

SCRep. 612 Finance on H.B. No. 985

The purpose of this bill is to expand the applicability of county-sponsored housing loan and mortgage programs by removing the provision that loans made under such county programs be restricted to newly constructed projects. Counties would thus be able to provide "spot" loans to finance existing dwelling units or new units for which no project funds have been reserved.

The city and county of Honolulu's department of housing and community development testified that the current restriction of county programs to new housing projects poses a serious impediment to county residents should the State issue prove inadequate to meet the total demand for "spot" loans.

Your Committee agrees that the State should strive to achieve full utilization of the \$200 million "subsidy" in the tax-exempt revenue bonds which can be issued per annum. In the event that the counties do not elect to issue their own bonds of equity requirements or other reasons, they would not be precluded from allocating their remaining authorization to the Hawaii Housing Authority to issue bonds on their behalf.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 985 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 613 Finance on H.B. No. 974

The purpose of this bill is to amend portions of Chapter 89-9, Hawaii Revised Statutes, so that the salary ranges and the number of incremental and longevity steps now provided by law may be negotiated between the public employers and the union.

This bill provides for a "trial period" for the inclusion of salary ranges, and incremental or longevity steps into the bargaining process. It is intended that the inclusion of these specific items into collective bargaining negotiations be done for one round of negotiations, and be in place for upcoming negotiations for the July 1, 1987 agreements.

To this end, the bill is to take effect on July 1, 1986, and be repealed on June 30, 1987. In addition, a severability clause has been added to the bill to protect the integrity of Chapter 89, Hawaii Revised Statutes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 974, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 614 Finance on H.B. No. 447

The purpose of this bill is to appropriate funds to the College of Tropical Agriculture and Human Resources of the University of Hawaii for fiscal year 1985-1986 for a county extension agent under the county extension service of Maui.

Presently there are two agricultural extension agents servicing horticultural interests on Maui. However, because of increases in the production of agricultural crops, as well as growing demands from home owners with specific problems relating to home gardens and plants, the workload demands upon these two agents have commensurately increased, resulting in a decrease in the level of service that can be provided. Also, supplemental requests such as for topical workshops cannot be fulfilled due to competing demands. An additional agent would allow the Maui program to provide more effective and thorough service to the growing number of farmers and residents on the island.

Your Committee approves the sum of \$29,500 appropriated by this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 447, H.D.1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 615 Finance on H.B. No. 153

The purpose of this bill is to provide members of boards and commissions with land trust obligations with immunity from civil suits and indemnification for civil liability.

Act 152, SLH 1984, added Section 26-35.5 to the Hawaii Revised Statutes. Act 152 provides appointed members of boards and commissions, who service without compensation, immunity from any civil action founded upon statute or the case law of the State of Hawaii, for damage, injury, or loss caused by or resulting from the member's performing or failing to perform an official duty, unless the member acted with a malicious or improper purpose. The immunity conferred, however, does not extend to civil actions in which the plaintiff is the State of Hawaii.

Act 152 also indemnifies members of boards and commissions from liability in any civil action arising under federal law, the law of another state, or the law of a foreign country.

The intent of Act 152 is to provide protection to "volunteer" members of boards and commissions from frivolous suits, suits extended as harassment, and more importantly, suits which may be intended to intimidate or influence board and commission members in their decision-making.

The law now excludes members of the Hawaiian Homes Commission, members of the Board of Land and Natural Resources, and others, from its coverage because the term, "member," does not include any person serving on a board or commission with land trust obligations.

Your Committee finds that there are valid reasons to amend the statute. They include:

(1) The inequity inherent in extending protection to one class of appointed members and not another.

(2) Extending immunity and indemnification does not give members license to act improperly or maliciously because members would be personally liable for acts of commission or omission that are proven to be improper or malicious.

(3) It would be more difficult to have citizens serve on such bodies as the Hawaiian Homes Commission and the Boards of Land and Natural Resources if they are not given the same kind of protection as is given members of other boards and commissions.

The proposed amendments to Section 26-35.5(a) would repeal the present exclusion of such members from the coverage of this section by repealing the proviso that excludes members of boards and commissions with land trust obligations, and would delete reference to members who serve without compensation in order that ex-officio members of boards and commissions who are government officers would also be covered.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 153, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 616 Finance on H.B. No. 101 (Majority)

The purpose of this bill is to merge the present Progressive Neighborhoods Program (PNP) and the Hawaii Office of Economic Opportunity (HOEO) into a new Office of Community Services.

Your Committee on Finance is in agreement with the findings of your Committees on Human Services and Employment Opportunities and Labor Relations in Stand. Com. Rep. No. 312.

However, your Committee wishes to make it clear that the new Office of Community Services created by this bill shall serve the disadvantaged, the refugees, and the immigrants of this State equally, and no one group shall be emphasized over another.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 101, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 617 Finance on H.B. No. 87

The purpose of this bill is to appropriate \$35,000 to the Visitor Industry Educational Council for the production of a film on career opportunities in the tourist industry.

Your Committee finds that a film showing job advancement opportunities will give students a full realization of the range of jobs available in the tourism industry. This film will also open the doors for other job opportunities that are directly or indirectly related to Tourism.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 87 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 618 Finance on H.B. No. 84

The purpose of this bill is to appropriate \$100,000 to enable the Department of Planning and Economic Development to establish a comprehensive mapping system.

At the present, the department is concluding a project for a limited-scale prototype ocean mapping and inventory project and an assessment of this project's general usefulness and feasibility. This project's preliminary findings indicate a need for a comprehensive automated mapping system for the State.

The department indicates that several organizations are presently conducting their own investigations into computer-based mapping systems. Unless coordinated, the department feels that such efforts will result in the establishment of independent systems which would be incompatible or in duplication of each other.

Your Committee is in agreement that there is a need to establish a comprehensive and efficient mapping program through a centralized source to avoid the creation of independent mapping system that would be duplicating or incompatible with other systems, and more costly than necessary.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 619 Finance on H.B. No. 83

The purpose of this bill is to appropriate \$75,000 to the department of planning and economic development to study the feasibility of an ocean use authority to resolve problems of user conflicts in the ocean.

The State currently lacks a management structure and system that is capable of consolidating, coordinating, expanding and enhancing both the potential as well as the limitations of its ocean resources. Consequently, the State has not been able to efficiently manage its ocean resources, nor has it been able to fulfill its trust responsibilities to ocean users.

Your Committee is in agreement that the scope of this study include an indepth examination of ocean management opportunities that would be comprehensive and efficient. Further, your Committee is in agreement that the department conduct this study for \$75,000, and consider those recommendations contained in the 1983 Ocean Management Plan.

Your Committee on Finance is in accord with the intent and purpose of H.B. 83, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 620 Finance on H.B. No. 82

The purpose of this bill is to authorize \$60,000 for a study on the feasibility of establishing seawater, freshwater and/or brackish water aquaculture parks in the State. The sum appropriated shall be expended by the Department of Land and Natural Resources.

In its testimony, the department indicated that such a study would provide information necessary to aid in decision-making on aquaculture parks, such as potential sites, types of user interests and user characteristics, appropriateness of incorporating passive recreational activities, and cost estimates for one or more sites.

Your Committee on Finance is in accord with the intent and purpose of H.B. 82, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 621 Finance on H.B. No. 80

The purpose of this bill is to appropriate funds to support an "Amnesty Day" pilot program designed to safely dispose of household hazardous materials.

This bill appropriates the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1985-1986 for the development of a program designed to safely dispose of household hazardous materials.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 80 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 622 Finance on H.B. No. 78

The purpose of this bill is to (1) develop a program to compile and maintain a statewide informational base for hazardous materials and wastes and (2) appropriate sums for fiscal 1985-1986 for this purpose.

A sum of \$40,000, or so much thereof as may be necessary, is to be appropriated to carry out the purposes specified in this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 78, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 623 Finance on H.B. No. 77

The purpose of this bill is to support a cooperative agreement between the Federal Environmental Protection Agency and the State Department of Health which would provide compliance inspections of generators and handlers of hazardous wastes; and to appropriate the sum of \$40,000 or so much thereof as may be necessary for fiscal year 1985-1986 for this purpose.

The primary responsibilities for a hazardous waste management program now rest with EPA's Region IX Office in San Francisco; and the state welfare will be greatly served by the increased number and frequency of inspections and the public education funded by this proposal.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 77 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 624 Legislative Management on H.B. No. 306

The purpose of this bill as received by your Committee on Legislative Manage-

ment from your Committee on Public Employment and Government Operations is to allow all legislative employees to enroll in the Hawaii Public Employees Health Fund.

Under present laws, State and county employees are eligible to receive Health Fund benefits if they are employed for three months or more, and at a one-half full-time equivalent position.

Your Committee agrees that similar Health Fund benefits should also be extended to all legislative employees who are also employees of the State albeit for a limited duration.

Furthermore, through their efforts, all legislative employees give support and assistance by helping legislators accomplish the enormous tasks placed before them.

Testimony in support of the bill was received from the following individuals: Cenric Ho, Lefty Marumoto and Germaine Kelioa.

Your Committee on Legislative Management is in accord with the intent and purpose of H.B. No. 306, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 625 Judiciary on H.B. No. 353

The purpose of this bill is to amend Section 666-3, Hawaii Revised Statutes, by deleting an obsolete reference to Section 727-1 and by incorporating into Section 666-3, Hawaii Revised Statutes, the general definition of "common nuisance".

Chapter 666 in the Hawaii Revised Statutes entitled, "Landlord and Tenant" refers to the definition of common nuisance found in another section that was repealed in 1972. This measure deletes that obsolete reference. Further, the bill provides a definition of common nuisance in Section 666-3, Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 353 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 626 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 or the bill originally provided.

Your Committees on Health and Human Services are in accord with the intent and purpose of H.B. 905, H.D. 1, and recommend that it pass Third Reading.

Signed by all members of the Committees except Representative Hirono.

SCRep. 627 Finance on H.B. No. 404

The purpose of this bill is to appropriate general fund moneys to supplement the ceded land revenues or special fund to be used by the Office of Hawaiian Affairs (OHA) for its operations.

Your Committee, in reviewing OHA's general fund budget request for the 1985-87 fiscal biennium, was cognizant of the concern expressed in the past with respect to lump sum versus program budgeting. Though lump sum approach to appropriations provides some flexibility to budget execution, it does not permit the expedient review of programs and accountability of the costs associated with the program. As OHA's budget request must be reviewed in the same manner as other agencies of the State, your Committee shares the views of the Committee on Water, Land Use, Development and Hawaiian Affairs. Accordingly, your Committee has elected to display OHA's budget request by program appropriation, identifying the general fund and special fund requirements for each program. Recognizing the need for the flexibility in administering the various programs, your Committee included a provision specifying the chairperson of the OHA trustees as having the authority to transfer positions and funds for the expeditious implementation of OHA's program whenever necessary.

OHA in its appropriation request for fiscal biennium 1985-87, unlike the previous biennium appropriation act, added a section in the bill giving the office the authority to hold general fund appropriations in trust similar to holding ceded land revenues in trust. Your Committee is in agreement with the Committee on Water, Land Use, Development and Hawaiian Affairs, and favors the deletion of the section. It is your Committee's view that funds appropriated are intended for a specified period and any unencumbered general fund balances must be lapsed at the end of each fiscal year.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 404, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 404, H.D. 2.

Signed by all members of the Committee.

SCRep. 628 Finance on H.B. No. 99

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

After careful examination, your Committee finds that the Judiciary's biennial budget is clearly and comprehensively presented as required by law. The budget and testimony received by your Committee thoroughly document the needs and requirements of the Judiciary.

The bill has been amended to reflect your Committee's concern for the fiscal constraints facing the state, but with the acknowledgement that some forces which have had impact on the budget are forces outside the control of the Judiciary. A total of \$47,976,666 and \$51,773,665 in general funds is provided for fiscal years 1985-86 and 1986-87, respectively. In addition, 7 capital improvement projects representing general obligation bond financing have been provided.

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

Signed by all members of the Committee.

SCRep. 629 Finance on H.B. No. 1

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

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

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

This bill, in its amended form, provides an additional \$4.5 million in general funds in fiscal year 1985-86, and \$5.2 million in fiscal year 1986-87. It also reduces the general obligation bond request for capital improvements by \$4.5 million.

FINANCIAL AND BUDGETARY OUTLOOK

The pervading mood of most economic projections can be characterized as "a sense of cautious optimism". Nationally and locally, the economy is at a crossroads and continued economic growth is dependent on a number of major factors.

Nationally, issues such as the federal deficit remain unsettled. The resolution of this issue may have a number of effects on the economy depending on the approach taken by Congress. Locally, the economic outlook may be affected by the fate of the State's sugar industry and Congressional action on the rate of the sugar loan and import quota program.

Yet some overall measures of economic activity seem to indicate an upward trend. For example, the Honolulu consumer price index increased four percent during the twelve months ending December 1984.

Beyond the first six months of 1985, economic predictions remain unclear. In Hawaii, economic indicators point to continued growth in the tourism industry, an upsurge in construction, a moderate increase in defense expenditures, and zero growth in the sugar and pineapple industry.

State general fund revenues over the last five months of 1984 have begun to reflect the modest upturn in economic activity. If the trend continues, it is likely that the 6.0 percent growth rate estimated by the council on revenues will be achieved this fiscal year.

Faced with a modest growth rate through the end of the fiscal year and the uncertainty beyond, your Committee engaged in a reassessment of the role of government in each major area of activity. In grappling with this issue, your Committee discovered a dynamic quality to government in which it became apparent that government's role and responsibilities varied from program to program.

Your Committee is aware that very often government has acted in an arbitrary manner to meet its constitutional and philosophical commitments. This has resulted in less than effective solutions which often become bigger problems. At the same time, the opposite stance of "do nothing" does not satisfactorily address very real needs of our people nor does it meet the constitutional obligations of government.

Therefore, your Committee, in reviewing the budget, approached each program area in the context of its commitment to seek the most effective and impactful action. It is your Committee's view that government is a dynamic, changing institution and that periodic assessment of its role within the greater society is necessary. Further it is your Committee's contention that government is an instrument of the people and that to remain true to its purpose, it must continuously reevaluate its ability to provide opportunities for an improved quality of life for all citizens.

It is within this framework that this committee report summarizes by major program areas some of the budgetary decisions made and where appropriate, expresses program concerns and directions.

ECONOMIC DEVELOPMENT

Your Committee reaffirms the concept that government is a catalytic agent in the promotion of economic activity in the State. To this end, it is government's responsibility to direct activity toward opening up potential industries and markets, assisting in product development and promotion, and promoting the general business climate in the State.

Your Committee has structured a diversified economic development program. The implementation of such a program will result in an expanded and diversified economy for Hawaii. Your Committee directs the department of planning and economic development to carry out the directions set forth in the budget in a manner consistent with legislative intent and in the spirit of this commitment to economic prosperity.

Tourism. Your Committee recognizes the importance of tourism in our economy and is committed to supporting its continued growth. Accordingly, the appropriation for the Hawaii Visitors Bureau has been increased by \$1.7 million for each year of the biennium, bringing the total advertising budget to approximately \$2.2 million. This represents a significant increase which your Committee feels will have a major impact on the bureau's ability to promote Hawaii as a tourist destination.

Your Committee has also provided funds for an annual study of visitor expenditure patterns. With current market information, the Hawaii Visitors Bureau can maximize its resources by targeting specific markets with large development potential.

High technology development corporation. In 1983, the Legislature established the high technology development corporation to market and promote Hawaii as a high technology center and to develop support facilities for companies locating in Hawaii. Your Committee has provided funds to increase the marketing of high technology opportunities in order to attract businesses and investors.

Pacific international center for high technology research. Your Committee recognizes the promise that high technology research holds for the future commercial development of this industry and is committed to supporting serious research efforts in this area.

As an expression of this commitment, funding for the Pacific international center for high technology research has been increased by \$1 million for each year of the biennium and specifically earmarked for research studies. Your Committee feels that the research undertaken by the center should represent a diversified approach to high technology development. This will open the door to advancements in high technology applications which will benefit the economic growth of the State.

International services. Your Committee supports the development of Hawaii as a center for international business. The first step is to promote the State as an international business center among the domestic and foreign business community. Therefore, additional funds have been appropriated for international marketing and promotion to educate business people on the advantages of doing business in Hawaii.

Agriculture. This year your Committee reassessed government's role in the agricultural industry with a commitment to provide the necessary support to begin its revitalization. Your Committee is cognizant of the importance of agriculture not only as a major economic force but in its relationship to our everyday lives.

Your Committee is concerned with the State's increasing exposure to harmful weeds, pests and diseases brought in from the mainland and foreign countries which have managed to elude inspectors. To combat this problem, your Committee has added new positions and funds for laboratory and inspection services. In particular, your Committee is providing additional plant inspectors for neighbor island airports in recognition of the increasing direct flight activity from the mainland.

Your Committee has also requested the department of agriculture to review its regulation of the milk industry to assess the effectiveness of the program.

EMPLOYMENT

In its review of the employment area, your Committee found that there is an expanding emphasis on job preparation support and labor force skills development. Your Committee is aware that it is insufficient to simply meet the crisis needs of our labor force and that an integral part of government's responsibility is to ensure a vital and effective labor force.

Transition center. One of the major areas of concern is to assist the young people of the State in making career choices. Through the transition center program, youths are provided self-assessment, career awareness, career exploration, and job preparation and placement services. Because of the large number of interested high school students participating in the program, your Committee has funded its expansion to Kailua, Nanakuli, McKinley, and Hilo High Schools.

Job training partnership act. Recognizing the relationship between job satisfaction and the quality of life, your Committee has been concerned about the need to upgrade the skills of Hawaii's labor force. To this end, it has provided funding in each year of the biennium for the Job Training Partnership Act (JTPA) which is designed to prepare youths and unskilled adults for re-entry into the labor force. The program's activities will be implemented in each county.

Workers' compensation caseload. The case backlog in the disability compensation program has been an ongoing problem. Your Committee has provided additional manpower which will allow the program to decrease its backlog from six months to one month within the next year.

Your Committee is also aware of the increasing insurance rates for workers compensation coverage and has considered legislation to address this problem.

Unemployment insurance. Recent initiatives by the federal government for stricter quality control in unemployment insurance payments have resulted in your Committee's authorization of nine new federally funded positions for a state quality control program. Implementation of this program will result in a reduction of errors and abuses.

TRANSPORTATION

Transportation functions as a vital support in all aspects of our lives--economic development, recreation, and the simple movement of persons and goods from one location to another. Your Committee feels that, except for the state highway special fund, the relative stability of this area affords us the opportunity to explore new directions.

State Highway Fund. Your Committee continues to be concerned with the financial instability of the state highway fund. Since 1981, the legislature has authorized temporary measures to augment the highway special fund through general fund transfers. Again this year, your Committee has considered a bill to provide various strategies to augment the depleting fund and to extend the period allowing for the transfer of tax revenues from the general fund. Your Committee feels it is imperative that the department of transportation look at reducing program costs. At the same time, your Committee feels that a permanent solution to this issue is needed.

Harbor promotion. Your Committee finds that Hawaii's harbors may be underutilized in terms of its commercial potential and has provided funds to permit the harbors division to conduct a feasibility study on marketing Hawaii's harbors. This could provide potential support for economic expansion.

Improvement of transportation facilities. The infrastructure of any state determines the efficiency with which goods and services can be delivered. Therefore, your Committee has provided funds for major improvements to the state highway system, harbors, and airports.

ENVIRONMENTAL PROTECTION

Monitoring of pesticides and ground water contamination. In response to the heptachlor contamination crisis, the 1984 legislative session appropriated funds to coordinate an effort to monitor pesticide use and groundwater contamination. Your Committee believes that this work is critical to maintaining a safe and healthy environment and has provided funds for the continuation of this coordinated effort to manage, control and monitor pesticide use and groundwater contamination.

Further, your Committee recommends the department of health to transfer the function of the environmental epidemiology program to the environmental health branch in order to provide a more centralized program to address the problem of environmental health hazards.

Aquatic resources. To preserve our aquatic resources, your Committee has appropriated funds for the establishment of an aquatic education program to educate the public on the importance of recognizing those aquatic species that are appropriate to catch versus those that are not. Your Committee has also designated funds for the management of natural area reserves in recognition of the need to maintain and preserve existing State parks.

HEALTH

In its review of the health program, your Committee noted a large number of requests for additional positions in areas which had a large number of vacancies. Your Committee is committed to supporting the health and well-being of the people of the State. At the same time, your Committee feels it is imperative that it exercises its responsibility to ensure efficient management by directing the department to reallocate vacant positions to meet specific needs of the various program areas. Your Committee recommends that the Department conduct periodic reviews of all vacancies and reallocate or redescribe positions, as necessary, within and between programs, to meet its staffing deficiencies.

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

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

Your Committee has learned that substantial balances have accumulated from the prior year in the county/State hospital administration program. Your Committee believes that a significant amount of the current balances are in excess of the program's requirements, including contingencies, and are not needed. Therefore, your Committee has again required, through special provisions in this bill, that such special fund balances lapse into the general fund.

Your Committee also recommends that the department take the necessary steps to ensure that expenditures of the county/State hospital system are subjected to the regular budgeting process.

Responding to the need for a comprehensive hospital computer system for transmitting information between county/State hospitals, your Committee has appropriated funds to contract consultant services for the development of an integrated system.

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

Purchases of service. The purchase of service program in the department of health represents the most extensive use of private agencies in carrying out government functions. Your Committee has provided funds to support home and day activities for the deinstitutionalization of the mentally retarded, community based services for the developmentally disabled, prevention services for child abuse, alcohol and substance abuse services, mental health services, prevention services to high risk mothers and infants, and other general health support services.

SOCIAL PROBLEMS

Child Protective Services. Events over the last year and a legislative auditor's report have demonstrated the urgency in providing support services for child abuse and neglect and child day care licensing. Your Committee took a major step toward supporting the child protective services system and added forty-nine new social worker positions, twenty-one social service aides, and thirteen clerical

support workers. Funds were also provided to establish a statewide computerized file of known perpetrators, a registry of abused and neglected children, and a risk matrix to help child protection service workers determine priorities in case handling.

Your Committee is also directing \$260,000 be used in each year of the biennium for eight deputy attorney generals to work specifically on child protection activities.

Purchase of service-child abuse and neglect. In addition, your Committee, through the purchase of service system, has provided additional funds in each year of the biennium to expand the spectrum of child abuse and neglect services.

Day care licensing. With the increase in public awareness of the day care licensing requirements and potential harm to children in day care facilities if regular inspection is not provided, your Committee provided support to the program in carrying out its responsibilities.

Income maintenance. Your Committee has matched federal funds to initiate the HAWI project which will automate the department's welfare eligibility determination system. This will reduce Hawaii's error rate which is higher than the acceptable federal standards.

Medical Care Administration. In response to the recommendations of a federal staffing study, your Committee added technical staff to improve planning and fiscal accountability in the \$200 million program.

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

FORMAL EDUCATION

In education, your Committee found that government has assumed responsibility and accountability for the education of our young people. To this end, your Committee has recommitted resources to support the basic foundation of our educational system--students, teachers, and support equipment and materials.

LOWER EDUCATION. In its review, your Committee recognized that student needs change as they progress from kindergarten to high school. Therefore, your Committee has adopted an approach to allow more flexibility in the use of funds at the school level. Your Committee is mindful of the fact that each age group has different requirements and that appropriate funding will allow for the most responsive and effective educational system.

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

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

Gifted and talented program. To support continuing excellence in educating the gifted and talented, your Committee established a new component of the program in the intermediate school. Your Committee found that the elementary schools have a solid program but that the support for the gifted and talented diminishes in the intermediate years. Your Committee feels it is important to continue to strengthen the program through the secondary years.

School priority fund. The school priority fund was designed to provide schools some flexibility in meeting their individual needs and to supplement the regular instruction program. Your Committee has increased the cash portion of the school priority fund. It has also considered the increasing cost of materials and supplies

as a student progresses from the elementary to the secondary level, and has weighted the student allotment ratio to reflect this fact.

Textbooks and classroom equipment. Your Committee realizes that textbooks and classroom equipment form part of the foundation of a solid educational system, therefore, funds have been provided for these basic supplies. It is also concerned that in the past, the school priority fund has been used to meet these needs, and that such a use is inconsistent with the original intention of the school priority fund.

Summer school tuition waivers. Your Committee provided additional funds to expand the summer school tuition waiver program. The increase in funding will allow a larger number of students to take advantage of this supplemental education.

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

Computers in education. Your Committee appropriated funds for the continuing development of computer literacy programs to prepare students to meet the demands of a high technology society. However, funding has been delayed to the second year and the department is directed to establish a computer plan which equitably distributes computer equipment among all the schools. The department is also being asked to establish a security system to prevent theft of the computer equipment.

Summer program for enhancement of basic education. Recognizing that education does not only take place in the classroom but also through the application of knowledge, your Committee has funded the summer program for enhancement of basic education (SPEBE). This program gives high school students an opportunity to have hands-on experience with working professionals in such fields as mathematics, science, and language arts.

Athletics. Concern for the safety of participants in athletic activities has led your Committee to provide funds to upgrade and replace athletic equipment.

Repair and maintenance of school structures. Your Committee provided \$15 million for the repair and maintenance of school structures to ensure the health and safety of students. This appropriation will give students a more conducive learning environment.

HIGHER EDUCATION. Consistent with its commitment to redirect resources toward supporting the foundation of our university system, your Committee has appropriated funds for computer technology, the development of the Pacific and Asian legal studies program, various research projects, educational equipment, and much needed repair and maintenance.

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

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

Research Projects. Your Committee recognizes the applicability of university research projects to assist in resolving some very practical issues facing the State. To this end, funding was provided for the pesticide hazard assessment project, water resources research, and Molokai applied research/Molokai agriculture program.

Improvement projects. Educational equipment is essential in maintaining the

quality of our higher education system. In order to support and benefit the students, an additional \$2.9 million in fiscal year 1985-86 and \$2.6 million in fiscal year 1986-87 has been provided. Your Committee has also recognized the great need for repair and maintenance work by funding various projects throughout the University system. Finally, funds have been provided for the purchase of library books to build collections in newly developing research and instructional areas.

Computerized student registration and record system. This year, your Committee funded phase II of the university of Hawaii's computerized registration and record system. Upon completion of this phase, the university will have a modern and efficient registration system.

CULTURE AND RECREATION

Culture and recreation is an important aspect of government's support of the well-being of the people of the State. Your Committee took steps to fulfill this responsibility by funding a major expansion of the Waikiki Aquarium and by recognizing the importance of Hawaiian monarchs in our history.

