates the restriction beginning July 1, 1985, to gasohol produced within the State from biomass.

Your Committee finds that reducing the State's reliance on imported oil by the production and use of alternate fuels such as ethanol is a major state goal. Promoting the use of ethanol in a gasoline fuel mixture known as gasohol will aid in reducing Hawaii's dependence on imported petroleum. Presently in Hawaii, however, there are no commercial-sized ethanol producing operations in existence. Out of practical necessity, your Committee finds that the current tax exemption to gasohol should be extended to include mainland-produced ethanol. This can serve to develop a local market for gasohol to the point where it could become economically feasible for the State's local industry to develop.

Your Committee has amended this bill to correct technical drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1246, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1246, H.D. 1.

Signed by all members of the Committee.

## SCRep. 576      Judiciary on H.B. No. 1251

The purpose of this bill is to amend Sections 339-4 and 708-829, Hawaii Revised Statutes, to strengthen the enforceability of litter laws by deleting a phrase which has permitted the dismissal of cases on technical grounds and to provide an affirmative defense for criminal littering.

Currently, the sections require that the littering be done without consent of a landowner. Your Committee finds that this phrase has thwarted the intent and purpose of the affected sections. The proposed measure deletes the phrase and provides an affirmative defense to those who litter and had the consent of the owners whose interest is affected.

Your Committee agrees with the testimony presented by the department of health that the defendant bear the burden of proof that he or she had the permission of the owners to litter on their property. However, your Committee amended the bill to clarify this defense. Rather than refer to possible owners of the property, the bill was amended on page 3, lines 3 and 4 to read: "owner in control of the property".

The bill was further amended by your Committee by explicitly referring to the "department of health" in Section 708-829, Hawaii Revised Statutes, rather than just the "department" as previously proposed.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1251, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1251, H.D. 2.

Signed by all members of the Committee.

## SCRep. 577      Judiciary on H.B. No. 1186

The purpose of this bill is to suspend for one year the driver's license of the driver and, if other than the driver, the registered owner of a motor vehicle where a motor vehicle is operated without a valid no-fault insurance policy.

Under present law, a person found in violation of this section is subject to a mandatory fine and for multiple offenders, possible imprisonment, suspension of license, impoundment and/or suspension or revocation of vehicle registration.

Your Committee recognizes that in order for the Hawaii no-fault law to be fully effective, all persons who operate motor vehicles must be insured. This bill provides a further deterrent for persons not to operate or allow the operation of motor vehicles not covered by no-fault policies.

However, concern was expressed by your Committee over certain situations where the lack of no-fault insurance may be caused by extraneous factors such as an insurance company not notifying the owner that their insurance needs to be renewed. To resolve this problem, your Committee amended the bill to provide discretion to the court providing possible suspension of the sentence. It is the intent of your Committee that such suspension only occur in those cases where the lack of no-fault insurance is not the fault of the driver and registered owner.

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

Signed by all members of the Committee.

## SCRep. 578      Finance on H.B. No. 463

The purpose of this Act is to amend the Workers' Compensation law to make the system both effective and efficient. Your Committee received numerous and extensive testimony from individuals representing diverse segments of our community that have shown interest in the workers' compensation insurance issue.

Your Committee has reviewed and carefully considered the recommendations proposed in the study of the Workers' Compensation Program of the State of Hawaii by Haldi Associates, Inc., as submitted by the Legislative Auditor (hereafter

referred to as "the Haldi report") in light of the oral and written testimonies received by your Committee. Where deemed prudent, your Committee has adopted recommendations of the Haldi report. However, where the Haldi report recommendations are fundamentally inconsistent with the purposes and policy of the Hawaii workers' compensation law, your Committee has sought and adopted alternative approaches towards effective reform, particularly in light of the humanitarian objectives of the law.

Your Committee adopts the report of the Committees on Employment Opportunities and Labor Relations and Consumer Protection and Commerce submitted in Standing Committee Report Number 326, except as it relates to provisions which your Committee has amended. In areas of particular concern, your Committee has commented on and amended the bill as follows:

(1) Permanent partial disability (PPD). In review of the provisions of the bill relating to PPD benefits, your Committee carefully considered the Haldi report recommendation basing awards primarily on economic losses, and found it to be in conflict with the premise of our current system, which bases awards on the "whole man", which compensates injured workers for functional losses and impairment rather than wage loss.

Further, your Committee is cognizant of the fact that Hawaii's scheduled and unscheduled benefits are low in comparison with other states, and that these benefits have not been adjusted since 1963. However, in light of the purpose of this Act, your Committee has amended this bill by deleting Section 5, eliminating the increase in both the scheduled awards and the whole man maximum compensation.