Waikiki Aquarium. Ocean and marine activities have played an important part in the history of Hawaii. The funding of improvements for the Waikiki Aquarium amounts to \$4.7 million in fiscal year 1985-86 and \$10.0 million in fiscal year 1986-87. This represents a major step toward the development of a full-scale aquarium, and the beginning of a major thrust in the research, development and utilization of our ocean and marine resources.

Monuments. Your Committee has appropriated funds for the construction of a King Kalakaua Statue, the refurbishing of the King Kamehameha Statue, and the addition of a plaque to the Queen Liliuokalani Statue illustrating the significance of her role in Hawaii's history.

PUBLIC SAFETY

Corrections. Overcrowding and staffing deficiencies continue to plague the corrections area. Your Committee has addressed these needs by: (1) adding 115 non-supervisory adult corrections officers to the security force; (2) providing personnel and equipment to improve medical and dental programs at a majority of the state corrections facilities; and (3) providing personnel and equipment for recreation, vocational education, and community service programs.

In the area of prison management, your Committee has directed the corrections division to study electricity consumption for possible implementation of energy conservation measures and to investigate cost-effective alternatives for providing medical care. Your Committee has also requested the corrections division to analyze the continuing overtime expenditure problem. Your Committee provided funding for the conversion of a military site at Waiawa to an educational facility for minimum security inmates, and for start-up staffing for the Halawa medium security facility.

INDIVIDUAL RIGHTS

Recent events have focused on the need to strengthen programs which protect the consumer while at the same time ensuring that such regulation does not restrict economic activity. Your Committee is aware of the problems in the industrial loan industry, auto insurance, and other regulatory programs, and has provided funding to begin to alleviate some of these concerns.

Department of commerce and consumer affairs. The most effective implementation of business regulation lies with the department of commerce and consumer affairs' ability to anticipate potential problems and to take corrective action to avoid major crisis. The department has not been able to achieve this preventive approach. With over 77,000 licensees and over 30,000 registered businesses, your Committee is concerned that the department does not have sufficient resources to effectively monitor each area.

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

Public Utilities Commission. The commission continues to encounter problems in completing major rate case proceedings within the nine-month statutory time limit. Additional resources were provided to assist the Commission in issuing its decisions on a more timely basis. At the same time, your Committee has requested that the commission provide a definitive plan for handling this on-going problem.

GOVERNMENT-WIDE SUPPORT

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

Information processing and resource management. Throughout the budget, your Committee noted departmental requests for computer equipment and other related cost items. However, upon closer examination, your Committee found a lack of inter- and intra-departmental planning and coordination. Your Committee is of the opinion that the departments do require computer support in order to effectively carry out many of their functions. However, it is disturbing that independent systems are being established without some coordination for future integration. Therefore, your Committee directs the department of budget and finance to develop a strategy for assisting the various state departments in planning and establishing integrated computer systems.

Legal Service. Your Committee recognizes the critical need to maintain high standards of legal services available to State agencies and departments. Continued funding was provided for temporary deputy attorney general positions. Your Committee is aware of administrative problems in the department of the attorney general and is encouraged by the efforts being made to correct these problems.

Risk management system. A review of the recommendations from the risk management study by a private consultant was conducted. Your Committee supports the recommendation to consolidate insurance purchases by various state agencies into one central program. However, at this point, it is premature to provide funding for new insurance premiums since the department of accounting and general services has not determined the specific coverage and deductible amounts required. Your Committee is encouraged by the efforts of the department to establish a comprehensive risk management and insurance program.

PURCHASES OF SERVICE

This year for the first time, the state's entire purchase of service program was reviewed. It is your Committee's view that the purchase of service concept is appropriate when government cannot provide a similar service at a cost effective level and where the provision of such service is a stated public function. Your Committee also feels that the purchase of service program can also be used as an appropriate method of responding to certain immediate problems.

This year, your Committee has used the purchase of service program to meet the expanding demands of child abuse and neglect, mental health, substance abuse, and other social services. The Committee also provided funds for support in the area of culture and recreation.

This budget expresses your Committee's commitment to directed and responsive funding of programs consistent with government's responsibilities in each area. Your Committee feels that this budget represents a beginning of an approach to budgeting which is more sensitive to the needs of the people.

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

Signed by all members of the Committee.

SCRep. 630 Water, Land Use, Development and Hawaiian Affairs on H.B. No.
1581

The purpose of this bill is to add a new section to Article XII of the Constitu-

tion, State of Hawaii, by providing for a single definition of native Hawaiian and Hawaiian as any individual whose ancestors were natives of the area which constituted the Hawaiian Islands prior to 1778. This definition shall not apply nor be construed to include the Hawaiian Homes Commission Act.

Your Committee is of the opinion that the proposed amendment to Article XII of the Hawaii State Constitution would not create a conflict with the definition of native Hawaiian in Section 5(f) of the Admission Act which created a public trust for the purpose, among others, of the betterment of conditions of native Hawaiians as defined in the Hawaiian Homes Commission Act, 1920, as amended (Hawaiians with at least 50 per cent quantum of Hawaiian blood).

Your Committee recommends passage of this bill as a means in removing the blood quantum definition which has, according to the Office of Hawaiian Affairs and to the Native Hawaiian Study Commission Report, Volume II, divided the Hawaiian community.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1581, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Hagino, Metcalf, Shon, Tajiri, Tam and Tom.

SCRep. 631 Agriculture on H.R. No. 161

The purpose of this resolution is to designate March 20, 1985 as "Hawaii Agriculture Day", in consonance with National "Agriculture Day", to recognize the importance and contributions of our farmers and agricultural industries.

Your Committee finds that agriculture continues to play an important role in Hawaii's economy and is a major contributor to the quality of life for our citizens. Agriculture also complements another of our important industries - tourism. The beauty of our open spaces, panoramic vistas, and rural settings is treasured by our people and enchants our visitors.

Your Committee also finds that Hawaii Agriculture Day 1985 will provide the opportunity to reemphasize the role of agriculture in the prosperity, health, aesthetic enjoyment of every resident of and visitor to Hawaii.

Your Committee on Agriculture concurs with the intent and purpose of H.R. No. 161 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 632 Agriculture on H.R. No. 35

The purpose of this resolution is to express the House of Representatives' wholehearted support for the continuance of programs such as those offered by the public school's vocational agriculture programs, the Future Farmers of America, and the New/Young Farmer Program and to encourage the development of other programs to stimulate interest in the pursuit of agricultural careers.

Your Committee finds that it is important that young people be encouraged to investigate the many opportunities in the field of agriculture at a young age.

Your Committee also finds that over the past fifty-five years, the Department of Education has maintained a vocational agriculture and FFA program which has resulted in the highly regarded and recognized Young Farmer program. High school programs prepare many of the state's young people for direct entry into agricultural careers and stimulate their interest in further study.

Your Committee on Agriculture concurs with the intent and purpose of H.R. No. 35 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 633 Agriculture on H.R. No. 34

The purpose of this resolution is to encourage statewide agricultural organizations to develop a program to provide advice and assistance to existing and new agricultural cooperatives and commodity associations.

Your Committee finds that there are approximately sixty professional agricultural commodity associations and cooperatives in the State, ranging from highly sophisticated to the fledgling in size and activity. An ongoing and up-to-date educational and assistance program would greatly benefit these organizations.

Your Committee also finds that the College of Tropical Agriculture and Human Resources has active research and extension projects on organizational arrangements that may increase the efficiency and competitiveness of agricultural enterprises and industries.

Your Committee further finds that there exists a pool of resource knowledge and experience among those directly involved in all phases of agriculture in the State and that this resource should be drawn upon for the common good of Hawaii's agricultural industries.

Your Committee has amended this resolution by adopting the recommendation of the chairman of the Board of Agriculture that the resolution be directed solely to the Governor's Agriculture Coordinating Committee. Both the Department of Agriculture and the College of Tropical Agriculture and Human Resources are members of the Committee.

Your Committee on Agriculture concurs with the intent and purpose of H.R. No. 34, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 34, H.D. 1.

Signed by all members of the Committee.

SCRep. 634 Agriculture on H.R. No. 37

The purpose of this resolution is: 1) to express the House of Representatives' full support of efforts to enhance and expand Hawaii's diversified agricultural industry; 2) to urge the various departments in the state government and the College of Tropical Agriculture and Human Resources to continue their efforts to resolve the problems constraining the growth of the diversified agricultural industry; and 3) to request a review of programs to assist diversified agriculture and to resolve its problems.

Your Committee finds that diversified agriculture has emerged as one of the major revenue generators of the state. In 1983, the value of this industry reached a record \$199 million, an increase of 213%, as compared to the \$63.5 million generated in 1970.

Your Committee also finds that diversified agriculture is considered a key to achieving the state's goal of self-sufficiency and is also the most viable alternative for lands given up by sugar and pineapple.

Your Committee further finds that for the past eight years, The Governor's Agriculture Coordinating Committee has systematically analyzed the problems of the individual commodity industries that constitute diversified agriculture in Hawaii.

The result of each commodity industry analysis is an action plan, through which the various capabilities of the industry, state, federal and county units are coordinated. Each analysis is preceded by a report on the progress made with respect to actions defined in previous action plans.

Your Committee has amended this resolution by deleting the request for a review of programs prior to the end of the 1985 Session, and requesting instead that such a review be presented to the House Agriculture Committee during the 1985 legislative interim.

Your Committee on Agriculture concurs with the intent and purpose of H.R. No. 37, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 37, H.D. 1.

Signed by all members of the Committee.

SCRep. 635 Tourism on H.R. No. 113

The purpose of this resolution is to request the Department of Planning and Economic Development to undertake a feasibility study on convening a Pacific Basin Tourism Conference in Hawaii during 1986.

Your Committee finds that Hawaii, the pioneer of tourism in the Pacific and the model living classroom for the study of tourism, would be an ideal location for a Pacific Basin Tourism Conference to discuss the past progress and future potential of tourism throughout the Pacific.

Your Committee has adopted the recommendations of the Department of Planning and Economic Development by making the following amendments:

- 1) Adding the Pacific Basin Development Council as an assisting organization;
- 2) Including the nations of Tonga, New Caledonia, and the Cook Islands in the listing of Pacific Basin countries wherein tourism is a growing and important component of the economy; and
- 3) Deleting the qualifying phrase, "of the University of Hawaii" after mention of the East West Center.

Your Committee on Tourism concurs with the intent and purpose of H.R. No. 113, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 113, H.D. 1.

Signed by all members of the Committee.

SCRep. 636 Tourism on H.R. No. 127

The purpose of this resolution is to encourage the Honolulu Police Department to station capable, experienced and mature police officers in Waikiki to maintain and enhance the safety, security and orderliness of Waikiki.

Your Committee finds that it is desirable to have "seasoned" patrol officers assigned to the Waikiki district to assure, as well as to teach new police recruits, a mature, reasoned and preventive approach to law enforcement. It is the opinion of your Committee that such maturity will contribute to the safety of the Waikiki experience for residents and visitors.

Your Committee on Tourism concurs with the intent and purpose of H.R. No. 127 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 637 Tourism on H.R. No. 68

The purpose of this resolution is to request the Department of Planning and Economic Development to present a review of the feasibility study on the establishment of a convention center in Hawaii undertaken pursuant to House Resolution No. 67, adopted by the Twelfth Legislature in 1984.

Your Committee has received testimony from the Department of Planning and Economic Development indicating that an ad-hoc committee comprised of government, community and business leaders was formed in August of 1984 to develop the direction for the study. Subsequently, a smaller subcommittee was appointed and a decision made to solicit and review convention center studies from selected mainland and foreign cities. A comprehensive and detailed Request for Proposals evolved from this review.

Following the receipt of proposals for the study, the firm of Pannell Kerr Forster was selected on January 22, 1985, to undertake an eight-week study for a fee of \$50,000.

Scheduled completion date for the study is March 22, 1985. Under the contractual agreement, a representative of Pannell Kerr Forster will present a review of the feasibility study to the Legislature prior to the adjournment of the 1985 Regular Session.

Your Committee on Tourism concurs with the intent and purpose of H.R. No. 68, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 638 Tourism on H.R. No. 112

The purpose of this resolution is to express the Legislature's support for the City and County of Honolulu's current efforts to phase out sidewalk peddling stands along the streets of Waikiki.

Your Committee finds that the City and County of Honolulu has been only partially successful in past efforts to eliminate illegal commercial activities. In response, Bill No. 99, which would amortize non-conforming uses in building setback areas, has been introduced and is now before the City Council.

Your Committee believes that this effort to phase out sidewalk peddling stands along the streets of Waikiki is of vital importance to the health of the visitor industry in general and the quality of Waikiki in particular.

Your Committee on Tourism concurs with the intent and purpose of H.R. No. 112 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 639 Ocean and Marine Resources and Water, Land Use, Development
and Hawaiian Affairs on H.R. No. 93

The purpose of this resolution is to request that the Department of Land and Natural Resources examine the impact of water recreational activities on mullet spawning in Maunalua Bay, Hawaii Kai.

In its oral testimony, the Department of Land and Natural Resources requested that H.R. No. 93 be modified to use this issue as a pilot project to study user conflicts and that the Department of Transportation participate in this effort since it shares jurisdiction over certain areas within the Bay.

In addition to impacts on mullet spawning, your Committees are concerned with the larger problem of user conflicts and the extent to which these conflicts cause or contribute to the growing demands of ocean use. One of the contributing factors may be the "free and equal access" policy of our State which, on the one hand, fulfills our trust responsibility of the public interest and yet, on the other hand, creates a situation of risk to both human users as well as to our living ocean resources. Such policies may need to be re-examined in light of these growing user conflict issues.

Accordingly, your Committees have amended this resolution to request that the Departments of Land and Natural Resources and Transportation use Maunalua Bay as the site for a pilot project to examine the extent of user conflicts, and to request that the Department of Land and Natural Resources re-examine the present State policy of "free and equal access" to our waters to determine whether changes of such a policy may be necessary in order to minimize or control user conflicts such as those that are occurring in Maunalua Bay, Hawaii Kai.

Your Committees on Ocean and Marine Resources and Water, Land Use, Development and Hawaiian Affairs concur with the intent and purpose of H.R. No. 93, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 93, H.D. 1.

Signed by all members of the Committees except Representative Kamali'i.

SCRep. 640 Ocean and Marine Resources on H.R. No. 58

The purpose of this resolution is to request that the Speaker of the House appoint an interim committee to make a comprehensive review of existing programs relating to marine resources and activities in the following areas:

(1) identify all such existing programs and determine whether they are adequately coordinated;

(2) review the 1974 report published by the State of Hawaii, Department of Planning and Economic Development, "Hawaii and the Sea-1974" to determine what progress the State has made in implementing the recommendations in the report, whether they are presently valid or applicable, and whether the report should now be updated; and,

(3) determine whether a need exists to establish a Department of Marine Resources or a marine affairs coordinator's office.

The Department of Planning and Economic Development testified in support of this resolution. Your Committee is concerned that the State lacks a management system to provide the necessary coordination of programs now disseminated among several agencies and governmental levels.

Your Committee finds that there is a need to review all existing programs within the State, county and federal governments and to determine whether a need exists to establish an Ocean Management Authority instead of the Department of Marine Resources or a marine affairs coordinator's office as proposed in this resolution. To this end, your Committee amends this resolution.

Your Committee on Ocean and Marine Resources concurs with the intent and purpose of H.R. No. 58, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as H.R. No. 58, H.D. 1.

Signed by all members of the Committee.

SCRep. 641 Ocean and Marine Resources on H.R. No. 60

The purpose of this resolution is to request that the Department of Land and Natural Resources conduct a study on the expansion of its conservation management program into a statewide kapu system in order to better manage and protect Hawaii's ocean resources.

The Department of Land and Natural Resources testified that such a conservation effort known as the Kapuku Plan was developed and opposed by fishermen in 1971. Consequently, in 1978, the department tested the feasibility of one of five sites recommended by a consultant under contract. This testing period occurred in the Waikiki area over a two year period using an "open" and "close" system, which proved successful in increasing the biomass of fish per acre.

The question of whether limu should be included in the Kapuku Plan was thoroughly discussed, but your Committee found that since limu reproduces quickly, the public may need to be educated in proper methods of harvesting limu to encourage its re-growth, rather than submitting limu to a kapu system.

Your Committee finds that there is a need to expand the present testing areas and to escalate full implementation of the Kapuku Plan, Part II. To provide the department with the resources to accomplish this objective, the department is requested to identify the types and number of positions required, such as census takers and marine biologists. To this end, your Committee amends H.R. No. 60.

Your Committee on Ocean and Marine Resources concurs with the intent and purpose of H.R. No. 60, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 60, H.D. 1.

Signed by all members of the Committee.

SCRep. 642 Ocean and Marine Resources on H.R. No. 63

The purpose of this resolution is to urge the Department of Land and Natural Resources to review its commercial marine licensing system and to determine ways in which it can be improved.

Your Committee finds that the commercial licensing system, in concert with fish catch reports, provides the data base presently being utilized by the Department

to deal with management and program issues. However, your Committee finds that efforts to adequately manage our ocean resources are being constrained by the lack of reliable and useful data. Your Committee is of the opinion that the State should therefore study the feasibility of establishing more specific licensing fee categories that could provide the type of data needed to better manage our ocean resources. For example, data on the volume and types of fish caught by the following categories of fishermen could provide useful information for management purposes: full-time fishermen vs. part-time fishermen; resident fishermen vs. out-of-state fishermen; fishermen who concentrate on the Southern Hawaiian Islands vs. those who fish the Northwest Hawaiian Islands; and commercial vs. recreational vs. subsistence type fishermen.

Your Committee has amended this resolution by requesting that the Department: (1) prepare an estimate of additional costs that would be incurred in restructuring its licensing system, and (2) work closely with the potential affected parties during the course of this study.

Your Committee on Ocean and Marine Resources concurs with the intent and purpose of H.R. No. 63, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 63, H.D. 1.

Signed by all members of the Committee except Representative Kamali'i.

SCRep. 643 Health and Ocean and Marine Resources on H.C.R. No. 39

The purpose of this concurrent resolution is to request the Department of Health to review and report on Federal and State laws, rules and regulations governing the use of animal manures in Hawaii aquaculture systems.

Testimony was received indicating that Hawaii's growing aquaculture industry relies heavily on the use of costly, imported feeds and petroleum-based fertilizers to sustain high production levels. The cost of feed and feed ingredients, and the attendant shipping costs from the Mainland, constitute the largest share of overall production costs. These costs are approaching a level where the future economic viability of this emerging industry is threatened. These findings were identified in research conducted by the Oceanic Institute which was directed at developing systems and methods to produce feed ingredients from high protein crops utilizing animal manure as the source of nutrients.

The widespread use of animal manures in Hawaii aquaculture systems has been constrained, however, by an absence of Federal as well as State policy guidelines on the use of manures on aquatic crops destined for human consumption. It was stated that there is a need for clearer policy guidelines to assist the industry in determining what manure sources, application levels and uses are permissible.

On the basis of the foregoing, the Department of Land and Natural Resources and industry representatives supported the intent of H.C.R. No. 39. The Department of Health, on the other hand, presented its testimony from the point of view of its concern about the health consequences of the consuming public. The Department's concern is based on a study it conducted which showed that the use of raw manure presents a potential health hazard in the final food product because raw manure may be contaminated with many harmful organisms and substances.

The Department further presented testimony to the effect that it had studied the concept of using animal manures in aquaculture systems before and has developed a policy on the matter. It was brought out during questioning, however, that the study was an internal one which has not been circulated, and that requests for the use of animal manure for aquacultural purposes are handled on a case-by-case basis.

Your Committees agree the permitted use of animal manures in aquaculture, as an alternative to the use of costly imported feeds and petroleum-based fertilizers, should be explored and clarified. However, your Committees also agree the impact of the use of animal manures in aquaculture on the health of the citizens of Hawaii is a concern of equal importance. Therefore, your Committees have amended H.C.R. No. 39 to reflect that concern.

Your Committees on Health and Ocean and Marine Resources concur with the intent and purpose of H.C.R. No. 39, as amended herein, and recommend that it be referred to the Committee on Finance in the form attached hereto as H.C.R.

No. 39, H.D. 1.

Signed by all members of the Committees.

SCRep. 644 Human Services and Health on H.C.R. No. 13

The purpose of the resolution is to express legislative concern over the effect additional beds will have on the State's Medicaid budget, to urge SHPDA to disapprove any application that has not shown it will be financially feasible under the prospective payment method of reimbursement, and to request that SHPDA submit a report to the Legislature prior to the adjournment of the Regular Session of 1985 on the action taken pursuant to this resolution.

Your Committees noted with great concern that of the six applications for long-term care beds before SHPDA, five applications representing 491 new beds have been recommended for approval by the Statewide Health Coordinating Council, the advisory body to SHPDA. The added annual cost to the Medicaid budget, if these five applications are approved, would be approximately \$14 million.

Your Committees' concerns are further heightened by the fact that SHPDA has previously approved 259 additional beds some of which are already under construction. While previous projections of the need for additional beds to be in place by 1985 ranged from 529 to 576, more recent projections, using more recent data, call for a more conservative estimate of 176 to 401 beds. Dr. John Sheedy, M.D., Medical Consultant to the Department of Social Services and Housing, who approves patients for placement in long-term care beds, is identified in SHPDA's own staff report, as believing an additional 200 beds was closer to the actual need and recommending that SHPDA proceed slowly on granting the applications.

Testimony presented by the Administrator for SHPDA caused great concern to your Committees. His stated belief was that the financial feasibility of each applicant was not SHPDA's concern. Your Committees believe that financial feasibility relates to need as there is no need for a facility that is not financially feasible.

Your Committees further believe that section 323D-12(a)(1), Hawaii Revised Statutes, establishes the responsibility for controlling increases in health care costs as a principal function of SHPDA, and that SHPDA's belief that funding the cost of additional beds is solely the Department of Social Services and Housing's responsibility is at odds with SHPDA's statutory mandate.

Your Committees believe that a slower rate of increase in long-term care beds, and greater efforts in developing alternatives to institutionalization, as testified to by the Department of Social Services and Housing, Kokua Council for Senior Citizens and the Hawaii Business Health Council, are the directions to be taken to contain escalating Medicaid costs.

Your Committees recommend that the following language in the resolution be deleted: "WHEREAS, it is estimated that approval of the additional six hundred eleven beds could add from \$8 million to \$14 million a year to the State's Medicaid budget". Your Committees believe that some additional long-term care beds may be necessary, and that the language, if retained, may lead to the erroneous conclusion that no application for additional beds should be approved.

Your Committees on Human Services and Health concur with the intent and purpose of H.C.R. No. 13, as amended herein, and recommend that it be referred to the Committee on Finance in the form attached hereto as H.C.R. 13, H.D. 1.

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

SCRep. 645 Public Employment and Government Operations on H.R. No. 111

The purpose of this resolution is to request the appointment of a House interim committee to conduct a comprehensive review of the civil service and compensation laws, and to submit findings and recommendations to improve said laws prior to the convening of the Regular Session of 1986.

Testimony from the Director of Personnel Services, the Office of Collective

Bargaining, the Director of Civil Service for the City and County of Honolulu, the Public Employees Management Association of Hawaii, and the Hawaii Government Employees Association, favorably recommended that a comprehensive study of the civil service and compensation laws be undertaken.

Your Committee believes that such a review is necessary to assure that our personnel system promotes the efficiency and effectiveness in the delivery of public services and meets the stated statutory purposes under Chapters 76 and 77 of the Hawaii Revised Statutes.

Your Committee on Public Employment and Government Operations concurs with the intent and purpose of H.R. No. 111 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 646 Public Employment and Government Operations on H.C.R. No. 18

The purpose of this concurrent resolution is to request the appointment of a House interim committee to conduct a comprehensive review of the civil service and compensation laws, and to submit findings and recommendations to improve said laws prior to the convening of the Regular Session of 1986.

Testimony from the Director of Personnel Services, the Office of Collective Bargaining, the Director of Civil Service for the City and County of Honolulu, the Public Employees Management Association of Hawaii, and the Hawaii Government Employees Association, favorably recommended that a comprehensive study of the civil service and compensation laws be undertaken.

Your Committee believes that such a review is necessary to assure that our personnel system promotes the efficiency and effectiveness in the delivery of public services and meets the stated statutory purposes under Chapters 76 and 77 of the Hawaii Revised Statutes.

Upon further consideration, your Committee has adopted the recommendations of the Director of Personnel Services and the Director of Civil Service for the City and County of Honolulu by amending the concurrent resolution to request that the Legislative Auditor conduct this comprehensive study.

Your Committee on Public Employment and Government Operations concurs with the intent and purpose of H.C.R. No. 18, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as H.C.R. No. 18, H.D. 1.

Signed by all members of the Committee.

SCRep. 647 Public Employment and Government Operations on H.R. No. 133

The purpose of this resolution is to request the Legislative Reference Bureau to make recommendations for a mechanism that would provide automatic increases to State and county retirees, enabling them to cope with the continuing escalation of their basic living costs.

Your Committee finds that Hawaii's current inflationary trend has had a devastating effect on State and county retirees who are dependent upon a fixed income for living expenses, and believes that a suitable method must be found to regularly supplement the post retirement allowance of our retirees.

Representatives from the Public Employees Management Association of Hawaii, Employees' Retirement System, and the Coalition of Hawaii State-Counties Retirees Association, comprised of retiree members of the HGEA, UPW, teachers and firefighters organizations, submitted testimony in support of the concurrent resolution. Testimony indicated that a mechanism was needed to provide reasonable and equitable increases to the retirees.

Your Committee has amended the resolution to add the Public Employees Management Association of Hawaii (PEMAH) to the list of retiree units of employee organizations to be consulted by the Legislative Reference Bureau in making its recommendations. Your Committee has also amended the resolution to properly reflect

the correct title of the Employees' Retirement System.

Your Committee on Public Employment and Government Operations concurs with the intent and purpose of H.R. No. 133, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 133, H.D. 1.

Signed by all members of the Committee.

SCRep. 648 Public Employment and Government Operations on H.C.R. No. 27

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to make recommendations for a mechanism that would provide automatic increases to State and county retirees, enabling them to cope with the continuing escalation of their basic living costs.

Your Committee finds that Hawaii's current inflationary trend has had a devastating effect on State and county retirees who are dependent upon a fixed income for living expenses, and believes that a suitable method must be found to regularly supplement the post retirement allowance of our retirees.

Representatives from the Public Employees Management Association of Hawaii, Employees' Retirement System, and the Coalition of Hawaii State-Counties Retirees Association, comprised of retiree members of the HGEA, UPW, teachers and firefighters organizations, submitted testimony in support of the concurrent resolution. Testimony indicated that a mechanism was needed to provide reasonable and equitable increases to the retirees.