(2) Death benefits. In light of the purpose of this Act, your Committee has deleted Section 7 of this bill, eliminating the increase in maximum aggregate weekly benefits payable on account of any one death.

(3) Vocational Rehabilitation. Your Committee has amended Section 2 of this bill to eliminate limits on the time allowed for development and implementation of an approved vocational rehabilitation plan, where previously limits of twenty-six weeks for development and fifty-two weeks for implementation were provided for.

(4) Temporary total disability (TTD). Your Committee, after careful consideration, has rejected the concept of determination of benefits based on after tax earnings, as benefit levels would then be unpredictable, subject to changes in both federal and state policy.

In light of the elimination of any limitation of time for development and implementation of approved vocational rehabilitation plans adopted by your Committee's amendment to Section 2 of this bill, your Committee has amended Section 3 of this bill to delete the use of the vocational rehabilitation time limits to limit the duration of TTD benefits.

Your Committee has also amended Section 3 of this bill by changing the waiting period for TTD benefits from two days to two regularly scheduled working days, with no benefits provided retroactively.

(5) Fee schedules. Your Committee has amended Section 4 of this bill to require the Director of Labor and Industrial Relations to establish separate fee schedules for medical, chiropractic, osteopathic, naturopathic, and optometric services.

(6) Penalties for fraud. Your Committee, noting that the fraud provisions of this bill apply equally to all parties, has amended Section 9 of this bill by increasing the maximum fine which may be levied for a fraud violation from \$1,000 to \$2,500.

(7) Standard of proof. Your Committee has examined the standards of proof applied in disputes under this Chapter and found them to be generally consistent with the policy objectives of the Workers' Compensation law. However, recognizing that employers may have difficulty proving apportionment of responsibility for compensable injuries in disputes involving the special compensation fund, your Committee has amended this bill by adding Section 12, establishing the preponderance of the evidence as the standard of proof in cases involving cardio-vascular conditions, cerebrovascular conditions, hypertension, emotional disorders, and degenerative conditions of tissues and other organ parts which arise from the

natural aging process.

(8) State Compensation Insurance Fund. Your Committee, believing that the establishment of a state compensation insurance fund may ultimately provide some measure of relief from escalating premium costs for employers, has amended this bill by deleting previous language which provided for a study of the concept and adding a new section 14, establishing a state compensation insurance fund.

Towards the end of implementation of the state fund, section 15 has been added, providing for the establishment of an advisory committee of eight persons, four to be designated by the president of the senate and four to be designated by the speaker of the house of representatives. The advisory committee shall report findings and recommend proposed legislation to the legislature twenty days before the regular session of 1986.

(9) Your Committee has amended this bill by adding section 13 which amends section 386-85, HRS, providing an exception to statutory presumptions in particular types of cases.

(10) Your Committee has also made technical, non-substantive amendments to this bill.

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

Signed by all members of the Committee.

SCRep. 579      Planning, Energy and Environmental Protection and Water, Land  
Use, Development and Hawaiian Affairs on H.B. No. 76

The purpose of this bill is to effectuate the title of this bill.

H.B. No. 76 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill, primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committees have amended the bill to provide the substantive contents of the bill, in long form so that a public hearing may properly be held on its substantive provisions. Without the amendment providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short form bill may not be helpful, and a notice thereof could be less than meaningful.

Your Committees on Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 76, as amended herein, and recommend that it be recommitted to the Committees on Planning, Energy, and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 76, H.D. 1.

Signed by all members of the Committees except Representative Pfeil.

SCRep. 580      Planning, Energy and Environmental Protection and Water, Land  
Use, Development and Hawaiian Affairs on H.B. No. 432

The purpose of this bill is to reduce the State's regulatory role in land use matters more properly belonging under the jurisdiction of the counties. This bill eliminates State land use districts and allows the State to intervene in land use decisions only to the extent that the development is a "development of State impact". This bill further requires the State Plan Policy Council to represent the State at public hearings before the counties and at appeals before a "State Land Use Appeals Board". The State Land Use Appeals Board is required to uphold or overturn the county's decision regarding a permit application of statewide impact.

Your Committees find that the Legislature has characterized Hawaii's land resources as being over regulated, and at the same time, undermanaged. Hawaii's Land Use Law of the early 1960's pioneered State involvement in land use regulation; an area which has traditionally been delegated to local governments. Con-

trary to its intent, an increase in development permit and procedural requirements resulted in a land development process that was both costly and time consuming.

Your Committees find that the political, economic and development environment which gave rise to the Land Use Law is no longer relevant to the changing needs of this State. The State's role in land use management should be redefined and reoriented toward areas of compelling State interest. In areas where State interests are not significant, a greater regulatory role for the counties should be emphasized.