Your Committee has amended the concurrent resolution to add the Public Employees Management Association of Hawaii (PEMAH) to the list of retiree units of employee organizations to be consulted by the Legislative Reference Bureau in making its recommendations. Your Committee has also amended the concurrent resolution to properly reflect the correct title of the Employees' Retirement System.

Your Committee on Public Employment and Government Operations concurs with the intent and purpose of H.C.R. No. 27, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 27, H.D. 1.

Signed by all members of the Committee.

SCRep. 649 Human Services and Health on H.R. No. 89

The purpose of the resolution is to express legislative concern over the effect additional beds will have on the State's Medicaid budget, to urge SHPDA to disapprove any application that has not shown it will be financially feasible under the prospective payment method of reimbursement, and to request that SHPDA submit a report to the Legislature prior to the adjournment of the Regular Session of 1985 on the action taken pursuant to this resolution.

Your Committees noted with great concern that of the six applications for long-term care beds before SHPDA, five applications representing 491 new beds have been recommended for approval by the Statewide Health Coordinating Council, the advisory body to SHPDA. The added annual cost to the Medicaid budget, if these five applications are approved, would be approximately \$14 million.

Your Committees' concerns are further heightened by the fact that SHPDA has previously approved 259 additional beds some of which are already under construction. While previous projections of the need for additional beds to be in place by 1985 ranged from 529 to 576, more recent projections, using more recent data, call for a more conservative estimate of 176 to 401 beds. Dr. John Sheedy, M.D., Medical Consultant to the Department of Social Services and Housing, who approves patients for placement in long-term care beds, is identified in SHPDA's own staff report, as believing an additional 200 beds was closer to the actual need and recommending that SHPDA proceed slowly on granting the applications.

Testimony presented by the Administrator for SHPDA caused great concern to your Committees. His stated belief was that the financial feasibility of each applicant was not SHPDA's concern. Your Committees believe that financial feasibility

ity relates to need as there is no need for a facility that is not financially feasible.

Your Committees further believe that section 323D-12(a)(1), Hawaii Revised Statutes, establishes the responsibility for controlling increases in health care costs as a principal function of SHPDA, and that SHPDA's belief that funding the cost of additional beds is solely the Department of Social Services and Housing's responsibility is at odds with SHPDA's statutory mandate.

Your Committees believe that a slower rate of increase in long-term care beds, and greater efforts in developing alternatives to institutionalization, as testified to by the Department of Social Services and Housing, Kokua Council for Senior Citizens and the Hawaii Business Health Council, are the directions to be taken to contain escalating Medicaid costs.

Your Committees recommend that the following language in the resolution be deleted: "WHEREAS, it is estimated that approval of the additional six hundred eleven beds could add from \$8 million to \$14 million a year to the State's Medicaid budget". Your Committees believe that some additional long-term care beds may be necessary, and that the language, if retained, may lead to the erroneous conclusion that no application for additional beds should be approved.

Your Committees on Human Services and Health concur with the intent and purpose of H.R. No. 89, as amended herein, and recommend that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 89, H.D. 1.

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

SCRep. 650 Health on S.B. No. 714

The purpose of this bill is to authorize the department of budget and finance to issue special purpose revenue bonds in the amounts set forth in the bill to assist not-for-profit corporations that provide health care facilities for use by the general public.

Specifically, this bill authorizes the issuance of bonds to provide the sum of \$11,400,000 to Kaiser Foundation Hospitals, Oahu, for additions to the Moanalua Medical Center, including construction of a facility at the Moanalua Medical Center to house a skilled nursing facility, a reference laboratory, and a data processing center. In addition, the sum of \$7,000,000 is to be provided to Kaiser Foundation Health Plan, Maui, for expansion of the Wailuku Clinic. Issuance of the special purpose revenue bonds for the Wailuku Clinic is contingent on the approval of the certificate of need by the state health planning and development agency.

The bill also authorizes the department of budget and finance to further issue from time to time refunding special purpose revenue bonds to refund special purpose revenue bonds earlier authorized by the legislature.

A representative of Kaiser Foundation Health Plan/Hospital testified, in effect, that the Plan is a federally qualified health maintenance organization and is required to develop rates based on cost and to charge the same rates to every group or member with the same health care benefits; thus, any savings in interest expense is directly passed on, in the way of reduced increases in rates, to the consumer. The tax free revenue bonds authorized to be issued by the bill will result in estimated annual savings of \$470,000 in interest expense, and this saving will be an important part of the cost-containment efforts of Kaiser Foundation.

With respect to the construction of a skilled nursing facility at Moanalua, it was pointed out that Kaiser is experiencing difficulty finding beds for acute care patients who are ready to be discharged to a skilled nursing or intermediate care facility. The impact on Kaiser is that such patients are cared for in an acute care setting where the cost is \$250 per day as against a cost of \$87 per day if the patients were cared for in a skilled nursing care setting. Based on this experience and on the conclusions of a study which showed that it would not only be cost-effective but would also be of benefit to members and to the public at large, Kaiser decided that the construction of a new skilled nursing facility would be appropriate at this time.

On Maui, the amount requested will be used to enlarge the Wailuku Clinic to meet

the needs of a membership which has doubled since 1980 and where facility utilization has also doubled.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 714 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 651 Health on S.B. No. 1392

The purpose of this bill is to authorize the department of budget and finance to issue special purpose revenue bonds in the amount of \$4,600,000, the proceeds of which are to be utilized by Wahiawa General Hospital.

The sum would be used to correct existing code deficiencies and accommodations not conforming to current standards, and to modernize the hospital's obstetrical service, replace the surgical suite and refurbish the radiology facility. These expenditures represent the last major component of the hospital's building program.

Your Committee finds that Wahiawa General Hospital is the major provider of health care services to the people of the Wahiawa area and believes that this bill will result in considerable cost savings not only to the hospital but also to the community at large.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1392 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 652 Transportation and Ocean and Marine Resources on H.R. No. 160

The purpose of this resolution is to request that the Department of Transportation provide a status report to the legislature prior to the convening of the 1986 Legislature on efforts to finalize and implement the Kewalo Basin Master Plan. This report would include an elaboration on the status of the conflict between the commercial fishing industry and the excursion cruise and charter boat industry, and comment on concerns relating to the physical plant of the available piers.

Your Committees find that the Kewalo Boat Basin Master Plan is divided into two phases: Phase 1 of the Master Plan is scheduled to become effective in August of 1985; and Phase 2 of the Master Plan has funds programmed for the next biennium.

Your Committees received testimony from the Department of Transportation favoring this resolution, to submit a progress report relating to the implementation of the improvements recommended by the Kewalo Basin Task Force.

Your Committees find that the improvements recommended by the Kewalo Basin Task Force will help to alleviate conflicts that may exist as a result of competition between different industries over available resources.

Your Committees on Transportation and Ocean and Marine Resources concur with the intent and purpose of H.R. No. 160 and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 653 Water, Land Use, Development and Hawaiian Affairs and Planning,
Energy and Environmental Protection on H.R. No. 178

The purpose of this resolution is to urge the State of Hawaii to implement immediately the Alala Restoration Plan and to establish an Alala sanctuary on State-owned lands in Puuwaawaa on the Island of Hawaii.

Your Committees received numerous testimonies from the Department of Land and

Natural Resources and community or civic organizations, all in support of the resolution. Your Committees find that the alala, or Hawaiian crow, is in imminent danger of extinction and that its numbers have declined precipitously in the last few years. An estimate of the alala population has been placed at less than two dozen. Your Committees are of the opinion that action must be taken immediately to implement the recommendations of the Alala Restoration Plan.

Your Committees, however, recommend several amendments to the resolution:

(1) The "BE IT RESOLVED" clause: To replace it with the following:

"BE IT RESOLVED by the House of Representatives of the Thirteenth Legislature of the State of Hawaii, Regular Session of 1985, that the Governor of the State of Hawaii be requested to immediately issue an executive order to establish the recommended Alala sanctuary on State-owned lands in Puuwaawaa on the Island of Hawaii".

Your Committees are in agreement that the State should proceed immediately with the implementation of the Alala Restoration Plan; however, the issuance of an executive order by the Governor to set aside lands at Puuwaawaa for an alala preserve would expedite the implementation of the management programs outlined in the Plan.

(2) The intent and purpose of the "BE IT RESOLVED" clause: To retain the intent and purpose of the former "BE IT RESOLVED" clause in the newly recommended and first "BE IT FURTHER RESOLVED" clause.

(3) First "BE IT RESOLVED" clause: To specify that the status report be submitted to the Legislature at least twenty days before the convening of the Regular Session of 1986.

(4) Second "BE IT FURTHER RESOLVED" clause: To specify that the timetable be included in the status report and that it also be submitted to the Legislature before the Regular Session of 1986 begins.

(5) The final "BE IT FURTHER RESOLVED" clause: To include the Association of Hawaiian Civic Clubs as a recipient of a certified copy of this resolution.

Your Committees have also made a few minor, non-substantive amendments to correct stylistic and grammatical errors.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Planning, Energy and Environmental Protection concur with the intent and purpose of H.R. No. 178, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 178, H.D. 1.

Signed by all members of the Committees.

SCRep. 654 Water, Land Use, Development and Hawaiian Affairs on H.R. No.
148

The purpose of this resolution is to petition the U.S. President and Congress to delete limitations on tax deductions for business travel and entertainment expenses necessary for the conduct of normal business activity, as proposed by the U.S. Treasury Department.

Your Committee received testimony in support of the resolution. The projected impact of any elimination or reduction of many existing business deductions and credits for such regular business expenses as business travel, business meals, business lodging, and business entertainment of clients and sales prospects would be negative for the State of Hawaii. The tourism industry, especially hotels and restaurants, would be affected by potential loss of gross income and, therefore, reduction in labor force and in State revenues. Your Committee is of the opinion that the U.S. Treasury Department's proposals would discourage business opportunities in Hawaii.

Your Committee, however, recommends several amendments to the resolution:

(1) Title of the resolution: To clarify the purpose of the resolution with the following statement: "Petitioning the President and the Congress of the United

States to delete tax limits on business expense deductions";

(2) The final paragraph: To replace the "BE IT FURTHER RESOLVED" clause with the following two paragraphs:

"BE IT RESOLVED by the House of Representatives of the Thirteenth Legislature of the State of Hawaii, Regular Session of 1985, that this body and the Governor of the State of Hawaii petition the President and the Congress of the United States to delete limitations on tax deductions for business travel and entertainment expenses necessary for the conduct of normal business activity"; and

"BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Governor of the State of Hawaii, the Speaker of the House of Representatives, the President of the United States, and Hawaii's Congressional delegation"; and

(3) Several non-substantive amendments: To correct technical, stylistic, and typographical errors.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.R. No. 148, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 148, H.D. 1.

Signed by all members of the Committee.

SCRep. 655 Corrections and Rehabilitation on H.R. No. 84 (Majority)

The purpose of this resolution is to request the Committee on Corrections and Rehabilitation to study the feasibility of having private contractors operate State correctional facilities, review developments in other jurisdictions which have tried this approach, and evaluate the costs paid and benefits achieved to date.

Your Committee heard testimony from the Department of Social Services and Housing, which expressed concerns about an entire correctional facility being operated by a private contractor because of questions of the legal liability of the State. Your Committee also received written testimony from the United Public Workers Union stating that contracting out of public services is not cost effective, and is not desirable from the standpoint of collective bargaining. The John Howard Association of Hawaii also testified and expressed reservations about private management of correctional facilities, but suggested that a careful and intensive study might be conducted of the experiences of other states.

However, the Department did express an interest in evaluating the feasibility of contracting out specific types of programs and services, such as food and medical services. Moreover, although the Department expressed skepticism about having private contractors operate all of the State's correctional facilities, the Department indicated that it would be interested in studying the experiences of other states in contracting out for the operation of certain types of facilities. For example, in Wisconsin, the Division of Corrections has contracted with Wisconsin Correctional Services, a non-profit corporation, to run a minimum security work-and-study-release facility in Milwaukee. Moreover, Behavioral System Southwest, a private profitmaking firm, is contracting with the U.S. Immigration and Naturalization Service to operate detention facilities in Arizona, California and Colorado. The Department admitted that it had done little research in this regard, and wanted to compile additional information on whether these States have realized cost savings and other benefits through private sector involvement in the operation of certain facilities.

Based on testimonies received and information provided to the Committee members, your Committee does not favor transferring the operation of all our correctional facilities to the private sector. Your Committee is concerned that if this were to occur, there could be legal problems, problems of accountability, possible layoffs of State employees, and a reduction in the quality of services. Moreover, loss of control by the State over all of its correctional facilities could result in a severe disruption of prison operations if, for any reason, a private contractor were to pull out of Hawaii and cease doing business with the State. In this regard, a private contractor could exert considerable leverage over the State to obtain a favorable contract.

However, your Committee agrees with the Department that more study should be done on contracting out for specific services and programs. Your Committee is especially interested in having the Department examine the feasibility of contracting out for food services, medical care, and the management of prison industries. Your Committee received information indicating that certain benefits can be gained by contracting out for specific services and programs, such as improvements in administrative operations and cost savings. However, it is the position of your Committee that mechanisms should be established by the Department to evaluate providers of services on an on-going basis. Furthermore, the legal ramifications of contracting out for specific programs and services need to be fully studied.

Your Committee also concurs with the Department that a study should be conducted on the feasibility of placing certain facilities under private management. The Department pointed out that the State has had some experience with this approach in contracting out the operations of halfway houses, and that this arrangement has proven to be successful. Therefore, the Department indicated that the State should consider the possibility of private sector involvement in the operation of the Waiawa Correctional Facility and the Halawa Medium Security Facility. Private management may be especially appropriate for minimum security or community release type facilities based on the experiences of several mainland states. Your Committee believes all avenues should be explored to insure the most efficient and cost effective management of these facilities while they are still in the planning stages.

Accordingly, your Committee has made the following amendments to H.R. No. 84:

(1) Designating the Department of Social Services and Housing, in consultation with the office of the Attorney General, State of Hawaii, as the body to conduct the study, rather than the House Committee on Corrections/Rehabilitation;

(2) Adding the phrase "specifically the planned Waiawa Correctional Facility and the Halawa Medium Security Facility" to the "BE IT RESOLVED" clause;

(3) Adding a new "BE IT FURTHER RESOLVED" clause "that the Department also study and report on specific programs and services for which contracting could be initiated or expanded, including, but not limited to, food services, prison industries, and medical care.";

(4) Adding another "BE IT FURTHER RESOLVED" clause "that the Department present a detailed plan on how it would implement contracting within the private sector for the operation of entire correctional facilities, and specific services. This report shall include, but not be limited to, the following:

a) The criteria to be employed in making background checks of providers of service;

b) The mechanisms to be established for evaluating providers of service on an ongoing basis; and

c) The ramifications and implications of the legal liability of the State when contracting out for private services, of whatever type, for correctional facilities";

(5) Adding "the Attorney General, State of Hawaii" to the last "BE IT FURTHER RESOLVED" clause.

Your Committee has also amended this resolution by correcting technical nonsubstantive and typographical errors for the purposes of clarity.

Your Committee on Corrections and Rehabilitation concurs with the intent and purpose of H.R. No. 84, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as H.R. No. 84, H.D. 1.

Signed by all members of the Committee.
(Representatives Metcalf, Taniguchi and Tom did not concur.)

SCRep. 656 Corrections and Rehabilitation on H.R. No. 78

The purpose of this resolution is to request a study of the problems hindering expansion of prison industry and work release programs in this State, sites where

prison industries may be established, and incentives for private sector involvement.

After hearing testimony from the Department of Social Services and Housing and receiving written testimony from the Department of Planning and Economic Development, your Committee finds that the present prison industries and work release programs could be expanded to include such areas as agriculture, food services, and business related fields. Moreover, your Committee believes that the Department of Social Services and Housing should fully explore private sector involvement in prison industries and work release programs because there are definite advantages to be gained from this kind of an approach. The private sector can provide business expertise in the operation and management of prison industries. Moreover, a private company running a prison industry would also have the capability of hiring an inmate worker once he had been released from the facility. Your Committee finds that private sector involvement has been tried in other state correctional systems. For example, Best Western Hotels and Control Data Corporation have established business operations in certain prisons.

Your Committee was also informed of a federal law known as the Prison Industries Enhancement Act of 1979, which has exempted several states from a federal law prohibiting the inter-state transportation of inmate goods.

Accordingly, your Committee has amended the "BE IT RESOLVED" clause to require a study of the provisions of the Prison Industries Enhancement Act of 1979 to determine whether the act could be implemented in Hawaii, which would allow for inmate production of goods with nationwide markets. Your Committee has further amended the clause to require a study of the availability of federal funds to expand prison industries, and for the Department to report back on long range plans to expand prison industries in correctional facilities. Your Committee believes that a study in this regard is most appropriate at this time so that the Department can begin advance planning for the efficient utilization of the work space in the new Halawa Medium Security Facility prior to its opening.

In recognition of the limited resources of the Correctional Industries Advisory Board, your Committee has amended this resolution to require the participation of the Department of Social Services and Housing in this study.

For purposes of accuracy, your Committee has also amended this resolution by replacing the word "Prison" with the word "Correctional" in all references to the "Correctional Industries Advisory Board".

Your Committee has further amended this resolution to provide that a certified copy of this resolution be transmitted to the chairperson of the Correctional Industries Advisory Board.

Technical and non-substantive amendments have been made.

Your Committee on Corrections and Rehabilitation concurs with the intent and purpose of H.R. No. 78, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 78, H.D. 1.

Signed by all members of the Committee.

SCRep. 657 Human Services and Health on H.R. No. 157

The purpose of this resolution is to request the Legislative Reference Bureau to work with the Department of Social Services and Housing to study the need for the establishment of a certification program for paraprofessional in-home care service providers, and to submit the findings and recommendations of the study to the Legislature prior to the convening of the Regular Session of 1986.

The Department of Social Services and Housing, the Executive Office on Aging, the Department of Health, Kokua Council for Senior Citizens, and a number of individuals including several affiliated with the Kuakini Gerontology Center testified in strong support of the resolution.

During the past several years, the Legislative and Executive branches of the State government have worked closely to develop many home and community-based programs for the frail and chronically ill and the frail elderly. This resolution expresses a strong concern for the well-being of individuals receiving services at

home and in community-based settings.

However, your Committees have many concerns which remain unanswered, for example:

(1) While certification may improve the quality of care being provided by home health agencies, your Committees are concerned about the increased costs that may result from certification.

(2) Instances of unscrupulous providers of home health services gaining access to bank accounts and assets of elderly persons, by virtue of their dependence on the providers, have been brought to your Committees' attention.

(3) Exorbitant charges for services are being made to families of the elderly for home-based services.

(4) As more people gain access into the homes of the elderly in need of services, there is concern for the character of the individuals providing services, the level of their training and abilities, and the costs of these services.

Your Committees believe that, while a certification program for paraprofessional in-home providers appears to be indicated, to provide protection for the well-being of the elderly in home and community based settings, your Committees believe that too many factors remain unknown. It is important that the issues involved be addressed and therefore a study to determine the need for certification should be undertaken.

Your Committees on Human Services and Health concur with the intent and purpose of H.R. No. 157 and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 658 Human Services and Health on H.C.R. No. 34

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to work with the Department of Social Services and Housing to study the need for the establishment of a certification program for paraprofessional in-home care service providers, and to submit the findings and recommendations of the study to the Legislature prior to the convening of the Regular Session of 1986.

The Department of Social Services and Housing, the Executive Office on Aging, the Department of Health, Kokua Council for Senior Citizens, and a number of individuals including several affiliated with the Kuakini Gerontology Center testified in strong support of the concurrent resolution.

During the past several years, the Legislative and Executive branches of the State government have worked closely to develop many home and community-based programs for the frail and chronically ill and the frail elderly. This concurrent resolution expresses a strong concern for the well-being of individuals receiving services at home and in community-based settings.

However, your Committees have many concerns which remain unanswered, for example:

(1) While certification may improve the quality of care being provided by home health agencies, your Committees are concerned about the increased costs that may result from certification.

(2) Instances of unscrupulous providers of home health services gaining access to bank accounts and assets of elderly persons, by virtue of their dependence on the providers, have been brought to your Committees' attention.

(3) Exorbitant charges for services are being made to families of the elderly for home-based services.

(4) As more people gain access into the homes of the elderly in need of services, there is concern for the character of the individuals providing services, the level of their training and abilities, and the costs of these services.

Your Committees believe that, while a certification program for paraprofessional in-home providers appears to be indicated, to provide protection for the well-being of the elderly in home and community based settings, your Committees believe that too many factors remain unknown. It is important that the issues involved be addressed and therefore a study to determine the need for certification should be undertaken.

Your Committees on Human Services and Health concur with the intent and purpose of H.C.R. No. 34 and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 659 Higher Education and the Arts on S.B. No. 1286

The purpose of this bill is to amend sections 304-4 and 304-17, Hawaii Revised Statutes, and to repeal sections 304-15 and 304-17, Hawaii Revised Statutes in order to effect changes in the State-sponsored tuition assistance programs at the University of Hawaii. This bill will consolidate tuition waivers and scholarships, as there is no significant difference between the two, as interpreted by the University. Also, this bill recognizes the leadership role the University plays in Pacific-Asian affairs, and provides for tuition waivers for qualifying students from those areas.

Your Committee received testimony from the University of Hawaii administration supporting this bill and its inclusion of qualified Asian and Pacific students. The increased flexibility in awarding tuition waivers will allow a greater number of those waivers to be utilized, and allow the granting of waivers to certain foreign students who have the potential to make beneficial contributions to this State.

Your Committee has amended this bill by deleting the phrase "Pacific-Asian tuition waivers" from line 4 and 5 on page 8, and replacing it with "These waivers, to be known as Pacific-Asian tuition waivers, shall not exceed 2% of the total full time enrollment of the previous fall semester for each campus of the system, and". This makes clear that the total number of tuition waivers available will be increased under this bill from 13% to 15% of the prior year enrollment.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 1286, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1286, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 660 Higher Education and the Arts on S.B. No. 1288

The purpose of this bill is to allow students to pay resident tuition who meet all other requirements for resident status for tuition purposes, but are nevertheless disqualified because they are claimed as a dependent by a parent who no longer lives in the State as a result of a legal divorce or separation.

The University administration testified in favor of this bill, as it corrects an inequity that exists as a result of the application of Act 106, SLH (Regular Session of 1982) which created tax dependency criteria for resident student status.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 1288, S.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 661 Agriculture on S.B. No. 20

The purpose of this bill is to appropriate funds, to be matched dollar-for-dollar by the Hawaii Sugar Planters' Association, for sugar research and development, including research on alternate crops.

Your Committee has received testimonies in support of this bill from the Chairman of the Department of Agriculture; the Dean of the College of Tropical Agriculture and Human Resources, University of Hawaii; the Chairman of the Governor's Agriculture Coordinating Committee; and the Director of the Hawaiian Sugar Planters' Association Experiment Station.

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. However research on alternate crops and by-products are important for the future of Hawaii's sugar industry.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 20, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 662 Higher Education and the Arts on S.B. No. 1289

The purpose of the bill is to amend section 304-8.1, Hawaii Revised Statutes, by adding language requiring the University of Hawaii to prepare and submit an annual report on the status of the research and training revolving fund which shall include:

- 1) allocations and actual expenditures for the preceding fiscal year and projected allocations for the current fiscal year;
- 2) a display of allocation and expenditure distribution in conformance with guidelines approved by the Governor; and
- 3) a narrative report of research and training accomplishments, issues and problems.

Your Committee finds that with the enactment of Act 283 in 1984, the University's Research and Training programs have enjoyed a significant increase in resources through the Research and Training revolving fund. Despite this increase however, the Legislature has not seen a corresponding improvement in the University's annual report on the status of the revolving fund. This bill, therefore, provides clarifying language to reporting requirements contained in Section 304-8.1 (b) which will enable the Legislature to better understand the financial status, accomplishments, issues and problems of the University's Research and Training program.

Your Committee has been made aware that guidelines for expenditures from the revolving fund are subject to approval by the Governor and concurs with this practice. In keeping with this concept, the proposed reporting requirements require fiscal data to be reflected in a manner consistent with the expenditure guidelines approved by the governor. In addition, the proposed reporting requirements also include provisions for specific narrative reports since none are provided currently.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 1289, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 663 Higher Education and the Arts on S.B. No. 141

The purpose of this bill is to amend Section 304-8.4, Hawaii Revised Statutes, by adding language necessary to include equipment user fees and equipment purchase costs under the provisions of this section.

Your Committee has received testimony from the University of Hawaii that,

through the vocational and technical training projects revolving fund, vocational students are provided actual production opportunities. However, heavy student use of production equipment combined with rapid and frequent equipment innovation, rapidly shortens the useful life of production equipment.

Your Committee finds that this bill would assist the University in optimizing the learning experience it presently furnishes vocational students at the community colleges by providing a revenue source, in addition to general fund support, to be disbursed for equipment replacement costs. Your Committee further finds that the amendment of Section 304-8.4, Hawaii Revised Statutes, in manner proposed by this section is appropriate in light of the desirability of providing vocational students with state-of-the-art learning experience.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 141, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 664 Education on S.B. No. 732

The purpose of this bill is to provide that licensed psychologists' services be included within the provision of services to and screening of exceptional children in the public schools.

Your Committee finds that services provided to and screening of exceptional children by psychologists should not be limited to those provided by licensed psychologists. Psychologists exempt from licensure by Section 465-3, Hawaii Revised Statutes, should continue to be able to provide services under the Department of Health and the Department of Education.

Your Committee has, therefore, amended this bill by deleting reference to the term "licensed" regarding psychologists in Sections 301-27 and 321-174, Hawaii Revised Statutes. Section 321-174, HRS, also has been amended to specify that "psychologists" are as defined under Chapter 465, HRS. Under that chapter, "psychologists" include licensed psychologists as well as psychologists who are exempt from licensure. Exempt psychologists include those employed by government agencies, such as the Department of Health. It is the intent of your Committee that exempt psychologists, when practicing within the limitations of the exemption, be allowed to serve exceptional children.

The purpose section of this bill has also been amended to conform with the amendments made by your Committee.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 732, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 732, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 665 Education on S.B. No. 383

The purpose of this bill is to exempt the special summer school fund from assessment for central services and administrative expenses as provided under Sections 36-27 and 36-30, Hawaii Revised Statutes.

Your Committee heard testimony from the Department of Education in support of this bill. The Department testified that the summer school program is voluntary and requires that tuition payment cover costs incurred. Due to the rising costs of salaries of school teachers and administrators, supplies, and other necessary services, tuition has steadily increased.