Your Committees have amended this bill as follows:

(1) All references to the State Plan Policy Council have been deleted. Reference to the Department of Planning and Economic Development has been inserted in its place.

Your Committees find that the State Plan Policy Council is an inter-governmental advisory body that was not set up for the purposes of making decisions on State land use. The DPED, however, is responsible for overall State planning; it analyzes, reviews and makes recommendations on the Hawaii State Plan and performs State policy analysis.

(2) Further criteria under the "Designation of developments of state impact" section have been added.

Your Committees find that it is essential that the State define its interest to the fullest extent possible in matters relating to land use. These criteria emphasize a cumulative, long term statewide focus of the State in land use matters.

(3) A new section relating to the powers and duties of the Department of Planning and Economic Development has been inserted to clarify the Department's role in the review of requests for developments with potential State impact.

(4) Sections relating to "Geothermal resource subzones" and the "Designation of areas as geothermal resource subzones" have been inserted.

Your Committees find that these sections, as they currently exist within Chapter 205, Hawaii Revised Statutes, empower the State Board of Land and Natural Resources to designate and regulate geothermal resource subzones within present land use districts. It is not your Committees' intention to abrogate the role of the State Board of Land and Natural Resources in regard to geothermal resource development.

(5) A new section entitled: "Notification; duties and responsibilities" has been added to Section 4 of this bill. This new section details the procedure by which the counties are required to process an application for a land use district boundary amendment.

(6) Technical, non-substantive amendments have been made throughout this bill.

Your Committees on Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 432, as amended herein, and recommend that it be recommitted to the Committees on Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 432, H.D. 1.

Signed by all members of the Committees except Representative Pfeil.

SCRep. 581 Finance on H.B. No. 1173

The purpose of this bill is to appropriate the sum of \$66,000 to support the programs and projects of the Big Island Ocean Recreation Project (BIORT). The amount appropriated is to be used for the following purposes:

- (1) An islandwide system of beach orientation signs/displays;
- (2) The summer youth fishery training program; and

(3) The "Every Swimmer a Lifesaver" water safety training program.

Your Committee believes that it is important for the citizens of Hawaii to become aware and knowledgeable about the ocean and the importance of the State's ocean resources, and to recognize that the ocean is an integral part of the attraction that Hawaii holds for visitors to our State.

Your Committee emphasizes, however, that the appropriations granted in this bill are intended as "seed money" only, to help BIOR T initiate its efforts to establish these programs, and should not be considered as a commitment on the part of the legislature to provide continuing support for BIOR T's programs or operations.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1173 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 582 Finance on H.B. No. 1208

The purpose of this bill is to appropriate the sum of \$157,500 to the Department of Planning and Economic Development to support the Big Island Ocean Recreation and Tourism Project (BIOR T). The amount appropriated is to be used for the following purposes:

- (1) \$78,000 for administrative and operating costs;
- (2) \$30,000 for community initiated projects to improve ocean recreation facilities and programs;
- (3) \$45,000 for public information and educational programs; and
- (4) 4,500 for a feasibility study for a marine educational research center.

The BIOR T Project has developed an organizational framework, established a network of cooperation on the Big Island, evaluated proposals for projects, and prepared a five-year plan for the development of ocean recreation facilities and programs. The funds appropriated in this bill should enable BIOR T to begin to realize these plans.

The funds granted in this bill are intended as "seed money" only, to help BIOR T initiate its efforts to establish these programs, and should not be considered as a commitment on the part of the legislature to provide continuing support for BIOR T's programs and operations.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1208 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 583 Finance on H.B. No. 1209

The purpose of this bill is to appropriate the sum of \$119,000 to support ocean recreation programs and projects for West Hawaii. The amount appropriated is to be used for the following purposes:

- (1) \$49,000 for ocean education and interpretive programs; and
- (2) \$70,000 to renovate the old Kona Airport terminal as a visitor's center.

Your Committee believes that it is important for the citizens of Hawaii to become aware and knowledgeable about the ocean and the importance of the State's ocean resources. Your Committee further believes that the ocean is an integral part of the attraction that Hawaii holds for visitors to our State, and that educational and recreational programs contribute significantly to that attraction.

Your Committee finds that the programs and projects proposed in this bill will be of benefit to both residents and visitors to Hawaii. Your Committee would like to emphasize, however, that the program appropriations granted in this bill are intended as "seed money" only, to help initiate and establish these programs, and



should not be considered as a commitment on the part of the legislature to provide continuing support.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1209 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 584      Finance on H.B. No. 1261

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in an amount not to exceed \$9.4 million for projects to be undertaken by Citizens Utilities Company (Kauai Electric Division).