Your Committee finds that although tuition waivers for summer school are granted based on financial need, a large majority of students who do not qualify for waivers finds it increasingly difficult to pay the rising tuition. The assessments for central services and administrative expenses might necessitate an increase in tuition. This bill would assist the Department in maintaining the tuition at its current level.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 383, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 666 Human Services and Judiciary on S.B. No. 73

The purpose of the bill is to add a new category of people who may be involuntarily hospitalized at a psychiatric facility, namely those who are "gravely disabled."

While current law provides for the involuntary hospitalization of those who are mentally ill or suffering from substance abuse, as well as those who are imminently dangerous to themselves and to others, your Committees believe that, where a person is in need of care or treatment, and where there is no suitable alternative available through existing facilities and programs less restrictive than hospitalization, an additional category of people, those "gravely disabled", should likewise be afforded psychiatric treatment, by means of involuntary hospitalization.

Your Committees received much testimony in support of the bill. The department of health, department of social services and housing, the Judiciary, the National Association of Social Welfare, Hawaii Chapter, Kokua Council for Senior Citizens, Hawaii Nurses Association, and numerous individuals most of whom had family members affected with schizophrenia and other psycho-biological disorders testified in support of the bill. The Mental Health Association and the American Civil Liberties Union presented testimony in opposition to the bill.

Your Committees also received testimony from the director of the Institute of Human Services expressing general agreement with the purposes of the bill but expressing concern over the definition of "gravely disabled".

Your Committees find that the requirements for commitment of those "gravely disabled" are, in fact, precise. If the State satisfies the trier of fact that:

- (1) the individual is unable to provide for his/her basic personal needs; and
- (2) the individual is unable to make rational decisions concerning his/her personal welfare; and
- (3) the individual lacks the capacity to understand that this is so; and
- (4) all of the above are the result of a mental disorder, evidence of which is required at the commitment hearing by expert medical testimony; and further
- (5) there is no suitable alternative available through existing facilities and programs less restrictive than hospitalization, then this individual can be involuntarily committed.

Your Committees believe that criminalizing persons who are ill and in need of psychiatric treatment as present circumstances dictate, is unfortunate and unwise public policy.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of S.B. 73, S.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 667 Human Services on S.B. No. 64

The purpose of the bill is to place all licensing functions for care homes and boarding homes with the department of health.

Under current law, family and residential care homes are licensed and regulated by the department of health (DOH). Group living homes and family boarding homes are licensed and regulated by the department of social services and housing

(DSSH). The present dual system of licensing and regulation does not promote efficiency in state government operations.

The DSSH, DOH, State Planning Council on Developmental Disabilities, Kokua Council for Senior Citizens, Hawaii Public Health Association and the United Group of Home Operators testified in support of this bill.

Your Committee made a minor amendment on page 10, line 19 of the bill to clarify the definition of "domiciliary care" as suggested by the DSSH.

Your Committee further amended the bill by including an appropriation section for the purposes of the bill.

Your Committee finds that additional funds are necessary to enable the DOH to meet the additional workload. The DSSH's present boarding home surveyors are social workers without the medical training necessary to properly assess the level of care necessary for each resident.

In addition, your Committee notes that the State has the responsibility for ensuring that adult residential care home operators have the needed skills and training to provide proper care and supervision for increasingly disabled residents.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 64, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 64, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 668 Human Services on S.B. No. 1443

The purpose of this bill is to: (1) specify that referral by, direction by, or prescription of services by another health care practitioner not be required for psychologist; (2) include psychologists in the definition of medical care for medicaid reimbursement purposes; and (3) to include licensed psychologists with psychiatrists in the determination of mental impairment.

Your Committee also finds that participation of psychologists without physician referral or supervision under the medicaid program is not prohibited by federal law or regulation if the services are performed in accordance with state law. Congress in the Deficit Reduction Act (DEFRA) authorized health maintenance organizations participating in the Medicare program to reimburse the services of psychologists without the supervision or referral of a physician. Thus, your Committee finds that enactment of this bill will not prohibit the payment of federal Medicaid funds for the services of psychologists.

Your Committee finds that the state has the authority to define "medical necessity" and to include the services of a licensed psychologist in the definition of medical care. Psychologists are trained and qualified to work closely with physicians in the determination of medical necessity, and mental impairment. Your Committee believes that psychologists provide a valuable service in meeting the health care needs of the people in our State and therefore acts favorably in support of this bill.

Your Committee finds that the previous requirement of physician referral has proven to be a detriment to the public health, safety and welfare of its citizens. Several deaths have resulted from the inability of citizens to have direct access to psychologists.

Your Committee further finds that the services of psychologists are more cost effective than those of physicians and that these services have been shown to reduce overall medical utilization costs. Your Committee believes that a more accessible, less costly health care system is a desirable public policy objective and that psychologists, in their area of expertise, should have complete parity with physicians.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1443, S.D. 1, and recommends that it pass Second Reading and be

referred to the Committee on Finance.

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

SCRep. 669 Human Services on S.B. No. 1354

The purpose of the bill is to amend state law to allow Hawaii to join the Interstate Compact on the Placement of Children (ICPC).

Testimony submitted by the Department of Social Services and Housing (DSSH) indicates that Hawaii is only one of three states in the nation not belonging to the ICPC. By not doing so, Hawaii is at a definite disadvantage in attempting to place children out of state with relatives or other caretakers. Additionally when foster families move to other states, our state has experienced difficulty in obtaining supervision over the children. In instances where the placement fails, by not being part of the ICPC, the state may not be notified. Your Committee believes that without the safeguards of the ICPC, more children will "fall through the cracks" of social service agencies and will not be properly cared for, thereby increasing our national statistics of exploited children.

Your Committee further believes that improving our placement ability for children within our jurisdiction is in the State's interest.

Your Committee has amended the bill by conforming the numbering system in the bill to the required ICPC guidelines and by inserting an appropriation section to the bill to enable the DSSH to accomplish the purposes of this Act.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1354, S.D. 1, as amended herein, and recommends that it pass Second Reading as S.B. No. 1354, S.D. 1, H.D. 1, and that it be referred to the Committee on Finance.

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

SCRep. 670 Higher Education and the Arts on S.B. No. 1287 (Majority)

As received, the purpose of this bill was to amend Chapter 304, Hawaii Revised Statutes, by adding a new section establishing a Pacific area tourist industry research institute at the University of Hawaii.

Testimony received from the University of Hawaii administration opposed passage of this bill, as they did not believe that it met the requirements of a research institute, and further, that they did not have an opportunity to review the proposal.

Your Committee has amended this bill by removing all of Section 1, and replacing it with amendments to Chapter 304 as follows:

1. Creation of a section entitled University of Hawaii at Manoa malpractice special fund. This fund shall be expended for costs of defense or settlement of claims of malpractice in programs which provide professional services. The University may assess fees to individuals and those fees shall be deposited to the malpractice special fund. This fund was requested in S.B. 135.

2. Creation of a section entitled UH Manoa intercollegiate athletics revolving fund and UH Hilo intercollegiate athletics revolving fund. These funds shall be used to receive and disburse funds from the activities of the respective intercollegiate athletic programs. This section also provides authority to establish charges for athletic related activities, and enumerates those items for which the fund may be expended.

This fund was requested in S.B. 137.

3. Creation of a section entitled UH Manoa internal support services revolving fund and UH Hilo internal support services revolving fund. These funds provide internal support for specific areas that include among others electronics and electronic services, transportation and motor pool services and instrumentation repair

and maintenance services. The fees collected on a cost reimbursement basis shall be deposited into these funds. Similar revolving funds were requested in S.B. 138.

4. Creation of a section entitled Systemwide computer services special fund. Revenues derived from the University's computer operations shall be deposited to this fund. Expenditures made shall be in support of computer services that include personnel, current expense, and equipment costs. A similar revolving fund was requested in S.B. 139.

5. Creation of a section entitled Financial Aid Transcript Revolving fund. This fund will deposit and expend fees for the creation, duplication, and mailing of financial aid transcripts, which are required for all applicants for federally funded financial aid.

6. Requirement of an annual report to the legislature that will include an itemized account of the income to and the expenditure from all special and revolving funds during the previous fiscal year.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 1287, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1287, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.
(Representatives Lindsey, Say and Yoshimura did not concur.)

SCRep. 671 Housing on S.B. No. 112

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.

The 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.

Your Committee supports the procedure set forth in S.B. No. 112 which would require the publication of such 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 on Housing is in accord with the intent and purpose of S.B. No. 112, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kiyabu.

SCRep. 672 Housing on S.B. No. 100

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.

During the 1983 legislative session, the State Legislature passed H.B. No. 1061, H.D. 1, (Act 223, SLH 1983), which provided general excise tax exemptions to persons and entities who contribute toward the development, construction, or occupancy of government assisted housing. The intent of Act 223, SLH 1983, 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 cur-

rently 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 waiver, 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 Housing is in accord with the intent and purpose of S.B. No. 100, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kiyabu.

SCRep. 673 Housing on S.B. No. 1416

The purpose of this bill is to exclude from gross income, adjusted gross income, and taxable income, an amount equal to four per cent of the total rent paid during a taxable year by an individual resident taxpayer for the use of a principal residence.

The total rent paid shall be exclusive of charges for utilities, parking stalls, storage of goods, yard services, furniture, furnishings, and the like.

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 1416, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kiyabu.

SCRep. 674 Housing on S.B. No. 932

The purpose of this bill is to amend Sections 501-101.5 and 502-85, HRS, to provide that the claims or liens upon real estate covered by the agreement of sale, shall automatically transfer to the proceeds from the satisfaction of the agreement of sale. The claims or liens shall be transferred in the same priority with respect to other transferred claims or liens, and with respect to other claims or liens on such proceeds.

Under current statute, any claim or lien arising out of a conveyance or judgment against the vendor, which is filed or recorded after the filing or recordation of the agreement of sale, attaches to the real estate covered by the agreement of sale. This situation has delayed and even prevented vendees in some cases from obtaining clear title to the real estate after satisfying the agreement of sale.

Your Committee received testimony in support of this bill from the Hawaii Association of Realtors, noting that by transferring these claims or liens to the proceeds of the agreement of sale instead of the property title, vendees can obtain clear title to the real estate upon satisfaction of the agreement of sale.

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 932, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Kiyabu.

SCRep. 675 Consumer Protection and Commerce on S.B. No. 730

The purpose of this bill is to amend Section 407-92.5, Hawaii Revised Statutes, to allow service corporations of savings and loan associations to charge the same

rates as allowed industrial loan companies under Chapter 408, Hawaii Revised Statutes.

Your Committee heard testimony in favor of the bill from the Department of Commerce and Consumer Affairs. The Department testified that Section 407-95, Hawaii Revised Statutes, permits the formation of savings and loan service corporations to engage in activities which are reasonably related to the activities of savings and loan associations. Generally, such activities need the prior approval of the bank examiner, however, the following activities may be engaged in without prior approval: (1) loans; (2) services primarily for financial institutions; (3) real estate services; and (4) certain other investments and other services as permitted to service corporations of federally-chartered savings and loan associations. The Department stated that all service corporations are subject to examination by the bank examiner, and that such examinations are performed at the same time the parent savings and loan association is examined.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 730, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 676 Consumer Protection and Commerce on S.B. No. 202

The purpose of the bill is to amend Section 453-6, Hawaii Revised Statutes, relating to fees and expenses of the Board of Medical Examiners in order to provide for (1) separate application, examination and license fees where fees have not been separated; (2) fees for licensure by endorsement, limited and temporary licenses, and for renewal and restoration of licenses; (3) deletion from the statute of all wording specifying the amount of fees; and (4) addition of language to the effect that all fees are to be established by rule by the Director of the Department of Commerce and Consumer Affairs pursuant to Chapter 91, Hawaii Revised Statutes. Twenty-six chapters of the Hawaii Revised Statutes pertaining to fees assessed or charged by boards and commissions which are placed in the Department of Commerce and Consumer Affairs were similarly amended by Act 7, Session Laws of Hawaii (1984).

Your Committee heard testimony in favor of the bill from the Board of Medical Examiners. The Board testified that last year, the fees provided by Section 453-6, Hawaii Revised Statutes, was thought to be sufficient to cover the cost of services to be rendered by the Board. However, the Board has learned that the examination costs to be assessed by The Federation of State Licensing Boards of the United States, Inc., for its licensing examination (the FLEX examination) are being increased from \$160 to \$240. Thus, the examination fee needs to be separated and increased to an amount that will bear a reasonable relationship between the revenues derived from the fee and cost or value of services to be rendered. The Board noted that action to achieve this reasonable relationship by the Director of Commerce and Consumer Affairs is authorized by Section 26-9(k), Hawaii Revised Statutes, and further stated that the action will be accomplished by rule adopted pursuant to Chapter 91 and that as part of that rule all other fees will be included.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 202 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 677 Consumer Protection and Commerce on S.B. No. 170

The purpose of this bill is to extend the expiration date of the compliance resolution fund (CRF) from July 1, 1987 to July 1, 1997.

The CRF was created after a Legislative Auditor's study found that the professional and vocational licensing boards were generally unresponsive to consumers. Further, the investigation and resolution of complaints were marked by unnecessary delays and bias. Accordingly, the Regulated Industries Complaints Office (RICO) was created to handle consumer complaints from initial filing to final settlement and/or hearing.

Your Committee received testimony from the Department of Commerce and Consumer Affairs in favor of this bill.

Your Committee, upon further consideration, has amended this bill by adding a new section 2, which would establish guidelines whereby the Department will annually prepare and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the use of the Compliance Resolution Fund.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 170, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 170, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 678 Consumer Protection and Commerce on S.B. No. 663

The purpose of this bill is to modify, update, and clarify Chapter 672, Hawaii Revised Statutes, relating to Design Professional Conciliation Panel. Among other things, the bill requires a claimant to certify that a design professional acknowledges that a legitimate negligence claim exists; increases the compensation of panel members; provides for a determination by the circuit court that the dispute is unsuitable for review by the panel; and includes landscape architects within Chapter 672, Hawaii Revised Statutes.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs, the Judiciary, the Hawaii Academy of Plaintiffs' Attorneys and design professionals, all of whom agreed that the current statute was in need of substantial revision. In particular, a definition of "Entities employing design professionals" has been added to the statute to allow design panel claims against professional corporations or other business structures under which design professionals may practice, as set forth in section 464-12 of Hawaii Revised Statutes, and does not include non-design professional entities such as the counties and the State, which was the original intent of the 1973 Legislature in adding the phrase "entities employing such design professionals". Your Committee is aware that this matter has been raised in the Third Circuit Court of the State of Hawaii in Busching v. Subaru of America, Inc., et al., Civil No. 8900, where the court ruled in a manner consistent with the original legislative intent of the 1973 amendment. The addition of the definition of "Entities employing design professionals" as contained in this bill will prevent further and unnecessary litigation of this matter and will conform the original intent of the Legislature regarding this matter.

Your Committee further finds that the panel process is facing a substantial number of cases for which that process is clearly inappropriate. A case such as the Aloha Stadium steel litigation, as well as slip-and-fall and highway design cases are examples of matters which were never intended to go before these panels and the panel process has served merely to frustrate and delay such litigation. The bill provides that the parties may seek a determination from the circuit court that a case is unsuitable for handling by the panels. That provision should result in a substantial revision of the panel's current and future docket and permit the panel process to concentrate on cases which can be handled by an informal mechanism.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 663, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 679 Consumer Protection and Commerce on S.B. No. 665

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.

Your Committee received testimony from the Department of Commerce and Consumer Affairs, the Citizens' Committee for Fair Acupuncture Laws, the Hawaii Business

League, practicing acupuncturists and acupuncture students in support of the intent of the bill. The parties, however, expressed concern over the language contained in the bill and recommended extensive revision of the bill in its current form.

Your Committee finds that H.B. No. 487, H.D. 1, addresses the concerns of all parties. Accordingly, your Committee has amended this bill by deleting its proposed language and has inserted the proposed language of H.B. No. 487, H.D. 1.

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

(1) Deleted subsection -4(b) Exemptions., in its entirety and added a new subsection -4(b).

(2) On page 5, beginning on line 3, the word "three" has been deleted and replaced with the word "two", and the phrase "(not less than 600 hours)" to describe the period of training for the two academic years and the phrase "(not less than 12 months and not less than 900 hours)" to describe the period of clinical training has been added.

(3) Added in subsection -13, Use of titles.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 665, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 665, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 680 Consumer Protection and Commerce on S.B. No. 1299

The purpose of this bill is to allow County Liquor Commissions to control, supervise and regulate the manufacture, importation and sale of liquors by investigation, enforcement and education. The bill also provides that educational programs for licensees and their employees be financed with money collected from the assessment of fines against licensees.

Your Committee received testimony from the Liquor Dispensers of Hawaii and the Hawaii Hotel Association in favor of the intent of the bill. The Liquor Dispensers of Hawaii testified however that the term "education" required clarification, and means education of licensees and not the general public. Otherwise, the current proposed language could be construed to permit a special educational program for licensees, as well as a separate program for the general public.

Your Committee, upon further consideration, has amended the new proposed language beginning on page 1, line 12 to read as follows:

"by investigation, enforcement, and education; provided that any educational program be limited to licensees and their employees, and shall be financed through the money collected from the assessment of fines against licensees;"

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1299, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1299, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 681 Consumer Protection and Commerce on S.B. No. 726

The purpose of this bill is to establish a Board of Physical Therapy within the Department of Commerce and Consumer Affairs and to transfer the licensure function of physical therapists from the Department of Health to this Board of Physical Therapy.

This bill creates a new chapter which establishes a Board of Physical Therapy and specifies the jurisdiction, composition, powers, and duties of the board. The Board of Physical Therapy would be established on January 1, 1986, by this bill and the rules of the Department of Health would remain in effect until modified or

repealed by the board. The board would be repealed effective December 31, 1991.

Your Committee received testimony from the Department of Commerce and Consumer Affairs in favor of the intent of this bill. The Department testified however, that it strongly urged the Committee to incorporate H.B. No. 497, H.D. 1 in its entirety. The Department clarified its position by stating that the House version had taken into account certain changes the Department had sought for administration purposes and that it contained an appropriation which would allow the Department to properly implement this new chapter.

Your Committee, upon further consideration, has amended this bill by deleting the existing language in S.B. No. 726, S.D. 2 and has added the language contained in H.B. No. 497, H.D. 1.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 726, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 726, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 682 Consumer Protection and Commerce on S.B. No. 187

The purpose of this bill is to amend Section 92-17, Hawaii Revised Statutes, to allow boards and commissions to recover the cost of publishing a hearing notice when service by registered or certified mail to the licensee's address of record is unsuccessful.

Your Committee heard testimony in favor of the bill from the Department of Commerce and Consumer Affairs. The Department testified that under current procedures, when a petition to discipline a licensee is filed, a notice is mailed to the address as listed on the licensing record. On a number of occasions, licensees have refused to accept the certified mail and the Department has ultimately had to publish notice of the hearing in the newspaper. The Department stated that it is the duty of every licensee to address consumer complaints that are filed. The refusal by licensees to accept delivery of the hearing notice is unacceptable and should at least lead to penalties in the form of paying for the published notice.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 187 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 683 Consumer Protection and Commerce on S.B. No. 1195

The purpose of S.B. No. 1195, S.D. 1, is to authorize the issuance of special purpose revenue bonds of the State of Hawaii in accordance with Chapter 39A, Part VI, Hawaii Revised Statutes, in an amount not to exceed \$9.4 million, for projects to be undertaken by Citizens Utilities Company (Kauai Electric Division).

Your Committee finds that securing adequate funding at a reasonable interest rate for capital expenditures is a major concern to both the utility company and its ratepayers. Accordingly, special purpose revenue bonds will allow the utility company to construct needed facilities at a significantly lower cost which ultimately represents a savings for ratepayers.

Your Committee notes that the Public Utilities Commission will annually report to the Legislature of the progress, under this bill, in reducing electric utility financing costs.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1195, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 684 Consumer Protection and Commerce on S.B. No. 1274

The purpose of this bill is to amend Section 467-11, Hawaii Revised Statutes, to increase the amount contributed to the real estate education fund from \$5 to \$20. Also, beginning July 1, 1987, the 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.

Your Committee heard testimony in favor of the bill from the Real Estate Commission (REC) of the Department of Commerce and Consumer Affairs and from The Hawaii Association of Realtors. The Commission testified that the proposed amendments are part of the recommendations resulting from a study conducted by the REC in response to Senate Resolution No. 158 and House Resolution No. 389, H.D. 1 (1984).

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1274, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 685 Consumer Protection and Commerce on S.B. No. 1198

The purpose of this Act is to amend the Industrial Loan Company Guaranty Act to primarily provide for the guaranty of thrift accounts at Manoa Finance Co., Inc., Great Hawaiian Financial Corporation, and Commercial Finance Company, Inc.

Your Committee received testimony from many persons regarding the current bankruptcy proceedings of Manoa Finance, Great Hawaiian and Commercial Finance, the plan proposed by the industry, and a proposed variation thereof.

After reviewing and carefully considering the problem, various solutions, and oral and written testimonies, your Committee amended S.B. No. 1198, S.D. 2, to appropriate moneys to provide for prompt payment of the guaranty amount set forth in the Industrial Loan Company Guaranty Act.

In addition to the aforementioned change, your Committee has made the following amendments:

(1) Board of Directors of the guaranty corporation. The Board shall not be elected by the members of the guaranty corporation but shall be appointed by the Governor, the President of the Senate and the Speaker of the House and shall consist of four experts and three lay persons. Two of the three lay persons shall represent the industrial loan industry.

(2) Payment to Creditors. The bank examiner has the authority to direct payments to all creditors subject to a court order.

(3) Investment income. Investment income shall not be credited to members' accounts.

(4) Dissolution. The Bank Examiner shall voluntarily dissolve the guaranty corporation upon formal notice from the Board of Directors that either: (1) the guaranty corporation owns no assets except for the expectation of the annual assessments or (2) all State loans have been satisfied.

(5) Appropriation. Moneys shall be appropriated out of the general fund for zero interest loans to the guaranty corporation. All loans shall be subject to a determination by a court of competent jurisdiction that the State and Thrift are released from all liability and that Thrift is the sole creditor of the affected companies. With the loan moneys, Thrift shall provide moneys to pay all creditors of Manoa Finance and Great Hawaiian and may obtain a security interest in the assets of Commercial Finance for the purpose of providing full payment to its creditors.

(6) Moratorium. Interest on prior loans shall be forgiven until July 1, 1990, at which time the guaranty corporation shall resume interest payments. The moratorium on the principal amount will be continued for one year until July 1, 1986.

(7) Assessments. In consideration of the invaluable service and benefits, both past and present, of the Industrial Loan Company Guaranty Act to the private industry, assessments paid by members shall continue until dissolution of the guaranty corporation.

Your Committee has also made technical and non-substantive amendments to this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1198, S.D. 2, as amended herein, and recommends it pass Second Reading in the form attached hereto as S.B. No. 1198, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tungpalan.

SCRep. 686 Transportation on S.B. No. 379

The purpose of this bill is to amend section 286-209, Hawaii Revised Statutes, relating to motor carrier vehicles, by increasing the fee charged for safety inspections required under this section from \$7 to \$12.

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 also finds that the current fee of \$7 for motor carrier vehicle inspections was set in 1977. Your Committee further finds that under the proposed bill, the actual increase in inspection cost would amount to \$5 per inspection, or \$10 per year per vehicle.

Your Committee is of the opinion that the proposed increase merely reflects the increased 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 Transportation is in accord with the intent and purpose of S.B. No. 379, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 687 Legislative Management on S.B. No. 1077

The purpose of this measure is to provide sufficient funds for the salaries of the members of the House of Representatives and the Senate from November 6, 1984 to June 30, 1986.

Under present law, salaries of the legislature are to be included as estimates of aggregated expenditures in the budget and be appropriated in bill form. Your Committee believes that this bill is necessary and within the scope and intent of the applicable constitutional amendments of 1978.

Your Committee on Legislative Management is in accord with the intent and purpose of S.B. No. 1077, S.D. 1, and recommends that it pass Second Reading and be referred to your Committee on Finance.

Signed by all members of the Committee except Representative Ige.

SCRep. 688 Water, Land Use, Development and Hawaiian Affairs on S.B. No. 472

The purpose of this bill is to create a Hawaii Film Industry Authority, a body corporate and a public instrumentality of the State, whose function is to finance film production facilities, studies, and other projects; provide services which would promote the indigenous filmmaking industry; expedite film location permits; and promote Hawaii as a filmmaking site.

Your Committee finds that the film industry is an attractive, non-polluting industry which does not deplete the natural resources of the State and, at the same time, generates income and employment for our people. Also, the filming of television and motion picture features requires the ready availability of sound and film studios. Your Committee further finds that the only professional quality film and sound stage facility in the State, Universal City Studios, will not be available after 1986 because its lease expires at the end of that year.

Centralizing the State's efforts, through the proposed Authority, will permit a coordinated approach to the financing and management of a filmmaking facility and will also provide a focus for the issuing of filmmaking permits.

Your Committee has received a large number of positive testimony from all segments of the business community regarding the purpose of this bill. Job opportunity enhancement, revenue enhancement for the State and local governments, and selling Hawaii to the world through films produced in the State are the main reasons for the many positive statements regarding the purpose of this bill.

Your Committee concurs with the intent and purpose of the bill but recommends some amendments to improve its effectiveness:

(1) Page 2, line 9: The word "facilitate" has been changed to "issue". This change will enable the Authority to expedite the film permit process which is, at present, a major source of complaints from filmmakers.

(2) Page 5, line 6: The unspecified number of voting members of the Authority's board of directors has been changed to "eleven". On line 10, the three members specified are to be selected from Hawaii resident members of the film and television production community with minimum qualifications of:

(a) Having at least 10 years of professional experience;

(b) Having "above the line" credits on at least six local productions in excess of 30 finished minutes of running time and "above the line" credit on at least one feature film; and

(c) Having had a Hawaii State excise tax license for a minimum of three years.

The "at large" membership would be reduced to two. These changes are made to provide the crucial ingredient (expertise) necessary for the successful operation of an Authority such as proposed in this bill.

(3) Page 7, line 3: The phrase "the issuing of" has been added between "agency for" and "permits" to emphasize the importance of this activity.

(4) Page 8: A new "(17)" has been added to emphasize the point that the Authority should fund and permit the use of the facilities to the local industry, local production, and local training and education in filmmaking activities.

(5) Page 23, line 1: The sum to be appropriated has been changed from \$100,000 to \$251,200. This change will permit the Authority immediately, and on a scale commensurate with the urgent need, to provide for the development and feasibility research necessary to determine a ten-year master plan for the industry and the nature of the physical facilities contemplated in this bill, and to permit the integration of the current Film Industry Branch, of the Department of Planning and Economic Development, and the Authority to be created by this bill.

(6) Page 23: A new SECTION 5 has been added, specifying consideration be given to selecting the land parcels noted to be used as filmmaking complexes. This is done to preclude the time-consuming process in locating such sites. If the creation of the Authority and the construction of filmmaking facilities are as urgent as your Committee is led to believe, pre-selection of sites will aid in avoiding delays.

(7) Page 23: A new SECTION 6 has been added, providing for severability of invalid provisions or application of this bill, if enacted.

(8) SECTION numbers have been re-aligned to accommodate the amendments made by your Committee, and other technical, non-substantive amendments have been made in conformance with the Ramseyer format.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 472, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 472, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hagino, Kamali'i and Tom.

SCRep. 689 Water, Land Use, Development and Hawaiian Affairs on S.B. No. 1210 (Majority)

The purpose of this bill is to repeal the exclusion from the general excise tax provided for federal cost-plus contractors and to provide for exempting amounts received by contractors with respect to sales to the federal government.

Your Committee received favorable testimony from the Construction Industry Legislative Organization, the Plumbing and Mechanical Contractors Association of Hawaii, the Pacific Electrical Contractors' Association, the Sheet Metal Contractors Association, and the Hawaii Business League, and finds that this bill will permit the local contractor who bids on federal government contracts to be more competitive with out-of-state contractors. Currently, local contractors are at a disadvantage in bidding for federal work because mainland contractors do not include the general excise tax in their bids, nor pay this tax to the state tax office. Because the local contractor must include the general excise tax in the contractor's bid, the local contractor in most cases is not able to receive federal work. In 1983 the federal government offered \$171,469,000 in work and local contractors received \$68,587,000 of that amount. Your Committee supports this bill which would put local contractors on an equal footing with mainland contractors when bidding for federal contracts.

Your Committee is in agreement with the provision for the repeal of Section 237-13(2)(E) which refers to Section 237-13(3)(C) which is repealed by the bill.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 1210, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hagino, Kamali'i and Tom.
(Representative Isbell did not concur.)

SCRep. 690 Health on S.B. No. 69

The purpose of this bill is to reauthorize the department of health to regulate the systematic testing and screening of newborn infants for metabolic diseases.

This bill proposes the more appropriate placement of section 333-1, Hawaii Revised Statutes, which requires the testing of newborn infants for phenylketonuria and hypothyroidism, in chapter 321, part IV, Hawaii Revised Statutes, under the crippled children service branch program, since not all metabolic diseases lead to mental retardation. Further, it gives the department the authority to determine and test for other diseases that can lead to lifelong disability if not detected and treated.

Your Committee realizes the impact such diseases have upon infants and their future as potentially contributing members of society. While such problems are fortunately rare, the ease of detection and remedy at infancy can prevent the terrible consequences of those diseases. Your Committee, thus, believes it to be a matter of high priority that testing be performed as effectively and universally as possible.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 69, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 691 Health on S.B. No. 557

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 useful in, the operation of health care facilities.

Specifically, this bill designates the sum of \$5,000,000 to Queen's Medical Center, \$3,000,000 to Wahiawa General Hospital, and \$3,000,000 to Wilcox Memorial Hospital, Kauai, to be used for the purpose of financing or refinancing the purchase of equipment.

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. The cost of interest is substantially less when tax exempt bonds are utilized for the financing of equipment needs, and the savings generated by the utilization of special purpose revenue bonds have played a significant part in the cost-containment programs instituted by the subject hospitals.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 557, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 692 Health on S.B. No. 1127

The purpose of this bill is to permit licensed dental hygienists to take dental impressions for study casts and administer local anesthetics under the direct supervision of a dentist. Authorization to administer local anesthetics would be contingent upon the hygienist having passed a Board of Dental Examiners' program and being certified as competent to do the procedure.

The main goal of dental hygiene is the prevention of dental disease, and an integral component of periodontal treatment is deep scaling, root planting, and soft tissue curettage which may require a local anesthetic to provide patient comfort. This bill would permit licensed, certified dental hygienists to perform those functions, but only while under the direct supervision of a dentist, and also prohibits dental hygienists from establishing or operating a separate dental hygiene facility.

After considering the testimony presented, your Committee has amended the bill by strengthening and clarifying the certification provision by providing that certification shall be contingent upon successful completion of an approved course of study and passage of an examination. Your Committee further amended the bill to provide that the board of dental examiners shall establish a certification process not later than June 30, 1986.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1127, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1127, S.D. 1, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 693 Ocean and Marine Resources and Water, Land Use, Development and Hawaiian Affairs on S.B. No. 95

The purpose of this bill is to: (1) implement the reorganization of aquatic resources and wildlife functions of the Department of Land and Natural Resources, and (2) consolidate certain sections in Title 12, Hawaii Revised Statutes, to specifically reflect aquatic resources.

This bill will facilitate referencing and locating of specific statutes, and is intended to minimize confusion, misunderstanding and misinterpretation of aquatic resources laws codified in the Hawaii Revised Statutes.

The bill was amended to correct certain typographic, technical, and stylistic errors; no substantive changes were made.

Your Committees on Ocean and Marine Resources and Water, Land Use, Development and Hawaiian Affairs, are in accord with the intent and purpose of S.B. No. 95, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 95, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Kamali'i.

SCRep. 694 Health and Human Services on S.B. No. 1185

The purpose of this bill is to exempt from the general excise tax, gross proceeds received from the retail sale of prescription drugs.

Currently, proceeds received from the sale of prescription drugs are subject to the four per cent general excise tax that is generally levied against all persons engaging in business within the State. This bill would exclude from the tax, proceeds realized from the retail sales of drugs which are prescribed by a practitioner licensed by law to administer the drug and which are dispensed and sold by a licensed pharmacist.

Your Committees note that the Department of Taxation is in favor of this exemption and the revenue loss will be at acceptable levels. Your Committees find that this exemption will assist our lower-income and elderly populations which must purchase prescription drugs. This exemption will be of particular assistance to those who are chronically ill. Furthermore, this exemption will assist in alleviating the high cost of living in Hawaii.

Your Committees on Health and Human Services are in accord with the intent and purpose of S.B. No. 1185, S.B. 1, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 695 Human Services and Health on S.B. No. 474

The purpose of the bill is to delete all provisions relating to reimbursing providers of health care services in accordance with specific fee profiles and replace them with provisions whereby providers of institutional health care services would be reimbursed through a prospective payment system and noninstitutional providers of health care would be reimbursed through a rate determined by the Department of Social Services and Housing (DSSH) but limited by Medicare and the Legislature's limits as provided in the appropriations act.

In the appropriations act of 1984, the DSSH was mandated to develop and implement prospective payment plans for institutional health care services. The plan for long-term institutional care has already been developed and a plan for hospital in-patient care payment is being developed for implementation in July 1985. The DSSH has further indicated to your Committees that a plan to pay physicians and other practitioners on the basis of the Health Care Administration's procedure code system, rather than on the basis of individual fee profiles, is projected for implementation in July 1985.

Your Committees find that the Hawaii prospective payment system is a facility-specific cost system based on each facility's actual audited cost experience trended forward. Your Committees further find that the prospective payment system will enable the state to contain the increase in future expenditure growth and more easily project anticipated long term health care costs. Your Committees believe that while the proviso in the appropriations act of 1984 may be legally sufficient to carry out the legislative intent beyond June 30, 1985, out of an abundance of caution, the implementation of the prospective payment system should be statutorily provided for.

Your Committees have amended paragraph (c) of the bill by providing language that would: (1) allow the DSSH to adopt the Health Care Administration's procedure code system; (2) clarify that the DSSH pay the provider's billed amount or the department's reimbursement rate, whichever is less; (3) provide for annual

review of the rates of payment to providers of medical care; and (4) specify that the DSSH's fee schedule be adjusted in accordance with the appropriations act.

Your Committees are in accord with the intent and purpose of S.B. 474, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. 474, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 696 Human Services on S.B. No. 1436

The purpose of the bill is to provide a funding source for child abuse prevention programs and services by placing surcharges on birth and marriage certificates. The bill also increases the membership of child abuse and neglect prevention and advisory committee from seven to thirteen members.

Your Committee received much testimony in support of the bill and finds that the intent of the measure is clearly and strongly in the public interest. Upon consideration, however, your Committee has amended the bill as follows:

- (1) References to a "special fund" have been deleted throughout the bill and in its place the bill provides that monies collected from surcharges be deposited into the "general fund";
- (2) by providing that the department of social services and housing rather than the advisory council be responsible for administering and awarding federal grants in keeping with its designation as the child abuse agency for federal purposes;
- (3) by specifically requiring that requests for funding for child abuse prevention programs and services conform to the requirements of Chapter 42;
- (4) by allowing the department of health to accept contributions from private sources for child abuse and neglect prevention programs and services;
- (5) by clearly specifying that the advisory council's role is strictly advisory to the department of health;
- (6) by amending the terms of office for council members from three to four years terms to conform with other advisory bodies to the department of health;
- (7) by expanding the membership of the advisory council to include representatives from public agencies such as the department of health, department of social services and housing, department of education, family court and office of children and youth;
- (8) by providing for a general fund appropriation for the purposes of the Act which equals the anticipated revenue from the surcharges;
- (9) by specifying July 1, 1985 as the effective date of the Act.

Your Committee is in accord with the intent and purpose of S.B. No. 1436, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1436, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 697 Human Services on S.B. No. 1432

The purpose of the bill is to mandate the inspection of adult family boarding homes and adult residential care homes, which care for up to five residents, by county fire departments.

Your Committee received testimony from the Fire Chief of the Honolulu Fire Department in opposition to the bill. Your Committee agrees that the department

of health (DOH) as the licensing state agency is able to provide uniform standards for all care and boarding homes on all islands. Your Committee also agrees that the DOH with its medical expertise will be better able to upgrade standards to address the current trend to place patients who are mentally incapable of self-preservation and patients who are non-ambulatory in boarding homes and care homes.

Your Committee believes that the proposed DOH standards will be more stringent than current county fire codes and that the DOH is better able to carry out the legislative concern for the safety and well-being of residents in care homes and boarding homes in the state.

Your Committee received the assurances of the Honolulu Fire Department that supportive correctional services using the DOH standards can and will be continued.

Your Committee has therefore amended the entire bill by substituting the language in the House version of the bill for the present language.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1432, S.D. 2, as amended herein, and recommends that it pass Second Reading in form attached hereto as S.B. No. 1432, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 698 Human Services on S.B. No. 113

The purpose of the bill is to establish a permanent nursing home without walls program.

While your Committee concurs with the intent of this bill to extend the program for an additional two-year period, to provide an exception to the 75 percent expenditure ceiling and to remove the provision which limits services to the island of Oahu, your Committee finds that establishing the program on a permanent basis at this time is premature and may negatively impact the program.

Your Committee believes that the two-year extension of the program as a demonstration project will enable the Department of Social Services and Housing (DSSH) to further evaluate the program, to develop a permanent organizational structure, functional statements and permanent position requirements before the legislature considers permanency.

The Legislative Auditor's Report No. 85-10, pages 66 and 67, released February 1985, recommended that DSSH use an additional two years to "develop and submit to the legislature a program design for Nursing Home Without Walls which outlines the steps necessary, the resources required, and the timetable for full program implementation."

The DSSH testified that it concurred with the Legislative Auditor's report and saw much wisdom in retaining the program as a demonstration project for another two years.

Your Committee believes that the special complexities and costs involved in the development of new services on the neighbor islands lends further credence to the position that the program be maintained as a demonstration project.

Your Committee has therefore amended the entire bill by substituting the language contained in the House version of the bill for the present language.

While the bill also proposed that the program be expanded to the neighbor islands, the bill did not provide any appropriations for the purpose. Your Committee has therefore further amended the bill by adding sections 10 and 11 providing for the appropriations and specifying the expending agency.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 113, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 113, S.D. 2, H.D. 1 and be

referred to the Committee on Finance.

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

SCRep. 699 Human Services on S.B. No. 656

The purpose of this bill is to reduce the general excise tax rate for adult residential care homes and adult family boarding homes from the current four percent to one-half of one percent of gross income from such activities.

Your Committee received testimony in support of the bill from the United Group of Home Operators, the Department of Social Services and Housing (DSSH) and the Kokua Council for Senior Citizens.

Your Committee concurs with the testimony given that home operators provide a vital service for the State. The current level of payments to these operators are substantially lower than what it would cost to have these residents cared for in long-term care institutions. Adult residential care homes and adult family boarding homes subsidize many of the costs involved in providing 24-hour care and supervision to their residents.

Your Committee finds that home operators pay the 4% general excise tax on all items used by the residents and then pay an additional 4% tax on their income. Furthermore, their level of payments are fixed by statute and not easily adjusted to reflect increasing costs.

Your Committee believes that providing an incentive for more persons to become operators and care for our elderly, developmentally disabled and handicapped is prudent, cost-effective, and a desirable public policy objective.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 656, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 700 Transportation on S.B. No. 133

The purpose of this bill is to prohibit aircraft from being operated at any airport owned or operated by the State Department of Transportation unless the aircraft has a certificate of registration issued in accordance with Department rules. The bill would provide certain exceptions to this prohibition, would set the annual registration fee at \$15, and would provide penalties for failure to register aircraft.

The Department of Transportation testified that aircraft registration is needed to provide an accurate record of the numbers and owners of aircraft that use state airport facilities. This information is particularly essential where an owner or operator of an aircraft must be notified of the need to move the aircraft. The Department has testified that FAA records are not sufficient or current enough to meet the Department's operational needs and that a state registration system is needed.

The Department further stated that such registration information can be used to provide data as a basis for planning airport improvements and for soliciting the views of aircraft owners and operators on the State's general aviation program.

Your Committee made grammatical corrections to the bill at page 2, line 1, capitalizing the letters "i" and "a" in the words "international" and "airport".

Your Committee believes that the proposed registration fee of \$15 would exceed the cost to the Department of Transportation of implementing an aircraft registration system. Therefore, your Committee has amended the second new section of Hawaii Revised Statutes proposed by this bill to alter the proposed registration fee from \$15 to \$5.

Your Committee on Transportation is in accord with the intent and purpose of

S.B. No. 133, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 133, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 701 Transportation on S.B. No. 127

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 make explicit the prohibition against other persons or agencies performing any of the department's functions, except for military purposes; and 4) to enable the department of transportation 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.

Your Committee finds that, 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, as amended, 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 Section 1 of the bill amending §261-4, H.R.S., to make technical amendments to conform to recommended bill-drafting style and to make punctuation amendments at page 1, lines 4 and 11 of the bill, as it was referred to your Committee. Your Committee is concerned that the proposed language of the bill prohibiting certain agencies from performing certain functions within the jurisdiction of the department of transportation may be unduly restrictive and could lead to interdepartmental or intergovernmental problems. Your Committee has therefore amended the bill to delete the proposed sentence at Section 1, page 3, lines 6 to 9 of the bill, as it was referred to your Committee.

Your Committee has amended Section 1, page 3, line 12 of the bill, as it was referred to your Committee, to add the words "to be used" in order to clarify the types of structures and improvements that may be planned, designed, and constructed by the department.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 127, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 127, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 702 Health on S.B. No. 1186

The purpose of this bill is to allow the director of health, with the approval of the governor, to contract with private individuals or corporations for the administration or lease of all the facilities of the county/state hospitals division in the county of Hawaii, collectively.

Your Committee recognizes the need for further options that would directly address the difficulties encountered by the State in administering its hospitals and believes that the flexibility provided by this bill will alleviate these problems and consequently, enhance health care in the State, especially for the people of Hawaii county.

The bill also ensures that employees will not be adversely affected by any contract entered into by the State for administration of its county and state hospitals.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1186, S.D. 2, and recommends that it pass Second Reading and be referred to the

Committee on Finance.

Signed by all members of the Committee.

SCRep. 703 Health on S.B. No. 1188

The purpose of this bill is to permit the department of health to assume responsibility for administering a maternal and child health program in order to reduce infant and maternal mortality, and to promote the health of mothers and children.

Under existing provisions of the statutes, the department's functions in the maternal and child health program areas are limited to preventive medicine activities. This measure will broaden the scope of services provided and strengthen the role of the department in providing the leadership in assuring that mothers and children in the State of Hawaii have access to appropriate and quality health care services.

This bill will also permit the department of health to enter into contractual agreements with other qualified agencies to provide for services in the area of maternal and child health care. The department of health testified in favor of this bill and further stated that no additional funding will be necessary for implementing the program to be instituted by the provisions of this bill.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1188 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 704 Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs on S.B. No. 615

The purpose of this bill is to allow for the award of reasonable attorney's fees to any private party suing for injunctive relief against another private party who has been or is undertaking any development without obtaining the necessary permits and approvals for development. This bill provides the court with the discretion to award attorney's fees and costs to the prevailing party in the suit.

Your Committees find that the volume of development throughout the State is a limiting factor on State or County investigation of alleged abuses against public resources and the environment. Often, these disputes involve private parties; these cases are settled judicially within the courts. However, the high cost of civil procedure places substantial burdens upon the parties involved in such cases. The award of attorney's fees to the prevailing party in such a suit would discourage frivolous actions by a plaintiff and intentional abuses by a potential defendant.

Your Committees have amended this bill to require the court to award attorney's fees to the prevailing party in environmental disputes. The word "may" has been deleted from line 14, page 1 and replaced with the word "shall" so that the phrase reads "...the court shall award reasonable attorney's fees...". The phrase "work relating to land use" in line 11, page 1, has also been reinserted in the bill. Your Committees find that these disputes are the prevailing cases brought to the courts.

Your Committees on Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 615, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 615, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representatives Crozier, Hagino, Kamali'i, Metcalf and Pfeil.

SCRep. 705 Planning, Energy and Environmental Protection on S.B. No. 702

The purpose of this bill is to extend Act 275, Session Laws of Hawaii 1984, for two years and to clarify certain of its provisions.

Act 275 designates the Office of Environmental Quality Control (OEQC) as lead agency in the areas of pesticide control and environmental quality in the State until June 30, 1985. This bill extends this authority until June 30, 1987 and appropriates \$390,000 for the fiscal biennium 1985-1987 to carry out the purposes of this Act. The bill also requires the OEQC to submit a report of its activities to the Regular Session of 1986.

Your Committee finds that there is continued need for the OEQC to provide statewide leadership in the areas of pesticide use and control and environmental quality. Your Committee, therefore, favors continuation of Act 275 for two years.

Your Committee further finds that the requirements of administering Act 275 call for some clarification of the charge given the OEQC in Section 341-4, Hawaii Revised Statutes. Consequently, your Committee has amended this bill to amend Chapter 341, reflecting this circumspect view, as follows:

1) OEQC is charged to develop a comprehensive action plan as a context for coordinating pesticide-related and other environmental protection activities.

2) OEQC is also given non-supervisory coordinating responsibilities for environmental protection research, to avoid duplication and to focus upon statewide priorities.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 702, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 702, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Crozier, Hagino, Kamali'i and Pfeil.

SCRep. 706 Planning, Energy and Environmental Protection and Agriculture on
S.B. No. 342

The purpose of this bill is to amend Subsection 149 A-13(b), Hawaii Revised Statutes, to establish the annual license fee for a restricted pesticide at a minimum of thirty dollars. This bill also provides for a discretionary increase in license fees according to the amount of pesticide to be sold, offered for sale or distributed.

Your Committees find that this increase in the minimum fee of licensing restricted pesticides will serve as a deterrent to the indiscriminate use of such pesticides. A minimum fee of thirty dollars would continue to ensure the availability of these pesticides to meet our unique agricultural needs while providing a safeguard to Hawaii's environment.

Your Committees on Planning, Energy and Environmental Protection and Agriculture are in accord with the intent and purpose of S.B. No. 342, S.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Crozier, Hagino, Kamali'i and Pfeil.

SCRep. 707 Planning, Energy and Environmental Protection on S.B. No. 153

The purpose of this bill is to authorize the Board of Land and Natural Resources to fix royalty payments for the utilization of geothermal resources or waive royalty payments for any fixed period of time not exceeding eight years in order to encourage production.

Major geothermal programs were initiated in Hawaii in the late seventies and early eighties when oil price projections made geothermal appear economically attractive. Since more than ninety per cent of Hawaii's energy comes from imported oil, geothermal is a most promising alternate energy resource, the development of which is crucial to the economy of the State and to the achievement of the State Plan goal of energy self-sufficiency.

While it fully supports the development of a geothermal industry in Hawaii, your

Committee finds that geothermal royalty payment waivers or adjustments may substantially impact potential State revenues. Your Committee wishes to insure that these waivers are administered with the utmost discretion. Therefore, this bill has been amended to provide for legislative review, with the option to disapprove, of royalty waivers or adjustments administered by the Board of Land and Natural Resources.

Your Committee finds that further clarification of the assessment criteria of the Board of Land and Natural Resources' royalty evaluation procedure is necessary. Your Committee has amended this bill by requiring the Board to adopt and administer rules to establish a basis upon which royalty payments by a lessee to the State will be fixed or waived. Your Committee has added language to further clarify the Board's responsibility to assess royalty waivers or adjustments on the basis of contingent requirements.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 153, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 153, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 708 Planning, Energy and Environmental Protection on S.B. No. 162

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 Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 162, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 709 Planning, Energy and Environmental Protection on S.B. No. 319

The purpose of this bill is to make permanent the one-half per cent general excise tax rate on sales of generated electricity to public utility companies for resale to the public.

Act 103, Session Laws of Hawaii 1981, provides that the gross proceeds from the sale of electric power to a public utility company shall be taxed at the rate assessed producers--one-half of one per cent--until December 31, 1985. Since the Act was passed, the sale of electricity by small energy producers to the utilities has risen from \$14 million per year to an estimated \$20 million in 1984. More than ninety per cent of this electricity was produced from indigenous renewable resources, including bagasse, geothermal, wind, solar, and hydro. A small amount of petroleum is needed to supplement these renewable sources depending on weather and supply factors.

Your Committee finds that it is essential for the State to continue reducing its dependence upon imported petroleum by developing indigenous energy resources. Favorable tax treatment is one way of encouraging new industries and is especially crucial to the energy industry because the federal energy tax credit is scheduled to terminate at the end of 1985, and plentiful oil supplies and lower oil prices, even though temporary, act as disincentives to alternate energy development.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 319 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 710 Planning, Energy and Environmental Protection on S.B. No. 937

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 further finds that it is imperative that the State support and encourage energy industries that utilize indigenous sources of energy such as solar and wind resources. At present, solar water heaters, wind energy devices, and heat pump systems contribute significantly in reducing Hawaii's dependence upon petroleum based fuels. Your Committee finds that the present tax credit available to resident taxpayers for the installation of such energy saving devices has served to encourage the use of such equipment. With the prospect that Congress may not choose to extend the federal tax credit beyond the established expiration date, your Committee finds that an extension and increase of the present state energy device tax credit is timely. In this regard, this bill has been amended by inserting Section 2 to provide for the extension and increase of the state energy tax credit presently available for the installation of solar, wind and heat pump devices.

Your Committee has further amended this bill by inserting a new Section 3 to provide for the exemption from taxation any proceeds arising from the organization of sport tournaments which deposit such proceeds into a trust fund for the benefit of the tournament and its participants. Your Committee finds that the non-profit nature of these tournaments justifies the exemption proposed in this amendment.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 937, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 937, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Crozier, Hagino, Kamali'i and Pfeil.

SCRep. 711 Planning, Energy and Environmental Protection on S.B. No. 159

The purpose of this bill is to permit state agencies to enter into agreements with private parties for the installation of energy conserving or renewable energy production systems whereby the agency and the private party would share the energy cost savings.

Currently, state statutes do not provide for third-party financing. This bill would clearly authorize and encourage such energy and money saving arrangements under the leadership of the department of accounting and general services as the approving agency.

Your Committee finds that lack of capital has been a serious barrier for most governments in accomplishing economically beneficial energy projects. However, several other states such as California, Washington, and New Jersey have successfully demonstrated the effectiveness of third-party or shared-saving arrangements. Under such a system, the State would bear no out-of-pocket costs for the implementation of energy and cost saving systems in its facilities and would thereby reduce operating costs.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 159, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 712 Employment Opportunities and Labor Relations on S.B. No. 882

The purpose of this bill is to provide that tips and gratuities paid to an employee, as well as wages, be included in calculating the employee's weekly wages to determine unemployment compensation benefits.

Currently, tips and gratuities which are paid directly by a customer to a worker are considered wages for unemployment purposes only if they are reported to the employer to meet minimum wage standards. Tips reported to an employer for federal tax reporting purposes are excluded in computing the individuals entitlement to benefits.

Your Committee is in agreement with the effective date of January 1, 1986 to conform to the Federal Unemployment Tax Act (FUTA) which will include tip income reported to the employer for purposes of FUTA effective that date.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of S.B. No. 882, S.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 713 Employment Opportunities and Labor Relations and Judiciary on
S.B. No. 78

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

Currently, Part II provides that it is unlawful for an employer to require an employee or a job applicant to submit to a lie detector test as a condition of employment or continued employment and provides for a fine of not more than \$1,000 or imprisonment of not more than one year, or both; however, fines are assessed only in the event of criminal prosecution. This bill provides a remedy for the aggrieved party and for civil and criminal penalties for each violation, and authorizes the Attorney General or the county prosecutors to take civil and criminal actions.

Your Committees have amended the bill to require 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. This would protect the employer should there be some discrepancy as to whether or not the employee or prospective employee had been informed of the employee or prospective employee's rights.

Your Committees on Employment Opportunities and Labor Relations and Judiciary are in accord with the intent and purpose of S.B. No. 78, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. 78, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 714 Water, Land Use, Development and Hawaiian Affairs and
Agriculture on S.B. No. 1346

The purpose of this bill is to delete the time limitation on the one-half per cent yield tax rate applicable to trees cut on lands subject to any state forest lands management program. The tax would be allowed to remain at one-half per cent rather than being increased to two and one-half per cent.

Your Committees find that the substitution of a yield tax in lieu of real property taxes for the planting of trees is fairly common in states where forestry is a larger part of the economy than it is in Hawaii. Chapter 186, Hawaii Revised Statutes, on "Tree Farms", is based on legislation passed in 1963 as an incentive for the development of forest resources by private land owners in Hawaii. The yield tax, in lieu of real property and applicable excise taxes, was set at five per cent. No tree farms have been developed in Hawaii under Chapter 186. As an added inducement, the 1983 Legislature amended Section 186-9 to lower the yield

tax for trees cut on lands subject to a state forest lands management program to one-half per cent from July 1, 1983 to June 30, 1985, and then to increase it to two and one-half per cent from July 1, 1985.

According to testimony by the Department of Taxation, there is no objection to a further extension of time on the one-half per cent tax rate, and a five-year temporary expansion would be appropriate. In support of this bill, the Department of Land and Natural Resources also testified that it would assess the effectiveness of this forest resource development inducement during that period.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Agriculture are in accord with the intent and purpose of S.B. No. 1346, S.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Crozier, Hagino, Metcalf, Nakata, Pfeil, Shon and Tom.