In 1982, Kauai Electric obtained a \$3.3 million in Special Purpose Revenue Bonds to cover construction projects for 1982, 1983, and 1984. These bonds were sold at an interest rate of 9 3/4 per cent. Alternatively, through conventional financing, Kauai Electric would have incurred an interest cost of approximately 16.11 per cent for a conventional taxable first mortgage bond. The 6.36 per cent savings on \$3.3 million represented an annual interest savings of approximately \$210,000 and a total savings over the life of the bond issue of approximate \$6,300,000.

Your Committee finds that securing adequate funding at a reasonable interest for capital expenditures is a major concern to both the utility company and its rate payers. Accordingly, special purpose revenue bonds will allow the utility company to construct needed facilities at a significantly lower cost which ultimately represents a saving to the consumer.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1261 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 585      Finance on H.B. No. 1280

The purpose of this bill is to appropriate \$25,000 for fiscal year 1985-1986 for the establishment of a pilot program on Alzheimer's Disease.

Your Committee believes that Alzheimer's disease is the most prevalent, devastating and dementing illness confronting our elderly population today. Your Committee notes that there presently is no cure for Alzheimer's disease and finds that creating a family support group or respite program for families of Alzheimer's victims who serve as care-givers will help to lessen the tragic impact of this disease upon the victims and their families.

Your Committee received favorable testimony on the bill from many groups and individuals including the Alzheimer's Disease and Related Disorders Association (ADRDA), Honolulu Chapter. The ADRDA also testified in support of the bill which would provide for a respite coordinator to train, supervise and oversee respite volunteers. The ADRDA testified that there are approximately 2,000 to 3,000 persons on Oahu afflicted with Alzheimer's disease. And while many families have managed the burden of caring for an Alzheimer patient for four or five years with little or no assistance, respite services respond to an urgent need. The ADRDA also testified that families have expressed that they would be highly supportive of a volunteer training program by an organization that understands the special needs of persons with Alzheimer's disease.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1280, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 586      Finance on H.B. No. 1283

The purpose of this bill is to appropriate \$22,000 for fiscal year 1985-1986 and \$23,000 for fiscal year 1986-1987 for a full-time program specialist position to provide staff support to the State Coordinating Council on Deafness.

Testimony indicated that the Council, which is a coordinating body, operates without staff and relies on the volunteer efforts of its members, almost all of whom are employed elsewhere. As a result, guidelines for policies and procedures for agencies that serve the 60,000 hearing-impaired citizens in our State, and plans for inter-agency cooperative services for the hearing-impaired have been significantly hindered by the absence of staff.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1283, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 587      Finance on H.B. No. 65

The purpose of this bill is to provide funds to support statewide agricultural activities including pesticide education programs for farmers, commodity group research, the State Farm Fair, research on spotted wilt, research on biological control under glasshouse conditions, and research on fumigants and nonvolatile nematicides as well as cultural and biological measures to control and reduce nematode populations.

Your Committee finds that the pesticide education program for farmers has been highly successful and that continuation of the program will help to ensure the safe and effective use of pesticides. Your Committee also finds that commodity group research, an on-going program of the Hawaii Farm Bureau Federation to organize farmers producing similar commodities in order to improve their production scheduling and marketing, has been very successful in developing and promoting Hawaii's diversified agricultural products. Your Committee believes that continued support for these two programs as well as for the State Farm Fair will increase the production and marketability of Hawaiian produce.

Your Committee also finds that the spotted wilt virus is causing serious damage to a wide variety of crops, including tomatoes, lettuce, peppers and celery. Research on methods to control and manage the spotted wilt virus is needed since currently available insecticides have proven to be ineffective.

Your Committee further finds that greenhouse agricultural operations hold significant potential for expanding diversified agricultural production in Hawaii. Your Committee finds, however, that specific research on the biological control of pests under these unique conditions is required to further develop this promising technique.

Your Committee also finds that nematode control is of primary concern to growers of pineapple and other plant crops. Today, the root-knot nematode and the reniform nematode are considered the major limiting factors in the production of pineapple in Hawaii. Soil fumigation has been the standard method of control since the 1940's. However, the registrations of many fumigants, including EDB and DBCP, have been cancelled by the U.S. Environmental Protection Agency. The remaining fumigant, Telon, may be ineffective against the reniform nematode under certain conditions. Your Committee believes, therefore, that effective and alternative measures should be sought to reduce nematode infestations through research on fumigants, non-volatile nematicides, improved cultural practices and the utilization of biological control organisms.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 65, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 588      Finance on H.B. No. 64

The purpose of this bill is to appropriate \$100,000 for fiscal year 1985-1986, for the promotion of diversified agricultural commodities.