SCRep. 715 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
82

The purpose of this bill is to provide greater financial support for the maintenance of lands under the control of the Board of Land and Natural Resources, by increasing the maximum amount of expenditures from the special land and development fund for incidental maintenance from \$100,000 to \$200,000 annually.

Your Committee is of the opinion that the maximum amount should be increased from \$100,000 to \$200,000 annually, particularly for stream maintenance and other activities to reduce the likelihood of potential litigation.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 82, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hagino and Tom.

SCRep. 716 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
154

The purpose of this bill is to authorize the Hawaii Community Development Authority to issue \$15,000,000 of revenue bonds to finance the development of public facilities in Kakaako.

Under Chapter 206E, Hawaii Revised Statutes, the Hawaii Community Development Authority is required to plan, locate, and develop public facilities to support the development of the Kakaako Community Development District. Of immediate concern to the Authority is the development of public parking garages. These parking facilities would encourage a walk-to-work community and the development of smaller properties by private owners who are unable to provide the minimum amount of parking due to the size of their lots. Further, the provision of public parking will support major private development in the district and relieve the area of current hazardous conditions created by the lack of on-street parking.

Your Committee finds that the Authority lacks sufficient economic resources to provide public parking structures and other necessary facilities. By receiving authorization to use revenue bonds for public facilities, in general, rather than specifying a particular facility, such as parking structures, the Authority is given the flexibility needed to structure revenue bond financing.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 154, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hagino and Tom.

SCRep. 717 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
155

The purpose of this bill is to provide enabling legislation for the various counties to establish tax increment districts and to authorize the counties to issue tax increment bonds to finance the costs of infrastructure and public improvements in such districts.

The legislature last year recognized tax increment financing as an innovative financing method, that may be utilized by county redevelopment agencies or the Hawaii Community Development Authority, and passed a bill similar to S.B. No. 155. The bill, however, was vetoed by the Governor because of concerns that the bill could have resulted, if enacted, in adverse financial impacts on the counties. Your Committee notes that this bill alleviates those concerns by:

(1) Requiring the submittal of the tax increment financing plan to the respective county departments of finance and budget for their review and comments on financial matters; and

(2) Allowing the director of finance to establish an adjustment rate, or rates, to allocate the tax increment amounts to enable the counties to be compensated for inflationary increases and projected cost increases for servicing new developments in the tax increment district.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 155, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hagino and Tom.

SCRep. 718 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
470

The purpose of this bill is to allow a lessee of a Hawaiian Home Lands homestead to mortgage the lessee's interest in a homestead lease.

Section 208 of the Hawaiian Homes Commission Act, 1920, as amended, does not permit a lessee to mortgage or pledge the lessee's interest in the homestead lease.

Mortgage lenders in Hawaii have been unwilling to make loans because of the non-alienation lease restriction in the Act, unless full guarantees are provided by the State. The absence of private financing restricts the ability of the Department of Hawaiian Home Lands to accelerate awarding lands to qualified native Hawaiians. In light of the State's current fiscal constraints and the impact that loan guarantees may have on the State's debt ceiling, furnishing State funds for loans or guaranteeing loans presents a significant concern.

Recent amendments to federal law now allow the U.S. Department of Housing and Urban Development (HUD) to insure loans made on homestead leases. Representatives from the Washington, D.C., offices of HUD, the local director of HUD, members of local lending institutions, and the Department of Hawaiian Home Lands staff have been meeting over a number of months to ascertain how homesteaders may be able to obtain loans through the federal program.

This bill amends Section 208 of the Act to allow a lessee to mortgage the lessee's interest in a homestead with a private bank, financial institution, or any other investor, provided that the loan is insured or guaranteed by a federal agency, such as HUD.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 470, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Hagino and Tom.

SCRep. 719 Water, Land Use, Development and Hawaiian Affairs and
Agriculture on S.B. No. 83

The purpose of this bill is to establish an agricultural park revolving fund within Hawaii's state treasury.

Section 171-112, Hawaii Revised Statutes, currently authorizes the Board of Land and Natural Resources to lease private property for agricultural purposes. The revolving fund would be used to deposit rentals received from farmers who sublease privately owned lands leased by the State and to enable the State to make rental payments to the private landowners from the fund. In the absence of such a revolving fund, the Department must rely solely on legislative appropriations for required funds to pay the private landowners, while receipts from subleases are deposited in the State's general fund.

Your Committees are in agreement that the revolving fund should be created in the state treasury and that the use of funds for infrastructure improvements should be only for those parks which have been selected by the Department of Land and Natural Resources.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and on Agriculture are in accord with the intent and purpose of S.B. No. 83, S.D. 2, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hagino and Tom.

SCRep. 720 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
287

The purpose of this bill is to amend Section 206E-6, Hawaii Revised Statutes, to ensure that public facilities in Kakaako are designed and constructed to meet county standards.

The current statute requires the Hawaii Community Development Authority to obtain the consent of the county council before developing public facilities which will affect other public facilities owned or controlled by the county.

The intent of the law is to ensure that public facilities developed by the Authority, in particular infrastructure improvements, are properly designed and constructed and in good working condition for dedication to the county. Current language, however, may be interpreted to mean that a county council could prevent the development of public facilities financed through bonds issued by the Authority.

The Authority is required to follow statutory procedures to ensure that infrastructure improvements are properly designed and constructed. The additional step requiring the Authority to obtain the county council's consent before the development of public facilities is a processing step not required of any other department.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 287, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hagino and Tom.

SCRep. 721 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
1351

The purpose of this bill is to make two amendments to Section 206E-1, Hawaii Revised Statutes.

The first amendment of the bill provides an additional finding by the Legislature that the Hawaii Community Development Authority's redevelopment activities and the issuance of bonds to finance public improvements are of public interest and of state-wide concern. The second amendment provides clarifying language that an

assessment levied by the Authority against real property shall not constitute a tax on real property.

Pursuant to Chapter 206E, Hawaii Revised Statutes, the Authority is required to develop a district-wide improvement program for designated redevelopment districts, such as Kakaako. Under this program, the Authority is required to implement needed public improvements and to assess a portion of the improvement costs against the real properties which specially benefit from the improvements. For any property owner who elects to pay an assessment in installments, the unpaid assessment amount would be secured by a lien against the owner's property, and the Authority would issue Improvement District (ID) assessment bonds to provide the funds necessary for construction.

Under Article VIII, Section 3, of the Hawaii State Constitution, the power to tax real property is exclusively reserved to the counties. In view of this, there is a legal question as to whether the proposed ID assessments of the Authority, which are to be secured by liens against real property, could be construed to be a form of taxation of real property and, therefore, in conflict with this constitutional provision.

In an effort to resolve this issue, the State's bond counsel and the Office of the Attorney General have done considerable research of the State Constitution, the Hawaii Revised Statutes, and relevant judicial determinations. Based on their findings to date, however, they are unable to make a definitive conclusion that an ID assessment is clearly not a form of real property taxation. As such, it has been determined that a ruling from the State of Hawaii Supreme Court would be necessary to fully resolve this matter.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 1351, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hagino and Tom.

SCRep. 722 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
165

The purpose of this bill is to support the development of private parking structures in the Kakaako Community Development District, by specifically including parking facilities in the definition of projects which qualify for special purpose revenue bond financing.

Since the overall development of Kakaako has far-reaching social and economic benefits to the State, your Committee supports this bill which provides a necessary means of financing development activities of the Hawaii Community Development Authority.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 165 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hagino and Tom.

SCRep. 723 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
701

The purpose of this bill is to reduce the general excise and use tax on capital goods by one percent a year until June 30, 1988, when the sale of such capital goods to general excise tax licensees--people who do business in Hawaii and pay these taxes--will be totally exempt from such taxation.

The imposition of the general excise tax on such sales adds to the cost of doing business in this State and in turn adds to the cost of consumer and other products. The same may be said for the imposition of the use tax on the importation of such capital goods into the State. Both of these taxes, for the most part imposed at the four per cent rate, make it just that much harder to start a business in Hawaii and to continue such a business. This reduction and exemption is

necessary to stimulate business in Hawaii. Although tax revenues will be reduced by adopting this bill, the economic activity generated by the bill will provide additional income and payroll taxes and increased general excise taxes from increased sale of goods due to lower prices.

Your Committee notes that the reduction of the general excise and use tax on capital goods only applied to the tax on sales to licensees and not to all sales. Your Committee believes that the department of taxation will be able to administer this bill through the use of certificates such as those used for some wholesale sales or through some other cost efficient method.

Your Committee also notes that this bill includes reference to persons paying taxes under Chapter 239 (the public service company tax law), Chapter 241 (the financial institution tax law), and Section 431-318 (the insurance company tax law) to allow them the exemption granted by this bill. In order to prevent abuse, the persons purchasing or using capital goods must purchase them for, or use them in, their business.

Your Committee recommends an amendment to this bill to exempt from the use tax any scientific equipment imported into the State by a non-profit educational or scientific research organization which is exempt from net income tax pursuant to Section 501(c)(3) of the Internal Revenue Code for educational or scientific purposes. Specifically, your Committee is in agreement that the Mauna Kea scientific reserve should be exempted as it is a non-profit scientific research organization. A new SECTION has been added to this bill to incorporate this recommendation.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 701, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 701, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hagino and Tom.

SCRep. 724 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
1182

The purpose of this bill is to authorize the Chairperson of the Board of Land and Natural Resources to appoint a hearings officer for contested cases, and to authorize the officer to provide findings of facts and conclusions of law and to recommend decisions on contested cases which shall be reviewed and may be approved by the Board.

Your Committee finds that hearings have been taking a considerable amount of time. In order to maintain a quorum throughout the contested case hearing, Board members must take time off from their jobs to participate in the proceedings. Board members serve without compensation and find themselves burdened with participating in lengthy cases.

Your Committee concurs with testimony supporting this bill by the Department of Land and Natural Resources as providing needed continuity in contested case hearings.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 1182, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hagino and Tom.

SCRep. 725 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
1193

The purpose of this bill is to promote the health, safety, and welfare of the residents of depressed areas of the State which have not benefited from economic growth, by requiring the Department of Planning and Economic Development to plan, develop, and administer projects within an enterprise zone to stimulate economic growth and employment, and by providing for the designation of enterprise zones.

The concept of enterprise zones refers to areas in which local, State, and federal incentives encourage economic activities which employ residents, strengthen our economy, and indirectly contribute to the State's tax base. This bill provides for the Department of Planning and Economic Development (DPED) to be the State agency responsible for administering and developing enterprise zones and to have all of the powers necessary for these activities, including the power to sell bonds, to own or lease real, personal, or mixed property, to execute contracts, and to recommend to the Governor areas for designation as enterprise zones. The Department would, in effect, have the attributes of an "authority". The governing body of any county may apply to the Department to have areas designated as enterprise zones, and must specify local government incentives to complement State and any federal incentives for enterprise zone activities.

Your Committee heard testimony regarding this bill. All are in favor of the idea of enterprise zones. The DPED is in favor of the bill as passed by the Senate. The City and County of Honolulu's representatives informed the Committee that, while the idea of enterprise zones is good, the bill goes much further than necessary. They suggest that Part II of the bill be eliminated not only because it is unnecessary but also because "it transforms enterprise zones into industrial parks -- with government as the sole landlord. Business will then enter the zones only if they can afford the assessments ordered by the government to pay for land clearing and infrastructure". This is the idea behind enterprise zones.

Your Committee finds that language already exist in H.B. No. 809 to provide for the designation of enterprise zones, providing for the support of enterprise zones by reducing and simplifying State regulations affecting business in the zones, encouraging the counties to also reduce and simplify regulations, reducing State income and excise taxes on zone businesses, allowing businesses to carry forward net operating losses, and encouraging the reduction of real property taxes on enterprise zone businesses.

H.B. No. 809 was heard and reported out by your Committee. It has all the attributes of a good enterprise zone bill with none of the objectional provisions criticized in testimony heard by your Committee. Your Committee has therefore substituted the language of H.B. No. 809 for the language now in S.B. No. 1193, S.D. 2.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 1193, S.D. 2, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 1193, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hagino and Tom.

SCRep. 726 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
1386

The purpose of this bill is to stiffen the penalty provisions for encroachment upon public lands by amending section 171-6(12), Hawaii Revised Statutes.

Any person causing an encroachment upon public land is currently subject to a fine of not more than \$500 per day and is liable for administrative costs incurred by the Department of Land and Natural Resources (DLNR) and for payment of damages.

This bill would make the fine of not more than \$500 per day applicable to a first offense, as well as requiring the violator to restore the land to its original condition and pay attendant costs. A fine of not less than \$500 per day nor more than \$2000 per day for a second or subsequent offense is proposed, as well as restoring and assuming the cost of returning the land to its original condition. Repeat violators would also be required to perform an amount of time at community service equivalent to the amount of time necessary to earn the amount of a fine working at the minimum wage.

Your Committee is in agreement with the intent of the bill; however, your Committee recommends an amendment to give to the Board of Land and Natural Resources the latitude in determining whether the land should be restored to its original condition. In some cases, the circumstances might be such that restoration to the original condition is not feasible or desirable. Therefore, on page 3, line 20, the

phrase "if required by the board" is added between "shall" and "restore". Other typographical errors have been corrected in the bill.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 1386, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1386, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Hagino and Tom.

SCRep. 727 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
1350

The purpose of this bill is to amend Section 206E-20, Hawaii Revised Statutes, to enable the Hawaii Community Development Authority (HCDA) to file an action in the Hawaii Supreme Court and to specifically vest the Supreme Court with original jurisdiction over such action.

Pursuant to Chapter 206E, Hawaii Revised Statutes, HCDA is required to develop a district-wide improvement program for designated redevelopment districts, such as Kakaako. Under this program, HCDA is required to implement needed public improvements and to assess a portion of the improvement costs against the real properties which specifically benefit from the improvements. For any property owner who elects to pay an assessment in installments, the unpaid assessment amount would be secured by a lien against the property, and HCDA would issue Improvement District (ID) assessment bonds to provide the funds necessary for construction.

Under Article VIII, Section 3, of the Hawaii State Constitution, the power to tax real property is exclusively reserved to the counties. In view of this, there is a legal question as to whether the proposed ID assessments of HCDA, which are to be secured by liens against real property, could be construed to be a form of real property taxation and, therefore, in conflict with this constitutional provision.

In an effort to resolve this issue, the State's bond counsel and the Office of the Attorney General have done considerable research of the State Constitution, the Hawaii Revised Statutes, and relevant judicial determinations. Based on their findings to date, however, they are unable to make a definitive conclusion that an ID assessment is clearly not a form of real property taxation. As such, it has been determined by bond counsel that a ruling from the State of Hawaii Supreme Court may be necessary to fully resolve this matter.

This bill would allow HCDA to file for a ruling directly from the Supreme Court without the need to involve any of the lower courts. This would mean a reduction of time and expenses to the lower courts and HCDA, since it is conceivable that, without this amendment, HCDA would be required to file an action and obtain rulings from the Circuit Court and Intermediate Appellate Court before being heard by the State Supreme Court.

Your Committee is of the opinion that, in consideration of the substantial benefits to be realized from the redevelopment activities of HCDA, it is important that the Authority be provided with the means to proceed in an expeditious time frame. Further, your Committee finds that declaratory relief is the most efficient means of obtaining a ruling from the courts. The rules of the State Supreme Court, however, preclude declaratory relief for actions regarding tax matters, and this preclusion could deny HCDA the right to obtain declaratory relief on certain actions, such as the ability of the Authority to secure ID assessments by liens against real property. Therefore, your Committee is in agreement with the bill's provision which would enable HCDA to obtain declaratory relief for any action with respect to the validity of Chapter 206E, Hawaii Revised Statutes.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 1350, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hagino and Tom.

SCRep. 728 Water, Land Use, Development and Hawaiian Affairs and
Agriculture on S.B. No. 1394

The purpose of this bill is to encourage private-sector participation in the development of agricultural parks through the use of financial incentives.

Your Committees find that agricultural use of lands should be encouraged as a means to attain productive and long-term viability of agriculture in Hawaii. In past years, urban encroachment has made it difficult for agricultural enterprises to survive; thus, the acquisition of private property for agricultural purposes was a major concern of the Legislature to facilitate sound agricultural land-use planning.

Your Committees support the idea of an income tax credit in an amount equal to ten percent of agricultural park infrastructure development costs, if such costs are incurred by a qualified farmer. "Qualified farmer" is defined in agricultural loan law and means a person of proven farming ability who operates the person's own farm on land owned by the person or rented or leased and who is presently devoting, has devoted, or intends to devote at least one-third of the person's net cash income from direct participation in farming. This definition includes partnerships and small corporations composed of certain numbers of qualified farmers.

Your Committees are also in agreement with the definitions of agricultural infrastructure development costs to include irrigation systems, field roads, drainage layouts, and other capital development costs required by the State's agricultural park law or by State law or county ordinance in order to create an agricultural park. An agricultural park is broadly defined to include State agricultural parks, and also any agricultural complex developed by one or more qualified farmers acting together and which combines in a common location agricultural activities for the purpose of production and distribution economies necessary to the production and distribution of agricultural commodities.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Agriculture are in accord with the intent and purpose of S.B. No. 1394, S.D. 2, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hagino and Tom.

SCRep. 729 Water, Land Use, Development and Hawaiian Affairs and Planning,
Energy and Environmental Protection on S.B. No. 936

The purpose of this bill is to reappropriate \$33,260,000 in revenue bond funds for the public participation portion of the redevelopment of the Aloha Tower Complex ("project").

Act 17, Special Session Laws of Hawaii 1981, originally authorized the Aloha Tower Development Corporation (ATDC) to issue revenue bonds of \$33,260,000, for the project for fiscal years 1981-1982, 1982-1983, and 1983-1984. Act 285, Section 5F, Session Laws of Hawaii 1984, extended this appropriation for fiscal year 1984-1985. Despite this extension, your Committees find that the foregoing amount must be reappropriated because of the delay required to select a new developer for the project, after the developer granted an exclusive right to negotiate with the Corporation had pulled out of the project.

The Aloha Tower Development Corporation is currently meeting with four development concerns interested in the project. The delay caused by the need to secure a new developer will prevent the Corporation from issuing revenue bonds prior to June, 1985.

The financial plan for the project includes private sector and public participation. The major elements for the private sector include hotel, commercial, and retail facilities. Public financing is necessary to encourage private sector participation, and for the required demolition and site improvements, and auxiliary maritime facilities. The use of revenue bonds would eliminate the need for cash participation by the State.

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 S.B. No. 936 and recommend that it pass Second Reading and be

referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hagino and Tom.

SCRep. 730 Water, Land Use, Development and Hawaiian Affairs and
Agriculture on S.B. No. 1397

The purpose of this bill is to extend for an additional year the life of the State of Hawaii Land Evaluation and Site Assessment (LESA) Commission, which was established by Act 273, Sessions Laws of Hawaii 1983, with a termination date at the adjournment sine die of the Regular Session of 1985.

The LESA Commission submitted a draft report to the Legislature in February, 1985, which contained a "provisional" inventory of important agricultural lands, the methods by which such lands have been designated and classified, and a process to further refine or adjust the classification to meet changing community needs, goals, and objectives. The Commission, however, recommended that (1) the site assessment criteria be adopted only in principle in order to allow future testing and verification of their validity, (2) the important agricultural lands inventory not be adopted until each of the counties has had the opportunity to test and evaluate the inventory for a two-year period, and (3) the Commission be authorized to continue its functions for one more year to coordinate the testing and evaluation of the LESA system.

Your Committees are in agreement with the intent and purpose of this bill; however, your Committees recommend the following guidelines for the Commission's activities during the proposed one-year extension, in addition to tasks outlined in Act 273:

- (1) To recommend standards and criteria which are needed to change the designated of "important agricultural lands" to urban or other uses;
- (2) To examine and recommend how the proposed LESA system can be integrated with the present legal framework to amend or modify state land use districts; and
- (3) Given the possible result that two categories of "agricultural lands" be established as a consequence of implementing the contemplated LESA standards, criteria, and procedures -- "important agricultural lands" and "other than important agricultural lands" -- to recommend the appropriate agency or agencies which should be responsible to administer permitted uses, subdivisions, etc., on "important agricultural lands"; and to recommend the agency or agencies which should similarly administer "other than important agricultural lands".

Your Committees on Water, Land Use, Development and Hawaiian Affairs and on Agriculture are in accord with the intent and purpose of S.B. No. 1397, S.D. 2, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hagino, Kamali'i and Tom.

SCRep. 731 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
697

The purpose of this bill is to exempt exports of tangible personal property from the general excise tax.

This bill parallels the recommendations of the Tax Review Commission which recommended that the receipts from goods shipped outside of the State should be exempt from the four per cent general excise tax. The proposed bill, however, presents a more comprehensive understanding of the problems of the imposition of the general excise tax of such exports.

Under the general excise tax law, when goods are sold by a retailer for delivery outside the State there is no tax since the seller is placing it into interstate commerce. On the other hand, if the retailer conveys the goods to the buyer

within the State the four per cent tax is imposed even though the buyer will be transporting the goods out of State. This is the problem that this measure attempts to address.

Your Committee is also aware of the inconsistency in the general excise tax law with respect to the exporting of manufactured and produced goods. Section 237-13(1) and (2), Hawaii Revised Statutes, provides that the one-half per cent tax is imposed on the goods (whether sold or not) before entry into interstate or foreign commerce. As a result, all goods sold by manufacturers and producers are imposed the one-half per cent rate whether or not they are sold for in-state use or for shipment out of State, while retail goods are totally exempt from the four per cent tax if shipped through interstate commerce.

This measure corrects this inconsistency in the general excise tax law by exempting all tangible personal property exported out of State from the general excise tax law, regardless of the condition that the property is in, and whether or not the property is sold before or after it enters interstate commerce.

Your Committee is in agreement with an amendment of this bill to provide that tangible personal property does not include tangible by-products of services. This amendment is to prevent the possibility of legal briefs, accounting papers, and the like -- the tangible by-product of a service -- from being exempted under this bill. In order to encourage Hawaii's new software industry, however, the bill has been amended to specifically provide that computer software and customized computer software are included within the definition of tangible personal property. Your Committee is of the opinion that any loss in general excise tax revenues would be more than made up through the expansion of a clean industry which is so necessary to Hawaii.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 697, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hagino, Kamali'i and Tom.

SCRep. 732 Judiciary on S.B. No. 460

The purpose of this bill is: (1) to specifically authorize the Hawaii criminal justice data center to use fingerprinting as part of their identification system; (2) to enlarge the class of persons to be included in this identification system; and (3) to require the data center to record and compile information relating to crime.

The bill will amend Section 846-2.5, Hawaii Revised Statutes, to allow fingerprinting for identification purposes. In addition, the bill will add to the data base those persons who have been issued a penal summons and subsequently convicted, and those persons who have entered pleas of deferred acceptance of guilty (DAG) or nolo contendere. At the present time, the criminal history system does not have stored in its data base cases where penal summons have been issued or where DAG, or nolo contendere pleas have been entered.

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 data base for the state.

Your Committee adopted the suggestion of the attorney general to appropriate \$8,000 in order to revise their data base to collect the additional information.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 460, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 460, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 733 Judiciary on S.B. No. 459

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. The board, which will sunset on June 30, 1989, will promote interagency cooperation and coordination in the development of a statewide criminal justice information system.

Currently, 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 it lacks formal representation.

Your Committee believes this measure will help coordinate efforts between agencies to improve the criminal information system available to all segments of the criminal justice community in this State. Your Committee has amended the bill to provide an appropriation of \$7,000. The money will be used to pay transportation expenses for neighbor island members. Your Committee amended the bill to specifically note that the members of the board shall be representative of criminal justice agencies throughout the state and shall include a member from each county and ex officio members as deemed necessary.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 459, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 459, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 734 Judiciary on S.B. No. 252

The purpose of this bill is to specify the procedures by which an aggrieved party may appeal a land court decision; to establish a fee for appeal and deposits of costs on appeal; and to provide for transfer of costs to the supreme court.

Act 102, Session Laws of Hawaii 1984 repealed both the requirement that an aggrieved party appeal to the circuit court and the filing fee for said appeal. However, no provision was made for a filing fee for a direct appeal to the supreme court.

This bill will allow the land court to collect a fee for an appeal to the supreme court; to collect a deposit for costs of appeal; and further, requires the land court to remit the costs on appeal to the supreme court.

In addition, the bill revises the fee for filing a notice of appeal to \$30.

Your Committee amended the bill to insert a line which had been inadvertently omitted from the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 252, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 252, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 735 Judiciary on S.B. No. 245

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 authorizes the revisor of statutes to suspend publication of the 1985 supplement and to prepare for publication, as expeditiously as possible, replacement volumes of the Hawaii Revised Statutes.

The state bar association testified that a republication was necessary to make it easier to read laws, especially for persons not accustomed to using the statutes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 245 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 736 Judiciary on S.B. No. 36

The purpose of this bill is to compensate victims of certain crimes and providers of services under the criminal injuries compensation act and to provide an appropriation to replenish the fund from which payments are made.

Your Committee recognizes the tremendous worth of this program which was established to compensate, at least in part, the victims of criminal acts.

The fund has \$250,000 for immediate disbursement, however, all of the money has been expended. The appropriation for replenishing the fund and providing payment to additional victims and providers is contained in this bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 36, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 737 Judiciary on S.B. No. 881

The purpose of this bill is to raise the witness and mileage fees paid to witnesses in civil and criminal cases.

The bill raises the witness fees in civil cases from \$4 to \$10 a day, and in criminal cases from \$10 to \$20 a day. The bill also increases the fees for witnesses who have to travel to another island, in civil cases from \$6 to \$15 a day, and in criminal cases from \$12 to \$25 a day. The fee for a material witness in a criminal case will increase from \$20 to \$30 a day. Also mileage fees in civil cases will be raised from 20 cents a mile to 30 cents a mile. In criminal cases, the reimbursement for transportation will be amended to include ship travel.

Your Committee finds that the witness and mileage fees in civil cases have not been adjusted since 1972, and in criminal cases since 1980. An increase is warranted to reflect the increase in the cost of living over the past years.

Your Committee amended the bill to make all witness fees \$20 a day. In addition, your Committee amended the bill to increase the fees for witnesses who travel to a neighbor island by providing an additional \$10 per day.

Your Committee further amended the bill to provide an appropriation for the increase in fees.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 881, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 881, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 738 Judiciary on S.B. No. 592

The purpose of this bill is to require a person who enters into a contract with a person convicted of a crime or found not guilty under chapter 704 of the Hawaii Revised Statutes for information about the crime, to pay all moneys earned or owed to the criminal injuries compensation commission.