Your Committee finds that diversified agriculture is a vital component of the State's economic base and is the fastest growing sector in the agricultural industry.

Your Committee also finds that diversified agriculture represents the most viable

alternative for lands given up sugar and pineapple, and efforts should be made to promote and develop markets for the products of Hawaii's diversified agriculture.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 64, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 589      Finance on H.B. No. 62

The purpose of this bill is to appropriate \$200,000 through the State Department of Agriculture to the Pineapple Growers Association of Hawaii, on a dollar-for-dollar matching basis, for the promotion of Hawaiian fresh pineapples.

Your Committee finds that the effectiveness of the Hawaiian fresh pineapple promotion program financed by matching funds from the State and the pineapple industry is evidenced by the 25 percent improvement in industry income since the beginning of the promotional program in 1982.

Your Committee also finds that despite the success of the program thus far, significant potential for greater market penetration within the west coast mainland states, and market expansion to other western states currently exists. Continuation of this marketing effort is necessary to generate greater public awareness and to improve the stability of the pineapple industry.

Your Committee is concerned, however, that the limiting factor to the growth of the pineapple industry in Hawaii may in fact be the costly and extensive damage done by the root-knot and reniform nematodes. While research to find effective ways to combat nematode damage is continuing, your Committee believes that additional funding assistance may be required. As such, your Committee believes that research in this area is of utmost priority and that any unexpended promotional funds contributed by the industry should be redirected to research efforts on cultural and biological means of reducing the nematode population.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 62, H.D. 1, recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 590      Finance on H.B. No. 36

The purpose of this bill is to make an appropriation of \$99,000 to Hawaii County, \$82,500 to Kauai County, \$82,500 to Maui County, and \$165,000 to the City and County of Honolulu to partially fund the Aid to Victims Coordinator Program for fiscal year 1985-1986.

Each county has a program which provides assistance, counseling, and other related services in an attempt to reduce the trauma and frustration felt by victims and witnesses of crimes. The programs are administered by the prosecuting attorneys of the respective counties.

Funds appropriated go directly to each county prosecutor to provide the necessary services. However, concern was expressed by your Committee of setting a precedent of State funding for county positions. It is the intent of your Committee, as stated in section four of the bill, that the counties' eventually provide total funding for the program.

To further insure legislative overview of the programs, each county shall report annually to the legislature. These reports shall itemize all expenditures and progress of the program to achieve independent funding.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 36, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

## SCRep. 591 Finance on H.B. No. 35

The purpose of this bill is to provide an appropriation for the fiscal year 1985-1986 to the Witness Security and Protection Program, which provides security and protection to government witnesses. The program was established two years ago by the Legislature to provide protection for witnesses in criminal proceedings, and operates under guidelines developed by the Attorney General's office and the Governor's Planning Committee on Crime.

The Attorney General, the Honolulu Police Department and the Prosecuting Attorney of Hawaii County testified in support of this bill. According to the Attorney General, the office has been fiscally conservative in awarding grants. These grants provide funds for such expenses as food, lodging and other added costs of providing witness security such as overtime costs. The Attorney General is currently investigating the possibility of compensating personnel costs.

Your Committee was faced with the task of determining the amount to be appropriated to this valuable program. Your Committee, after examining past funding, agreed to recommend funding of the program at last years' level of \$175,000. This amount is fair and equitable and, barring any unforeseen extraordinary cases should be adequate to fund the program.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 35, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

## SCRep. 592 Finance on H.B. No. 98

The purpose of this bill is to provide an appropriation of \$636,900 to the Legislative Reference Bureau to publish replacement volumes of the Hawaii Revised Statutes.

The bill would authorize the work on the 1985 supplement to be suspended so that the legislative reference bureau may prepare an update of the Hawaii Revised Statutes through 1985. The amount requested in this bill is to cover the preparation of the publication tapes by data processing, the printing and binding of at least 6,000 sets of replacement volumes, and the employment of such temporary and clerical assistants as may be necessary. The bill also provides that the unexpended or unencumbered balance of any funds appropriated shall lapse into the general fund in June 30, 1988.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 98 and recommends that it pass Third Reading.

Signed by all members of the Committee.

## SCRep. 593 Finance on H.B. No. 487

The purpose of this bill is to amend the Hawaii Revised Statutes by adding a new chapter to provide for the establishment of a Board of Acupuncture in the Department of Commerce and Consumer Affairs to regulate and control the practice of acupuncture.

Chapter 436D of the Hawaii Revised Statutes, relating to the regulation and licensing of acupuncture practitioners, was repealed effective December 31, 1984.

Your Committee finds that the practice of acupuncture affects the public health, safety, and welfare, as it involves methods of treating illnesses and disabilities, and methods for strengthening and invigorating the body. Therefore, your Committee believes that individuals practicing acupuncture should be subject to regulation and control by the State.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 487, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

## SCRep. 594      Finance on H.B. No. 840

The purpose of this bill is to help stimulate the growth of Hawaii's fishing and aquaculture industries by exempting the export of all fish and fish and ocean products from the general excise tax.

While your Committee is cognizant of the importance of preserving the strength of the general excise tax basis, your Committee is also of the opinion that our fishing and aquaculture industries cannot develop to their maximum capacity so long as they remain at a disadvantage with other states due to the imposition of the general excise tax on their export activities. Therefore, your Committee supports this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 840, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

## SCRep. 595      Finance on H.B. No. 916

The purpose of this bill is to appropriate \$100,000 for each year of the fiscal biennium to the Papaya Administrative Committee, on a dollar-for-dollar matching basis, for the promotion of papayas.

Your Committee finds that recent set-backs suffered by the industry, including the devastation caused by Hurricane Iwa, the EPA ban on ethylene dibromide, and the adverse marketing effects of the double-dip system, have combined to seriously threaten the economic viability of the industry.

Your Committee also finds that in order to regain the market's confidence in papayas which has been lost as a result of these setbacks, and to increase consumer demand to a profitable level, there is a need to implement a new advertising program on the mainland aimed at consumers.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 916, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

## SCRep. 596      Finance on H.B. No. 1003

The purpose of this bill is to authorize the department of budget and finance to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public. The funds derived would be used for the purpose of financing or refinancing the acquisition of equipment related to, and used in, the operation of health care facilities.

Specifically, this bill designates the sum of \$5,000,000 to be used by Queen's Medical Center, \$3,000,000 to be used by Wahiawa General Hospital, and \$3,000,000 to be used by G. N. Wilcox Memorial Hospital, Kauai, for the purpose of financing or refinancing the purchase of equipment. Equipment to be purchased includes such items as surgery equipment, radiology equipment, blood gas analyzer, microscopes, etc., each of which would cost less than \$400,000 for replacement and \$250,000 for new equipment. These equipment minimums have been set by law and, therefore, are below the current certificate-of-need threshold.

The interest on financing and refinancing, which are necessary to provide for the continuing equipment needs of health care facilities, continues to be a significant factor in the cost of providing health care to the general public. Each of the hospitals has saved a substantial amount on interest payments by being permitted to rely on the issuance of special purpose revenue bonds.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1003 and recommends that it pass Third Reading.

Signed by all members of the Committee.

## SCRep. 597 Finance on H.B. No. 1018

The purpose of this bill is to increase the effectiveness of the Hyperbaric Treatment Center in treating "bends" victims and other patients by appropriating funds to make the large sized "Good Samaritan" hyperbaric chamber operational.

At the present time, the Hyperbaric Treatment Center treats patients with dysbaric problems ("bends" and embolism) in its recompression chamber. Your Committee finds that the recent acquisition of the larger, more flexible "Good Samaritan" chamber can provide multiple treatments which would, in turn, generate increased revenues and move the Center closer to becoming a self-supporting facility. However, additional funds are needed to activate this chamber.

This bill appropriates \$250,000 from general obligation bond funds for the Hyperbaric Treatment Center.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1018, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

## SCRep. 598 Finance on H.B. No. 1056

The purpose of this bill is to amend chapter 431, Hawaii Revised Statutes, by adding a new section to provide for the establishment of a revolving fund to be used by the Insurance Commissioner of the State to contract independent insurance examiners.

This bill provides that each insurer will deposit the sum of two hundred dollars for credit to the insurance examiners revolving fund.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1056, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

## SCRep. 599 Finance on H.B. No. 1059

The purpose of this bill is to appropriate the sum of \$250,000 for fiscal year 1985-1986 to the insurance commissioner of the department of commerce and consumer affairs to conduct a comprehensive review of the insurance laws of the State and to submit proposed legislation to simplify, clarify, update and consolidate the insurance laws of the State.

Your Committee finds that a consensus exists among experts and representatives of the insurance industry that a comprehensive review and possible revision of all Hawaii's insurance laws is needed. Therefore, a comprehensive review of those laws should substantially reduce the time and effort required by the Legislature, administrative agencies, and the insurance industry to review and address the insurance laws.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1059, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

## SCRep. 600 Finance on H.B. No. 175

The purpose of this bill is to strengthen our current laws prohibiting the use of lie detector tests in an employment context by repealing Part II, Chapter 387, HRS, and adding a new Part II to Chapter 387, HRS. This bill (1) specifies the prohibited practices related to the use of lie detector tests in employment; (2) lists exception to the law; (3) assigns to the Director of Labor and Industrial Relations the responsibility and authority to enforce the law; (4) provides remedies to the aggrieved; (5) authorizes the Department to levy and collect fines; and (6) provides the Attorney General with the authority to take civil and criminal actions.