Your Committee finds that presently a person convicted of a criminal offense is free to exploit his or her crime by selling information relating to the crime. Your Committee believes that a convicted person should not be allowed to financially profit from his crime by retaining the proceeds of a contract for sale of information relating to the crime unless the victim of the crime is first compensated for

the harm suffered as a result of the crime.

This bill accomplishes this objective by requiring the person who contracts with the person who committed the crime to deposit moneys payable under the contract with the criminal injuries compensation commission. The moneys deposited would then be used to pay a money judgment obtained by the victim.

This bill, for the following reasons, is amended in the following major respects:

(1) Your Committee believes that this bill would be easier to understand and better organized if its provisions are set forth in a part VI of Chapter 351 of the Hawaii Revised Statutes. Therefore, this bill is amended by creating a new subchapter of Chapter 351 and setting forth its provisions in sections of that part rather than in subsections of a single section.

(2) The original version of this bill provides that only a contract entered into after conviction or acquittal under Chapter 704 is subject to its provisions. Your Committee finds that there are many occasions when, because of public interest in a crime, a person suspected of a crime enters into a contract for the sale of information prior to his conviction. Your Committee believes that this bill should apply to such a contract as well. Therefore, this bill is amended to reflect that a contract entered into before a conviction is subject to its provisions.

(3) This bill applies to a person acquitted under Chapter 704. Your Committee believes that a person who does not have penal responsibility should not be penalized in the manner provided under this bill. Therefore, this bill is amended by eliminating the requirement that moneys payable under a contract entered into by a person who is acquitted under Chapter 704 be deposited with the criminal injuries compensation commission.

(4) Your Committee further finds that this bill requires that a convicted person show the court that moneys payable under a contract are necessary in order to prosecute an appeal. Your Committee believes that there are circumstances under which such moneys may be the only assets available to a convicted person which may be used to prosecute an appeal or pursue another judicial remedy.

Therefore, this bill is amended to provide that, if moneys are payable to the convicted person under a contract, fifty percent of the moneys payable may be paid to the convicted person in order that he may pay for his legal representation on appeal. If additional funds are required for the appeal or if the convicted person requires funds to pursue other judicial remedies in order to void the conviction or obtain a release from incarceration, he may apply to the court for an order permitting him to receive additional moneys.

(5) Under the senate draft of this bill, a claimant may bring a claim against the convicted person within five years after the compensation injuries compensation commission receives a payment. Under this scheme, because a new period is started after each payment is received, there is no definite time within which a claim may be brought. Your Committee believes that this bill should not affect any applicable statute of limitations. The intent of this bill is to afford a victim of crime a mechanism under which he can receive compensation from the convicted person and not to afford the victim an increased length of time to bring an action to obtain such compensation. Therefore, this bill is amended to eliminate the five-year statute of limitations period.

(6) The original version of this bill does not identify who is responsible, if anyone, for payment to the person entitled to compensation under the contract if moneys deposited with the criminal injuries compensation commission are disbursed and the conviction is subsequently reversed or overturned. This bill is amended to provide that the commission is responsible for paying the person entitled to receive the compensation under the contract unless the compensation is payable to the person who had been convicted. The rationale for the exception is that the person who had been convicted was a judgment debtor and therefore legally obligated to make the payment disbursed by the commission to the judgment creditor.

(7) The original version of this bill does not set forth a priority of payments to judgment creditors from the special account. Therefore, this bill is amended to provide that payments shall be paid to judgment creditors in accordance with the order in which certified judgments are received by the criminal injuries compensation commission.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 592, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 592, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 739 Judiciary on S.B. No. 463

The purpose of this bill is to authorize an appropriation to provide for payment of judgments against the State, settlements, and other miscellaneous claims as provided by Section 37-77, Hawaii Revised Statutes.

Your Committee received testimony in support of this bill from the attorney general.

The bill lists twenty claims for payment and appropriates the sum of \$5,412,124.58 to satisfy them. Pursuant to the testimony of the attorney general, your committee amended the bill by adding eleven additional cases which have been settled. The sum for the additional cases is \$402,837.90.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 463, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 463, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 740 Judiciary on S.B. No. 498

The purpose of this bill is to propose an amendment to Article VI, Section 3 of the State Constitution to require the consent of the Senate for the retention of justices and judges of the supreme court, intermediate appellate court, and circuit courts. The bill also provides that the justices and judges, if retained, will be given the status of senior justices and senior judges.

Presently, if a justice or judge desires to remain on the bench, the justice or judge must petition the judicial selection commission. If the commission determines that the justice or judge should be retained, then the term of the justice or judge is renewed.

Under this bill, if the judicial selection commission recommends that a justice or judge be retained, the nominee would then be subject to review and approval by the Senate.

A consideration for the proposed amendment is that the justices and judges that are retained will be given the status of senior justice or senior judge and will receive a higher salary, commensurate with his or her experience, competence, and ability as a veteran of the bench.

Your Committee amended the bill to add the concurrence of the House of Representatives for the retention of justices and judges since the elevation to senior status has a far-reaching impact on the judiciary. In addition, the conferring of senior status will have financial ramifications since it will result in salary increases to those justices or judges with senior status.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 498, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 498, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 741 Judiciary on S.B. No. 610

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

Your Committee heard testimony from the Hawaii Bankers Association in support of the bill. According to their testimony, notary fees have not increased in almost ten years.

Your Committee amended the bill to make all fees uniform since the work involved to notarize any document is substantially the same.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 610, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 610, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 742 Judiciary on S.B. No. 1358

The purpose of this bill is to set forth by statute particular costs which may be awarded to the prevailing party in a civil action.

Your Committee finds that, presently, under statutes, and rules of court, and Hawaii case law, an award of costs pursuant to a taxation of costs is severely limited. Litigation has become more complex and more expensive, yet, the items permitted to be taxed as costs against the losing party have not changed.

This measure provides for the recovery of costs for intrastate travel expenses for counsel and witnesses, deposition transcript originals and copies, and other incidental expenses, such as copying costs, intrastate telephone charges, and postage. The bill further provides that in determining what costs should be taxed, the court shall consider the equities of the situation.

The attorney general expressed concern that the mandate to the court to consider the equities of the situation and the deletion of the requirement that the costs be reasonable will cause an adverse financial impact to the State.

Your Committee amended the bill by leaving in the requirement that the expenses must be deemed reasonable by the court. In addition, your Committee amended the bill by deleting the last sentence on page 1.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1358, S.D.1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1358, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 743 Judiciary on S.B. No. 934

The purpose of this bill is (1) to appropriate \$225,000 to computerize the land court system; (2) to revise the appropriate sections of Chapter 501, Hawaii Revised Statutes relating to land court registration, to implement a computerized system; (3) to increase the fees for registration of land court documents; (4) to eliminate land court procedures which are duplicative and cause unnecessary work; and (5) to codify present practices of the land court.

Your Committee heard testimony in favor of this measure from the department of land and natural resources (DLNR) and the judiciary.

Your Committee finds that there is currently a seven month delay in processing land court documents. In an effort to address this problem, various administrative actions have been taken, but none have achieved a substantial long term reduction of the backlog. With the installation of the computer, DLNR projects that the processing time will be reduced to ten days.

The proposed system would eliminate the need for file cabinets by allowing micro-filming of the over 50,000 plus documents received annually. Under the present filing system the department estimates that all available storage space will

be used within two years.

In addition, this measure authorizes the land court to increase their registration fees. Such an increase will more than cover the cost of installing the computer. Furthermore, the bill frees the land court from complying with burdensome administrative procedures. Finally, the bill brings the statute up to date by codifying present practices.

Your Committee has amended the bill by deleting section 2 of the measure and inserting the following: "§501- Rules. The supreme court of the State of Hawaii shall adopt, amend, and repeal rules in concurrence with the department of land and natural resources to carry out the purposes of this chapter." By amending the bill, your Committee is in compliance with the Hawaii State Constitution, Article VI, Section 7, which confers rule making powers for the courts upon the supreme court.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 934, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 934, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 744 Ocean and Marine Resources and Water, Land Use, Development
and Hawaiian Affairs on S.B. No. 90

The purpose of this bill is to:

- (1) amend Sections 187-1 and 189-2 of the Hawaii Revised Statutes to require a license for the taking of marine life for commercial purposes, whether the marine life is taken in or outside of the State, or landed in or shipped out of the State;
- (2) require individuals operating vessel charter services to obtain commercial marine licenses for the taking of marine life;
- (3) provide that a marine license may be issued to a vessel as well as an individual; and
- (4) increase the fees for commercial marine licenses.

Presently the law is not clear as to whether a license is required for any commercial taking of marine life, or only if the catch is sold or offered for sale. This bill amends section 189-2, Hawaii Revised Statutes, to clarify:

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

This bill also amends the definitions of "commercial purpose" and "commercial marine license" in section 187-1, Hawaii Revised Statutes, to conform with the proposed changes to section 189-2.

While your Committees agree that license fees should be increased, there is a need to examine the full benefits and other ramifications of such an increase. Such an examination would ideally include the development of a user scale based upon commercial, recreational, and/or subsistence purposes. As a result, the proposed increases for commercial marine licenses from \$10 to \$25 for residents, and from \$20 to \$50 for non-residents have been deleted pending your Committees' activities during the interim. In short, license fees will remain the same until the next Legislative session.

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

Your Committees on Ocean and Marine Resources and Water, Land Use, Development and Hawaii Affairs are in accord with the intent and purpose of S.B. No. 90, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 90, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Kamali'i.

SCRep. 745 Public Employment and Government Operations on S.B. No. 1413

The purpose of this bill is to provide the public with more opportunities for participation in the governmental process by clarifying certain provisions relating to public access to government meetings.

Extensive testimony relating to this measure was received, and as a result, your Committee believes that there is justification for the clarification of certain provisions of Chapter 92, Hawaii Revised Statutes, relating to public agency meetings, to reaffirm the commitment to open government.

To ensure public access to meetings where decisions are made, this bill more clearly delineates the circumstances and conditions under which an executive meeting may be held by a public board. This measure requires a majority of the board to vote to close a meeting. In addition, each member's reason for affirmatively voting for the closed meeting must be publicly announced and recorded.

This measure would also allow an executive meeting to be held to protect personal information about applicants for professional or vocational licenses, and limits closed meetings with the board's attorneys to matters relating to an actual, threatened, or proposed lawsuit in which the board is a party. Public notice and reason for an executive meeting, if known in advance, must also be given.

The bill would also prohibit board deliberations to reach decisions in an executive meeting. However, your Committee feels that this provision should not be construed to discourage open and free conversation or discussion.

The bill also provides a mandatory requirement to allow all interested parties the opportunity to submit testimony to a board on any agenda item. Under this bill, the Attorney General and the Prosecuting Attorney are directed to investigate citizen's complaints. It also provides relief to citizens denied their rights under this Chapter by allowing them to pursue their claims directly in the Courts, and allows the Courts to award those citizens attorneys' fees and costs when their claims of violations under this Chapter are sustained.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1413, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Anderson, Blair, Kim, Medeiros and Menor.

SCRep. 746 Public Employment and Government Operations on S.B. No. 1335

The purpose of this bill is to allow police officers to retire under a service-connected occupational disability in the event of incapacitation due to smoke inhalation and related injuries.

Act 191, Session Laws Hawaii 1976, provided that in the case of fire fighters and sewer workers, the effects of the inhalation of smoke, toxic gases, chemical fumes, and other toxic vapors on the heart, lungs, and respiratory system shall, for the purpose of determining occupational disability retirement, be construed as an injury received or disease contracted while in the performance of duty and as the result of some occupational hazard.

However, Act 191 inadvertently omitted police officers. This bill would correct this unintentional error and afford police officers the same benefits as fire fighters and sewer workers.

Your Committee heard testimony by the Secretary of the Employees' Retirement System and the Honolulu Police Department, and finds that police officers are

usually the first to arrive at the scene of such emergencies and are often exposed to injury resulting from smoke inhalation, toxic gases, chemical fumes, and other toxic vapor. Your Committee finds that police files indicate that in the past ten years, sixty-seven officers were decorated by the Chief of Police for entering burning buildings to save victims overcome by smoke inhalation, and exposing themselves to the same dangers. This bill would correct an inequity in the law at either low or minimal cost or no cost to the Employees' Retirement System.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1335 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair and Menor.

SCRep. 747 Public Employment and Government Operations on S.B. No. 1487

The purpose of this bill is to establish the amount of contribution by a public employer for the health benefits plan of an employee who retired after June 30, 1984 with at least five but less than ten years of credited service, excluding sick leave, at one-half of the monthly HMSA self only or family regular plan premium, as applicable. The bill also repeals the requirement that the monthly contribution of all public employees and the public employers be based on the HMSA regular plan rates.

The board of trustees of the public employees health fund has proposed this bill to correct an inadvertent consequence resulting from the nonintegration of Acts 252 and 254, Session Laws of Hawaii 1984. Prior to Act 252, a retiree from public employment was not required to contribute towards the cost of the health benefits plan. Act 252, however, requires an employee who retired after June 30, 1984, with at least five but less than ten years of credited service, excluding sick leave, to make a contribution for the employee's health benefits plan. The amount of the contribution had been intended to be the difference between the public employer's statutory contribution and the cost of the plan. Act 254, however, eliminated the public employer's flat statutory contribution and made the public employer's contribution subject to collective bargaining agreement or adjustment under the excluded officers and employees law. The net effect of the combination of the Acts is to require the employee to pay for one hundred per cent of the cost of the health benefits plan. This bill requires the employee and public employer to share in the cost of the health benefits plan, consistent with the intent of Act 252.

Your Committee received favorable testimony from the Hawaii Public Employees Health Fund administrator. However, the administrator also testified that based on an informal opinion from the State Attorney General's Office, another inadvertent consequence resulting from the nonintegration of Acts 252 and 254 would be to require the Act 252 retirees to pay their entire children's dental plan and life insurance premiums.

Your Committee believes that the enactment of Act 254 was not intended to eliminate the public employer's contribution to the children's dental plan or the group life insurance benefits for Act 252 retirees.

Your Committee has therefore amended the bill by deleting section 1 of the bill and adding a new section to Chapter 87, Hawaii Revised Statutes. The new section provides for the public employer to contribute to the health benefits plan, the children's dental plan, and the group life insurance benefits. The exact dollar amount of the public employer's contributions to the health benefits plan and the children's dental plan has been set at \$1.00, pending the outcome of the collective bargaining currently in progress.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1487, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1487, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair, Menor and Nakasato.

SCRep. 748 Public Employment and Government Operations on S.B. No. 1170

The purpose of this bill is to amend Section 88-122, HRS, to authorize the board of trustees of the public employees' retirement system to establish the investment yield rate and other factors for actuarial valuations of the system beginning with the actuarial valuation for the year ending June 30, 1985.

The Secretary, Employees' Retirement System, testified in support of the bill. He indicated that by extending to the board of trustees the discretion to establish the investment yield rate and other factors for actuarial valuations the board can more readily adopt realistic actuarial assumptions. The amendment will enable the board to better discharge its fiduciary duty to maintain the health of the system for present and future members. Mr. Siu also notes that the prevailing practice among retirement systems in other states is to have the boards adopt all assumptions to be used in determining the valuations for employer contributions.

Your Committee finds that it is necessary to amend the existing statute to provide an investment yield rate on which the board of trustees of the employees' retirement system can base its actuarial valuations for years ending after June 30, 1984. Your Committee finds, however, it more prudent to establish the investment yield rate by law rather than giving the board of trustees the discretion to set the rate. Accordingly, your Committee has amended the bill to provide an eight per cent investment yield on which to base the actuarial valuations for the years ending June 30, 1985 and 1986, said valuations forming the bases for determining the appropriations for the 1987-1989 fiscal biennium.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1170, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1170, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair and Menor.

SCRep. 749 Public Employment and Government Operations on S.B. No. 51

The purpose of this bill is to limit a public employee's state and county retirement credit while serving in the military service to two years and to exclude from state and county retirement credit members who enter military service voluntarily.

Currently, under Section 88-132, HRS, a member of the Employees' Retirement System who leaves state or county employment to enter military service is given retirement credit for the entire period of military service. During that period the applicable state or county government is required to pay all contributions payable to the retirement system by both the employer and member.

The Secretary, Employees' Retirement System, testified that under existing law, an employee who leaves state or county service to enter military service could conceivably spend his entire working career in the armed forces and then collect a retirement allowance from ERS calculated on the full period of time in the military service, without having contributed into the retirement system. Mr. Siu also relayed the concerns of the Adjutant General about the proposal to exclude the granting of military service credit for retirement purposes to those who voluntarily enter military service. Major General Lum believed that the exclusion of voluntary service would have the following deleterious effect on the National Guard and Reserves:

1. It would discourage eligible state or county employees from enlisting or accepting a commission to serve in the National Guard or Reserves because the time spent while completing basic military training or resident officer candidate training would not be creditable towards ERS service.

2. It would discourage state or county employees currently in the National Guard or Reserves from accepting assignments to military schools to improve their professional and technical competence.

3. During a national emergency which may not involve a call up of the National Guard or Reserves, it would discourage state or county employees who are members of the National Guard or Reserves from volunteering for combat or any other

type of duty to augment the effort of the active military services.

4. It would discourage state and county employees who are members of the National Guard or Reserves from accepting short duty tours.

Your Committee finds that this bill will prevent the accrual of windfall retirement benefits by limiting creditable military service to two years. However, your Committee believes that the exclusion of voluntary military service time from qualifying for up to two years of retirement credit would be detrimental to the National Guard and Reserves in that it would discourage individuals from volunteering for the various assignments. Accordingly, your Committee has deleted the proposal to exclude voluntary military service. On the other hand, your Committee has added the proviso that employees should be required to return to state or county government service upon conclusion of their military service in order for the military time to be creditable towards retirement.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 51, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 51, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair and Menor.

SCRep. 750 Public Employment and Government Operations on S.B. No. 6

The purpose of this bill is to make the position of researcher in the Office of Collective Bargaining subject to the civil service merit system and to grant civil service status to the incumbent of the position.

The current law provides that the Governor shall appoint and remove the researcher as well as the chief negotiator and the deputy negotiators, all of whom shall not be subject to Chapters 76 and 77, HRS.

The State's Chief Negotiator, who heads the Office of Collective Bargaining, testified in support of the bill. He pointed out that in 1977, Act 191 extended civil service coverage to other non-policy-making staff positions in the Office of Collective Bargaining, but the researcher's position was left out. He can find no rational basis for not extending civil service coverage to the researcher. The Chief Negotiator stressed the importance of having competent, experienced, specialized and knowledgeable permanent staff available on a continuous basis to provide staff support to the management negotiators. He added that public sector negotiations require knowledge of government operations, statutes, civil service and compensation rules and regulations, and policies in general which can only be acquired over a period of time. Since the employer negotiators can change with the change in chief executives of the State and county jurisdictions, continuity and permanence in the non-policy-making support staff is crucial to effective negotiations. The researcher's position is a non-policy-making one.

The State Director of Personnel Services, testifying as chairperson of the Conference of Personnel Directors and the Administrative Director of the Courts, also supported the bill. In addition to the need for continuity in staffing, Mr. Takushi stated that the work performed by the researcher in the Office of Collective Bargaining closely resembles that performed by other civil service positions such as a Research Statistician.

Your Committee finds that a permanent staff in the Office of Collective Bargaining is necessary to assure continuity in labor relations regardless of the political changes which may occur among the policy-making ranks. Providing civil service status to the researcher who supports not only the Chief Negotiator but also all other employer representatives including the county governments will add to assuring continuity in staff support for labor relations.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 6, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Anderson, Blair, Medeiros and Menor.

SCRep. 751 Public Employment and Government Operations on S.B. No. 471

The purposes of this bill are to adjust the salaries or maximum salaries of certain public officers and employees, state explicitly that certain public officers and employees who are exempt from civil service also are exempt from collective bargaining, delete reference to the salary of the special assistant to the governor for agriculture, and provide for the requisite appropriations.

The bill proposes adjustments to the salaries or maximum salaries of the following public officers and employees: governor, lieutenant governor, superintendent of education, department directors, adjutant general, deputies and assistants to department directors, administrative director of the State, federal programs coordinator, members of the Hawaii public employment relations board, chief negotiator, stadium manager and deputy stadium manager, commissioners of the public utilities commission, assistant, district, and deputy district superintendents of education, state librarian, executive director of the Hawaii public broadcasting authority, director of the executive office on aging, members of the Hawaii paroling authority, executive director of the Hawaii housing authority, members of the labor and industrial relations appeals board, deputy commissioner of credit unions, director of the office of consumer protection, director of the office of children and youth, state public defender, administrative director and deputy administrative director of the courts, legislative auditor, director of the legislative reference bureau, and ombudsman and their deputies or assistants, and executive director of the state ethics commission. The figure of \$1 a year is used throughout the bill where salary adjustments are being proposed.

Your Committee notes that this bill does not include an increase in the maximum salary of the president of the University of Hawaii. Your Committee also notes that, because of sections 401-1 and 431-33, Hawaii Revised Statutes, the maximum salaries of the bank examiner and insurance commissioner are increased by this bill.

Your Committee finds that the salaries of the public officers and employees covered by this bill were last adjusted in 1982 so that some increase in their salaries should be provided. Although your Committee has not amended the \$1 figure in the bill as received, it believes that the parameter for the proposed increases should be to achieve a close relationship between the salaries of the Governor and the mayor of the City and County of Honolulu. The salaries of the other officers and employees covered by this bill should maintain the same percentage relationship to the Governor as currently exists for the respective officer or employee.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 471, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Anderson, Kim and Medeiros.

SCRep. 752 Public Employment and Government Operations on S.B. No. 236

The purpose of this bill is to amend sections 103-43 and 103-45, Hawaii Revised Statutes, relating to the mandatory purchase of Hawaii products, and public works contract specifications, respectively, to:

- (1) provide that, in any expenditure of public funds, a government agency shall purchase equivalent, comparable, or substitutable Hawaii products that will fit the specifications; and
- (2) require that in all public works projects, that equivalent, comparable, or substitutable Hawaii products shall be used.

Your Committee finds that the legislative intent of section 103-45, HRS, was to encourage and ensure that suitable Hawaiian-made products were utilized in public works projects in order to promote local business and economic opportunity, and lessen dependence on imports. Purchase of such suitable products were to be mandatory so long as the products were available and met the price qualifications.

Your Committee also finds, however, 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, therefore, is of the opinion that a review of purchase and design specifications would help eliminate any such oversights. Your Committee, however, has amended Section 1 of this bill by deleting the proposed qualifying language "equivalent, comparable, or substitutable" since any products meeting the specifications of a contract would by nature be either equivalent, comparable or substitutable.

Your Committee has also found that the proposed amendment to section 103-45, HRS, would require the use of a Hawaiian-made product found to meet the minimum specification regardless of its price. This is not consistent with the intent of the original legislation wherein such preferential treatment is not to be granted to those products that exceed a predetermined cost of comparable non-Hawaiian products. Your Committee, therefore, has deleted Section 2 of this bill.

Your Committee has also renumbered Sections 3 and 4 of the bill as Sections 2 and 3 respectively, and has made technical, nonsubstantial amendments to the bill.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 236, S.D.1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 236, S.D.1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Medeiros.

SCRep. 753 Public Employment and Government Operations on S.B. No. 426

The purpose of this bill is to expand the authority of the public employees' health fund board of trustees to contract for prescription drugs, vision treatment and care, and adult dental insurance through a statewide indemnity plan, a statewide service benefit plan, health maintenance organization plans, or, for prescription drugs and vision benefits, a combination of the plans.

The Health Fund Administrator testified that the bill will allow the board of trustees to initiate studies for and formulate plans to provide public employees with better health care benefits. To date, the board of trustees has not considered these benefit improvements because the current law limits the board's authority to contract for prescription drugs (through our medical insurance carriers) and for children's dental insurance.

Your Committee finds that this bill will enable the board of trustees to initiate cost studies for uniform benefit plan improvements which will be available to all public employees. The studies could lead towards the expansion and improvement of medical and health benefit plans for public employees which would be more consistent with prevailing community practices. The improved benefit plans, in turn, could enhance the State's and counties' ability to attract and retain a competent work force.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 426, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Anderson, Blair, Medeiros, Menor and Souki.

SCRep. 754 Public Employment and Government Operations on S.B. No. 1179

The purpose of this bill is to effect better utilization of manpower and financial resources of the State government by amending Section 93-12, HRS, to authorize the Governor to waive annual report requirements where they may be duplicative and to submit a consolidated annual report for the executive branch or direct the consolidation of one or more reports.

Presently, the law does not allow any waiver or consolidation of annual reports prepared for State agencies.

The Director of Finance testified in support of the bill which provides a more systematic and cost effective approach to publishing annual reports by enabling the Governor to exercise some discretion in administering annual report requirements of the executive branch. Mr. Hee believes that through this bill the number of annual reports published and the duplication of information in the reports can be reduced. He reported that a 1983 compilation made by the office of the governor identified 70 annual reports which were published at the cost of about \$425,000. With inflation, those reports would cost \$476,000 to publish in 1985.

Your Committee finds that this bill would reduce the number of annual reports published, and the duplication of information in these reports would be less repetitive. As a result, information can be provided in a more cost effective manner, and the management of paper work in the State government can be improved. These objectives can be attained without the Legislature sacrificing access to needed information because the Legislature would still be able to request specific reports through concurrent resolution.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1179 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Medeiros.

SCRep. 755 Public Employment and Government Operations on S.B. No. 913

The purpose of this bill is to encourage the prompt payment of bills for goods and services by state and county agencies by requiring that bills be paid no later than forty-five calendar days following receipt of the bills and that payments for goods and services of less than \$100 be made from the petty cash fund.

Currently, the statutes prohibit state and county agencies from paying bills any earlier than thirty days following receipt of the bills, except with the approval of the Comptroller. However, the law also requires that bills be paid no later than forty-five calendar days following receipt of the bills. There is no requirement for cash payment for goods and services of less than \$100.

The Department of Accounting and General Services, the Department of Education, the Construction Industry Legislative Organization, the Building Industry Association of Hawaii, and the Hawaiian Dredging Construction Co., all submitted testimony in support of the bill particularly as it relates to deleting the 30-days holding requirements and simply specifying that bills be paid no later than forty-five calendar days following receipt of the bills.

With respect to the requirement to pay in cash for goods and services of less than \$100, the Department of Accounting and General Services favored the proposal, whereas the Department of Education opposed it. The Superintendent of Education pointed out that the DOE would need to set up petty cash funds for each regular school, adult school, district office, state office, and library, totaling 262 separate funds. Assuming that each fund was established with \$1000, the Superintendent concluded that \$262,000 would be required. The Comptroller, however, indicated that the proposal is an efficient way of paying small obligations for which the issuance of warrant vouchers and warrants would be excessively costly and time consuming. He pointed out that his survey taken two years ago revealed that over 40% of the purchase orders sampled were for amounts under \$100.