Your Committee finds that, while the present Part II of Chapter 378, HRS, limits



the use of lie detector tests in an employment context, a more comprehensive statutory scheme is needed to provide better protection for employees and prospective employees from unreasonable intrusions on privacy and to provide a mechanism for sufficient enforcement of the law.

Your Committee agrees that a person's job and employment record are too important to depend on the results of a lie detector test, which is currently not even admissible in Hawaii courts. To protect the employer, the bill now requires the employer to inform the employee or prospective employee in writing, as well as orally, that the test is voluntary and the refusal to submit to the test will not result in job termination or jeopardize the prospective employee's chance of a job.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 175, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 601      Finance on H.B. No. 216

The purpose of this bill is to allow the Natural Energy Laboratory of Hawaii to establish, manage, and operate natural energy research facilities as may be appropriate at various sites.

Your Committee finds that the Natural Energy Laboratory of Hawaii is presently limited to the management and operation of an outdoor research facility on a parcel of state-owned land at Ke-ahole Point on the island of Hawaii. This restriction inhibits the development and expansion of energy projects that may become appropriate in the future. This bill will allow the flexibility necessary to accommodate future expansion if and when it becomes appropriate.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 216 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 602      Finance on H.B. No. 219

The purpose of this bill is to amend section 39A-151, Hawaii Revised Statutes, by allowing the issuance of special purpose revenue bonds to finance the development of private parking structures in the Kakaako community development district.

The Kakaako community development plan requires developers to provide a minimum amount of parking stalls for private enterprise. This requirement may be a deterrent to redevelopment in the area, since parking revenues may not be sufficient to offset the high cost of developing parking facilities.

However, the redevelopment of Kakaako can be fostered with the help of the State through the issuing of special purpose revenue bonds for the private parking structures. Moreover, Part V of Chapter 39A, Hawaii Revised Statutes, authorizes the director of finance to issue special purpose revenue bonds to finance industrial enterprises. Bond counsel has questioned whether Part V can include bonds for parking facilities. Consequently, this bill addresses the bond counsel's concern and amends the definition of "projects" to include parking facilities.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 219 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 603      Finance on H.B. No. 228

The purpose of this bill is to authorize the contractors license board to contract for examination services with a testing agency and to provide for examination fees to be established by the director of the department of commerce and consumer affairs.

Currently, examinations for the various boards in the department of commerce

and consumer affairs are either prepared by board members or are contracted out to a consultant or a testing agency. According to the department, no testing agency existed to develop the contractor examination until recently. The department stated that such a testing agency can develop the examination, periodically update it, provide references for examination questions to assist the applicants in their preparation for the test, and analyze test questions to determine validity and reliability.

This bill also provides that the contractors examination fees will be established by the director of the department of commerce and consumer affairs. The department assured your Committee that the director will periodically consult with board and the testing agency to determine reasonable fees which would be remitted by an applicant directly to the testing agency after the application has been first reviewed and approved by the board.

While your Committee supports the upgrading of the examination program, it feels compelled to express a concern that the program may impose an unwarranted hardship on contractors whose licenses are lost for minor infractions. Your Committee hopes the board will take heed of this concern.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 228 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 604      Finance on H.B. No. 260

The purpose of this bill is to correct overbroad language in the statutes regarding general excise tax exemptions for persons and firms involved with the production of low- and moderate-income housing.

In 1983, the legislature provided general excise tax exemptions to persons and entities who contribute toward the development, construction, or occupancy of government assisted housing. The intent was to provide an economic incentive to the private sector to encourage the building of new housing projects. The Hawaii Housing Authority, however, testified that its staff received numerous telephone inquiries indicating that the statutes as currently drafted would allow existing government assisted projects (most of which are receiving Section 8 subsidies) with a financial windfall without any corresponding benefits accruing to the projects' present tenants, nor to any governmental body.

This bill clarifies the intent of the general excise tax exemption and narrows its scope to the following types of projects:

- 1) Newly constructed or rehabilitated projects developed with Hawaii Housing Authority or county assistance; and
- 2) Existing low- and moderate-income housing projects receiving government assistance and which rents and operations are controlled under a regulatory agreement with a governmental body, provided such projects are approved and certified by the Authority on an annual basis.

Your Committee on Finance is in accord with the intent and purpose of H.B. 260, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 605      Finance on H.B. No. 284

The purpose of this bill is to repeal section 266-5 of the Hawaii Revised Statutes, relieving the harbors division of the state department of transportation of the responsibility of operating and maintaining the drawbridge across the second entrance channel into Honolulu Harbor, also known as the John H. Slattery Bascule Bridge.

Your Committee finds that the drawbridge across the second entrance channel into Honolulu Harbor has been converted to a fixed bridge and should thus be transferred from the purview of the harbors division to that of the highways division of the state department of transportation.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 284 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 606      Finance on H.B. No. 299

The purpose of this bill is to expand the revolving fund established pursuant to HRS 304-8.4 to allow for replacing vocational equipment in the Community College system. The proposed changes will allow the various vocational education programs to assess a small equipment use charge to clients and to replace equipment as necessary with the moneys collected.

Revolving fund accounts are maintained for all programs that involve "live job" experiences and collect fees for their service or products.

Your Committee finds that heavy usage and obsolescence make the useful life of the equipment very short. The University feels that the combination of general funds and the revenues generated from the revolving fund will adequately maintain the equipment requirements of the various vocational programs.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 299, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 607      Finance on H.B. No. 355

The purpose of this bill is to expedite the disposition of court cases.

The bill proposes to amend Section 2 and 6 of Article VI of the Hawaii Constitution to authorize the Chief Justice to directly appoint retired judges of the intermediate appellate court, the circuit courts, the district courts and the district family courts to serve temporarily on the intermediate appellate court, on any circuit court, on any district court, and on any district family court, respectively. This will speed the disposition of cases by allowing the Chief Justice to directly appoint temporary judges to any level of the state courts experiencing an overload of cases.

Presently, the Chief Justice has constitutional authority to temporarily move up active judges from the courts below, or by laterally transferring active circuit judges to other circuit court positions temporarily. In turn, those vacancies must be filled by other temporary judges. The process of moving up a judge followed by replacement of the judge from below may involve three levels of courts and end with the appointment of per diem district court judges to replace regular district judges who have been moved up.

This bill will enable the Chief Justice to call back for temporary service on the intermediate appellate court retire judges from that court, and to call back retired circuit court judges and to appoint qualified persons to serve as circuit court judges. The Chief Justice also will be empowered to call back retired district court and district family court judges to serve on these courts.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 355 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 608      Finance on H.B. No. 382

The purpose of this bill is to compensate jurors for transportation to and from the court.

At present, the law provides for compensation of travel only to the court. Because of this, those jurors residing long distances from the court, such as in Hawaii County or in rural areas, are not being reimbursed in full for their out-of-pocket driving costs. Your Committee acknowledges that jurors are a critical component of our judicial system and deserve fair and equitable compensation.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 382 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 609 Finance on H.B. No. 1199

The purpose of this bill is to amend section 286-209, HRS, relating to motor carrier vehicles, by increasing the fee charged for safety inspections required under this section from \$7 to \$10.

Your Committee finds that, for the purpose of section 286-209, a motor carrier vehicle is a vehicle used in the transportation of persons or property in the furtherance of any commercial, industrial, or educational enterprise. Such vehicles are under the jurisdiction of the public utilities commission.

Your Committee agrees that the increase of \$3 merely reflects the cost of doing business as a result of inflation, and that such additional cost would not be detrimental to the commercial motor vehicle carriers affected.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1199 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 610 Finance on H.B. No. 1272

The purpose of this bill is to authorize the issuance of \$25 million in special purpose revenue bonds, the proceeds of which will be used for: (1) the construction and installation of new water wells; (2) a major expansion of existing water storage; (3) conveyance facilities for the part of the Ewa plain known as James Campbell Industrial Park, West Beach, Ewa Plantation, Ewa Marina, and Makakilo; (4) continued growth of industrial and economic activities; and (5) the provision of housing in the Ewa plain.

The City and County of Honolulu General Plan has designated the Ewa plain as Oahu's secondary urban center. Ewa's residential population projected for the year 2000 is expected to be approximately 10 per cent of Oahu's population. The Plan identifies the need to develop additional water sources and transmission facilities for the Ewa plain.

The issuance of special purpose revenue bonds will greatly benefit the State in meeting the objectives of stimulating new industry, support additional economic activities, and provide increased employment opportunities in the secondary urban center.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1272 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 611 Finance on H.B. No. 1121

The purpose of this bill is to stimulate national interest in underutilized fresh seafood produced or fished in Hawaii by supporting the development of a promotional and marketing structure in the State.

Your Committee finds that in order to stimulate interest in underutilized fish, the State must encourage efforts to educate the general public in the use of such fish as substitutes for more expensive species and aid in stabilizing market flow and baseline prices.

This bill appropriates \$25,000 for fiscal year 1985-1986 for the promotion of fresh seafood from Hawaii.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1121, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.