Your Committee finds that government agencies should promptly meet their obligations and that the amendments will permit and ensure the timely payment of bills for goods and services. Additionally, your Committee finds that the efficiency of paying vendors promptly and in a cost-effective manner through petty cash funds far outweigh the administrative problems of establishing the petty cash funds or the potential loss of Department of Accounting and General Service's control normally exercised through its claims pre-auditing program.

Your Committee on Public Employment and Government Operations is in accord with S.B. No. 913, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Medeiros.

SCRep. 756 Public Employment and Government Operations on S.B. No. 689

The purpose of this bill is to amend Section 37-111, HRS, to exempt members of the Council on Revenues from the provisions of Section 26-34, HRS, which limit the appointment of a member of a board or commission to two terms.

The Council is responsible for preparing revenue estimates for the State government, which estimates are to be considered by the Governor in preparing the budget, recommending appropriations and revenue measures, projecting revenues and controlling expenditures.

The Tax Foundation of Hawaii submitted written testimony in support of this bill. It explained that, in order to prepare the revenue estimates, Council members require an understanding of the state and national economy and how the state tax system interacts with the economy. Since the development of competence in performing the tasks required of the Council can be gained only through experience, limiting the appointment of Council members to two terms does not permit full use of their experience. It is believed that cumulative experience and continuity would lend consistency and accuracy to the Council's work.

Your Committee agrees that it is in the public interest to retain members on the Council on Revenues in office as long as efficiency is demonstrated. Accordingly, your Committee believes this purpose is accomplished by this bill by having the three appointees of the Governor serve four-year terms but exempted from the two-term limitation, and the two members each appointed by the President of the Senate and the Speaker of the House of Representatives serve for an unlimited number of two-year terms.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 689 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Medeiros.

SCRep. 757 Public Employment and Government Operations on S.B. No. 589

The purpose of this bill is to provide exclusive representatives of certain bargaining units another opportunity to negotiate a model conversion plan for reduction of salary range steps and to repeal the existing prohibition against the use of any impasse procedure during such negotiations.

Since July 1, 1976, the collective bargaining law has prohibited the granting of step increases during any fiscal year in which a negotiated pay increase takes effect. Currently, for bargaining units which have not negotiated a model conversion plan for reduction of salary range steps, there is a wide disparity in pay between the beginning rate and the maximum rate of pay within a salary range. As a result, employees performing equal work are being paid widely differing rates. Extending the time in which the exclusive bargaining representatives may negotiate a model conversion plan for the reduction of salary range steps will make it possible to reduce these pay inequities.

Your Committee heard testimony on the bill from the Department of Personnel Services, the Governor's Office of Collective Bargaining, the HGEA and the UPW. While all supported the intent of the bill to extend the time in which to negotiate a model conversion plan for the reduction of salary range steps, the Department of Personnel Services and the Office of Collective Bargaining opposed the amendment which would subject the process to the impasse procedures. The HGEA indicated that it would not object to retaining the existing language prohibiting the use of the impasse procedures for negotiating a model conversion plan, but it suggested extending the deadline date from December 31, 1986 to June 30, 1987. The UPW recommended the deletion of the sunset provision.

The HSTA representative offered oral testimony suggesting that for clarity and consistency the bill should include references to the DOE salary schedules (Sections 297-32, 297-32.1, 297-33, or 297-33.1) wherever applicable. Mr. Goto also explained that the DOE salary schedules are normally effective on September 1st instead of July 1st so that further amendments to the bill may be necessary.

Your Committee finds it appropriate to provide the exclusive representatives another opportunity to negotiate a model conversion plan for reduction of salary

range steps so that the existing wide disparity in salary rates within a salary range can be reduced. Your Committee finds, however, that the proposed December 31, 1986 deadline date is impractical since experience has shown that meaningful cost negotiations are hardly ever concluded by the December 31st date. A more reasonable deadline would be June 30, 1987, prior to the effective date of the successor contract. Your Committee also retained the existing prohibition against the use of the impasse procedure in the model conversion negotiation process because it believes that a model conversion plan which is mutually agreed upon would be more effective and acceptable. This would not be possible were the binding arbitration procedures utilized. Finally, your Committee has included references to the DOE salary schedules where applicable and amended specific references to effective dates of wage increases to overcome the problem of different effective dates for the civil service and DOE salary schedules.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. 589, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 589, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Anderson, Blair, Hemmings, Medeiros, Menor and Souki.

SCRep. 758 Public Employment and Government Operations on S.B. No. 27

The purpose of this bill is to place the State Fire Council within the Department of Labor and Industrial Relations for administrative purposes.

The Attorney General testified in support of the bill, pointing out that, presently, the State Fire Council is not located or assigned administratively to any of the State's principal executive departments. As a result, there is some question as to whether the Council has been validly established in accordance with Section 6 of Article V of the State Constitution, which requires that "[a]ll executive and administrative offices, departments and instrumentalities of the state government and their respective powers and duties shall be allocated by law among and within not more than twenty principal departments in such manner as to group the same according to common purposes as related functions."

Your Committee finds that this bill which places the State Fire Council in the Department of Labor and Industrial Relations for administrative purposes satisfies the constitutional requirements of state government organization and removes the possibility of any challenge to the validity of the Council or its actions.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 27, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Medeiros.

SCRep. 759 Tourism on S.B. No. 1209

The purpose of this bill is to reduce, from four percent to 0.15 percent, the general excise tax rate imposed on the commission received by travel agents and agencies from the sale of air fares.

Your Committee finds that travel agents and agencies currently pay a four percent tax on commission received but, unlike other businesses which pay the four percent tax, they are prohibited by federal law from passing on the general excise tax to their customers. The commissions earned and the cost of the products or services sold by travel agents and agencies are unilaterally established by the suppliers of services, e.g., airlines, hotels, and car rental companies, and any increases in the operational expenses of an agency can only be met by increased sales. This predicament has resulted in the closing of businesses by many agencies which have been unable to meet increased costs and in more purchases of airline tickets by consumers directly from the airlines.

Although the State stands to lose some revenue from the reduction of the general excise tax for travel agencies, your Committee notes that the State does not receive any revenue when consumers purchase their tickets from the airlines; therefore, it would be in the State's interest to correct the inequitable treatment

of travel agents under the general excise tax law. Your Committee further notes that insurance agents, subagents, and solicitors who are also prohibited by state law from passing on the general excise tax to their customers, were granted a reduction of their general excise tax rate to .15 percent in 1978.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 1209, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Anderson, Kim and Taniguchi.

SCRep. 760 Tourism on S.B. No. 1192

The purpose of this bill is to appropriate the sum of \$1 to the Department of Planning and Economic Development for the purpose of establishing a Hawaii convention center authority to operate a publicly-owned convention center.

Your Committee finds that the convention market is a growing and profitable business segment of the tourism industry which represents an attractive and promising form of visitor activity which can help stabilize the State's visitor industry. A convention facility capable of handling large scale functions will significantly enhance the attractiveness of Hawaii as a destination for conventions.

Your Committee further finds that a feasibility study on the establishment of a convention center in Hawaii is near completion and will shortly be presented to the Legislature for review. Your Committee believes that the creation of a Convention Center Authority is necessary to implement the initial planning and manage the operation of such a facility should the feasibility study prove positive.

Your Committee, therefore, has amended this bill by adding a new Section 2 to the bill which would establish a Hawaii Convention Center Authority and provide the essential legal elements necessary for its operation. Your Committee has also amended the original Section 2 of this bill to provide that the funds appropriated by this bill be expended by the Convention Center Authority rather than by the Department of Planning and Economic Development. The effective date of this bill has also been changed from July 1, 1985 to upon approval. Your Committee has also made technical, non-substantive amendments by renumbering the original Sections 2 and 3 of the bill as Sections 3 and 4 respectively.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 1192, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1192, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Anderson, Kim and Taniguchi.

SCRep. 761 Tourism on S.B. No. 1190

The purpose of this bill is to impose a "hotel room tax" by raising the general excise tax levied on transient accommodations from four percent to six percent for the period January 1, 1986 to December 31, 1986, to seven percent for the period January 1, 1987 to December 31, 1987, and to eight percent beginning January 1, 1988, and thereafter. The revenues raised by this additional tax are to be used to support tourism promotion and development programs as recommended by a newly established Hawaii Tourist Board.

Your Committee finds that the time has come to find an alternate source of funds to support visitor industry advertising and promotion, to establish a world class convention center, and to upgrade and maintain the infrastructure of visitor destination areas. Adequate funds could ensure the long-term stability of the tourism industry and ultimately the vitality of Hawaii's economy.

Your Committee has amended Section 1 of this bill on page 3, line 12 by deleting the words "prime market area". Also on line 17, the words "Visitor Industry Education Council" have been deleted and replaced by "State's".

Your Committee has also amended Sections 2 and 3 of this bill by providing that

the general excise tax on transient room accommodations be increased to 6 percent as of January 1, 1986, and deleting all original language referring to increasing to 8 percent the general excise tax on transient room accommodations over a period of three years.

Your Committee further amended Section 2, on page 18, line 8 of the original bill to add the following words after the word "like":

" . . . which is occupied for less than 180 consecutive days for each letting."

Your Committee has also amended this bill by deleting, in its entirety, Section 4 of the original bill relating to the establishment of a Hawaii Tourist Board.

Your Committee has also amended the original Section 5 of this bill to provide that the report to be prepared by the Department of Taxation conform to the 6 percent rate of taxation as provided for in Sections 2 and 3 of this bill, as amended.

Your Committee further amended Section 5, page 26 by deleting subsection (b) and adding instead the following language:

"(b) Any moneys appropriated by the legislature out of the moneys collected from the taxation of transient accommodations under sections 237-13(6) and 237-16(b)(2) at a rate of more than four per cent shall be applied in the manner that one hundred per cent of the moneys from the two per cent tax increase shall be used to fund tourist related activities."

Finally, your Committee has made several technical, non-substantive amendments to this bill including the renumbering of sections for the purpose of consistency and correcting of minor drafting errors.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 1190, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1190, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Anderson, Kim and Taniguchi.

SCRep. 762 Transportation and Tourism on S.B. No. 338

The purpose of this bill is to extend the expiration date of the public service company tax exemption of certain contract carriers (ocean-going vessels exceeding 10,000 gross tons), primarily engaged in the business of transporting persons for tourism or sightseeing purposes from June 30, 1986, to June 30, 1991.

Your Committees received testimony supporting the bill from the Department of Transportation and the Department of Planning and Economic Development. Testimony was also received stating that the Department of Taxation does not oppose the bill.

Testimony was submitted by American Hawaii Cruises (AHC), which operates the S.S. Independence and the S.S. Constitution, stating that its cruise ship business in the State was started in 1980 with one ship, the Independence. With legislative enactment of the above mentioned tax exemption in 1981, AHC launched the Constitution in 1982. In 1984, AHC was able to turn a small profit for the first time, although its liabilities still exceed its assets by approximately \$20 million. With an extension of the present tax exemption, AHC envisions a promising future of growth, generating benefits to the tourism industry, the Aloha Tower Development, and the State.

Your Committees amended the bill by deleting the following proviso at Section 1, page 1, lines 9 and 10, "provided that this exemption shall apply only to contract carriers by water engaged in business on June 30, 1981;", to allow a 5 year extension of the public service tax exemption to be applied on an industry-wide basis. Your Committees further amended this bill by deleting the word "further" at Section 1, page 1, line 11, of the bill as originally referred to your Committees.

Your Committees on Transportation and Tourism are in accord with the intent and purpose of S.B. No. 338, S.D. 1, as amended herein, and recommend that it

pass Second Reading in the form attached hereto as S.B. No. 338, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 763 Water, Land Use, Development and Hawaiian Affairs on H.C.R. No. 63

The purpose of this concurrent resolution is to request the Board of Land and Natural Resources to proceed expeditiously in investigating and executing a land exchange between the State and The Estate of James Campbell for geothermal development at the Kilauea East Rift Zone on the Island of Hawaii.

The Board, having the responsibility of designating geothermal resource subzones under Act 296, Session Laws of Hawaii 1983, and Act 151, Session Laws of Hawaii 1984, designated several geothermal resource subzones in 1984. According to testimony, the Board has already proposed that an exchange of Campbell Estate lands with adjacent State lands be investigated before further activity is allowed to proceed in geothermal exploration and development. Your Committee received other testimonies in support of the land exchange proposed in this administration concurrent resolution.

Your Committee is in agreement that, under Acts 296 (1983) and 151 (1984), the Board has been directed to create a land use regulatory system for geothermal exploration and development. However, much more remains to be done. Therefore, your Committee is of the opinion that the sixth WHEREAS clause may be misleading and unnecessary, and has deleted it.

Technical, non-substantive amendments have been made for stylistic purposes.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.C.R. No. 63, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 63, H.D. 1.

Signed by all members of the Committee except Representatives Hagino, Kamali'i and Tom.

SCRep. 764 Water, Land Use, Development and Hawaiian Affairs and Planning, Energy and Environmental Protection on H.R. No. 186

The purpose of this resolution is to proclaim the week of March 17-23, 1985, as National Wildlife Week in Hawaii, thereby urging Hawaii's citizens to unite in support of the National Wildlife Federation and the Conservation Council for Hawaii in conserving and protecting our soil resources and in offering a strong affirmation of the vital importance of soil, through the National Wildlife Week theme "SOIL-We Can't Grow Without It".

According to testimony from the Department of Land and Natural Resources, one of its responsibilities relates to soil conservation and protection. Your Committees are in agreement that the intent and purpose of this resolution would serve to provide the desirable publicity among Hawaii's citizens in support of this vital responsibility.

Your Committees have made a few minor, non-substantive amendments to correct stylistic and grammatical errors.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and on Planning, Energy and Environmental Protection concur with the intent and purpose of H.R. No. 186, as amended herein, and recommend its adoption in the form attached hereto as H.R. No. 186, H.D. 1.

Signed by all members of the Committees.

SCRep. 765 Water, Land Use, Development and Hawaiian Affairs and Planning, Energy and Environmental Protection on H.C.R. No. 51

The purpose of this concurrent resolution is to proclaim the week of March

17-23, 1985, as National Wildlife Week in Hawaii, thereby urging Hawaii's citizens to unite in support of the National Wildlife Federation and the Conservation Council for Hawaii in conserving and protecting our soil resources and in offering a strong affirmation of the vital importance of soil, through the National Wildlife Week theme "SOIL-We Can't Grow Without It".

According to testimony from the Department of Land and Natural Resources, one of its responsibilities relates to soil conservation and protection. Your Committees are in agreement that the intent and purpose of this concurrent resolution would serve to provide the desirable publicity among Hawaii's citizens in support of this vital responsibility.

Your Committees have made a few minor, non-substantive amendments to correct stylistic and grammatical errors.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and on Planning, Energy and Environmental Protection concur with the intent and purpose of H.C.R. No. 51, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 51, H.D. 1.

Signed by all members of the Committees.

SCRep. 766 Ocean and Marine Resources on H.R. No. 61

The purpose of this resolution is to urge the Department of Land and Natural Resources to expand its efforts in managing the State's seaweed beds in order to ensure that Hawaii's residents will have an adequate supply of ogo and limu manaua to supplement their diets.

Your Committee finds that the Department of Land and Natural Resources is attempting to restore and enhance the State's natural ogo and limu manaua beds by implementing a restocking program. Because of mixed results in establishing successful seaweed beds, current studies are being directed to determining the necessary conditions for ogo growth. Secondly, the Department is also preparing rules to regulate the harvesting of ogo and limu manaua, including the possibility of establishing "bag limits", prohibiting the taking of seaweed with reproductive nodes, and requiring the picking of seaweed above the holdfast.

Your Committee finds that in order to successfully restore and manage our seaweed beds, additional staffing may be necessary especially for enforcement purposes. Accordingly, your Committee has amended the resolution by inserting a new "BE IT RESOLVED" clause requesting that the Department of Land and Natural Resources report back by October 1, 1985, regarding its staffing requirements to successfully implement this program.

Your Committee on Ocean and Marine Resources concurs with the intent and purpose of H.R. No. 61, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 61, H.D. 1.

Signed by all members of the Committee except Representative Kamali'i.

SCRep. 767 Ocean and Marine Resources and Water, Land Use, Development
and Hawaiian Affairs on H.R. No. 62

The purpose of this resolution is to request that the State examine Hawaii's role in the tuna fishing industry and identify and implement strategies that would assist the Hawaiian Tuna Packers to remain in operation.

Your Committees find that prior to its closing, the Hawaiian Tuna Packers canned approximately forty per cent of the local fishing industry's surplus tuna. Therefore, since its closing, the local tuna industry has suffered from the lack of a minimum price for its fish. Your Committees believe that alternatives must be found for the use of this surplus fish. Your Committees also find that it is unclear whether present negotiations within the private sector will lead to the re-opening of the cannery in the near future.

As a result, your Committees find that a two-pronged approach should be pursued: (1) finding ways to continue the operations of the Hawaiian Tuna Packers; and (2) seeing out new ways to market Hawaii's surplus fish. Accord-

ingly, your Committees have amended this resolution to implement this strategy by replacing the third "BE IT RESOLVED" clause in the original resolution with two new "BE IT RESOLVED" clauses.

Your Committees on Ocean and Marine Resources and Water, Land Use, Development and Hawaiian Affairs concur with the intent and purpose of H.R. No. 62, as amended herein, and recommend its adoption in the form attached hereto as H.R. No. 62, H.D. 1.

Signed by all members of the Committees except Representative Kamali'i.

SCRep. 768 Agriculture and Planning, Energy and Environmental Protection on
H.R. No. 154

The purpose of this resolution is to urge the U.S. Food and Drug Administration to take quick action to complete their review of, and to approve, the irradiation treatment of papayas.

Your Committees find that the U.S. Food and Drug Administration, based on research findings and technological development studies, published in the February 14, 1984 Federal Register a proposed regulation that would expand the use of ionizing radiation by permitting such foods as fresh fruits and vegetables to be treated with a dose level not to exceed 100,000 rads to inhibit the growth and maturation of the products as well as to kill insects that are present after harvest. Final approval of this regulation, however, is not expected until later this year.

Your Committees also find that because irradiation provides a potential option for the disinfestation of papaya from fruit flies, the industry needs to know as soon as possible whether irradiation is among its real options. While approval is pending, the papaya industry is constrained in its ability to assess the economic and other factors what would influence their choice among the available options for disinfecting papaya.

Your Committees have adopted the recommendation of the Papaya Administrative Committee by amending the title and the "BE IT RESOLVED" clause to include all tropical produce rather than just papayas.

Your Committees have also amended the title and the "BE IT RESOLVED" clause by deleting the words "and approve". It is the opinion of your Committees that an expeditious decision on the proposed regulation is the intent of this resolution. Approval should not be presumed nor urged.

Your Committees on Agriculture and Planning, Energy and Environmental Protection concur with the intent and purpose of H.R. No. 154, as amended herein, and recommend its adoption in the form attached hereto as H.R. No. 154, H.D. 1.

Signed by all members of the Committees.

SCRep. 769 Agriculture and Planning, Energy and Environmental Protection on
H.C.R. No. 33

The purpose of this concurrent resolution is to urge the U.S. Food and Drug Administration to take quick action to complete their review of, and to approve, the irradiation treatment of papayas.

Your Committees find that the U.S. Food and Drug Administration, based on research findings and technological development studies, published in the February 14, 1984 Federal Register a proposed regulation that would expand the use of ionizing radiation by permitting such foods as fresh fruits and vegetables to be treated with a dose level not to exceed 100,000 rads to inhibit the growth and maturation of the products as well as to kill insects that are present after harvest. Final approval of this regulation, however, is not expected until later this year.

Your Committees also find that because irradiation provides a potential option for the disinfestation of papaya from fruit flies, the industry needs to know as soon as possible whether irradiation is among its real options. While approval is pending, the papaya industry is constrained in its ability to assess the economic and other factors what would influence their choice among the available options for disinfecting papaya.

Your Committees have adopted the recommendation of the Papaya Administrative Committee by amending the title and the "BE IT RESOLVED" clause to include all tropical produce rather than just papayas.

Your Committees have also amended the title and the "BE IT RESOLVED" clause by deleting the words "and approve". It is the opinion of your Committees that an expeditious decision on the proposed regulation is the intent of this concurrent resolution. Approval should not be presumed nor urged.

Your Committees on Agriculture and Planning, Energy and Environmental Protection concur with the intent and purpose of H.C.R. No. 33, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 33, H.D. 1.

Signed by all members of the Committees.

SCRep. 770 Corrections and Rehabilitation on H.R. No. 76

The purpose of this resolution is to request the Department of Social Services and Housing, the Corrections Division Administrator, and the Kulani Correctional Facility to present a review of the recent management problems at the facility, including measures taken to correct the problems, and a description of current practices and conditions at the facility.

Your Committee received testimony from the Department of Social Services and Housing (DSSH) indicating that the Department had to decline your Committee's request for a detailed report. DSSH stated that grievance proceedings had been initiated by certain correctional employees against whom disciplinary action had been taken. On that basis, DSSH asserted that certain provisions of the State of Hawaii personnel rules and bargaining unit contracts required confidentiality. However, several members of your Committee were not persuaded by the Department's explanation because DSSH was unable to inform the Committee of the specific wording of the rules and contracts relating to confidentiality, nor did the Department take the liberty of furnishing your Committee with copies of the rules and contracts. Moreover, your Committee Chairman did a cursory review of the cited rules and contracts, and could not find any confidentiality provisions.

Because of the Department's claim of confidentiality, your Committee members could not obtain complete and satisfactory answers to important questions regarding the nature and status of grievance proceedings against the DSSH, and the current status of the employees and inmates who were involved in the problems at Kulani. However, DSSH stated that it would be in a better position to respond to the Committee's inquiries at a later date after the completion of grievance proceedings.

Accordingly, your Committee recommends that DSSH be required to furnish the Legislature with a complete report at a later date to fully address the concerns raised in the resolution and by the Committee members during the hearing. Your Committee believes that DSSH should be accountable to the Legislature for the management and operations of the Kulani Facility to assist Legislators in making informed budgetary decisions regarding the facility.

In order to insure full accountability by the Department, your Committee has amended the "BE IT RESOLVED" clause requiring DSSH to address the following additional items:

- (1) the status of any grievance proceedings or litigation initiated against the State of Hawaii by correctional personnel, against whom disciplinary action had been taken;
- (2) the specific disciplinary actions taken against the correctional employees;
- (3) the current status of the correctional employees in terms of whether they were terminated, or transferred to another facility or position within the Corrections Division;
- (4) the status of the inmates who contributed to the management problems at the Kulani facility.

Your Committee has further amended the "BE IT RESOLVED" clause by deleting

the requirement that the report be presented prior to the adjournment of the 1985 session. Instead, your Committee has added a "BE IT FURTHER RESOLVED" clause to require that the report be submitted "no later than twenty days prior to the beginning of the next legislative session, or whenever grievance proceedings or litigation have been completed, whichever is sooner".

Finally, your Committee would like to express its concern regarding the attempt by DSSH to withhold important information from Committee members without adequate justification to support the Department's claim of confidentiality. While your Committee understands the Department's position, and recognizes that the DSSH has generally been helpful and cooperative in providing important information to Committee members, your Committee would like to emphasize to the Department that it should not refuse to respond to questions on the basis of confidentiality unless it can fully support its position with adequate documentation. It is hoped that the Department's cooperative approach in working with your Committee will continue to be the norm in the future.

Your Committee on Corrections and Rehabilitation is in accord with the intent and purpose of H.R. No. 76, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 76, H.D. 1.

Signed by all members of the Committee.

SCRep. 771 Corrections and Rehabilitation on H.R. No. 77

The purpose of this resolution is to urge the Corrections Division of the Department of Social Services and Housing to utilize community volunteers in their prison education programs.

Your Committee heard testimony from the Department of Social Services and Housing informing the Committee that the Department currently has two retired educators working as education program volunteers at the Oahu Community Correctional Center. The Department admitted that recruitment efforts can be improved, and has requested the Corrections Division Volincor Administrator to actively recruit more retired educators.

Your Committee believes that there are many retired individuals in our State who can render invaluable service to our Correctional Centers as volunteers if actively recruited. The recruitment of volunteers would bolster efforts to implement needed programs at considerable cost savings to the State. However, it is the position of your Committee that the Department must develop strategies and make a concerted effort to improve recruitment.

Moreover, given the benefits to be gained from volunteer efforts, your Committee believes that the scope of the resolution should be broadened to require a feasibility study by the Department on the use of volunteers in other prison activities besides education programs.

Accordingly, your Committee has amended H.R. No. 77 by adding a "BE IT FURTHER RESOLVED" clause to require a departmental report to the Legislature at least twenty days prior to the next legislative session, to include, but not be limited to, the following:

- (1) a description of the Department's program for recruitment;
- (2) strategies to be developed and implemented to improve recruitment efforts;
- (3) the Department's plan to integrate volunteer instructors into the overall instructional and vocational educational programs;
- (4) an analysis of the feasibility of utilizing volunteers in other prison activities and programs besides education programs.

Your Committee has also provided that certified copies be transmitted to the Corrections Division Administrator, the Hawaii State Teachers Association (HSTA), and the University of Hawaii Professional Assembly (UHPA).

This resolution has also been amended by correcting technical nonsubstantive and typographical errors for the purposes of clarity.

Your Committee on Corrections and Rehabilitation is in accord with the intent and purpose of H.R. No. 77, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 77, H.D. 1.

Signed by all members of the Committee.

SCRep. 772 Corrections and Rehabilitation on H.R. No. 85

The purpose of this resolution is to express support for the community service projects organized and carried out by the inmates and staff of the state correctional facilities, and to urge their continuation. This resolution also extends a heartfelt thanks and appreciation for a job well done to all of the men and women who have made the community service projects possible.

Your Committee heard testimony from the Department of Social Services and Housing, which supports H.R. No. 85. The Department testified that there are currently 100 inmates participating in community service projects on Oahu to clean parks and roadways, and clear pastureland for herd expansion at the Hawaii Youth Correctional Facility. The Department also testified that planning is underway to activate a similar program for inmates and staff at the Hawaii Women's Correctional Facility.

Your Committee recognizes and commends the achievements of the community service projects, which have been very successful in providing various notable benefits, including: the aesthetic benefit of beautification of our highways; cost savings to the State; the personal benefits to inmates who find fulfillment in the form of activity, good exercise, job satisfaction, and the opportunity to be outdoors; and finally, the overall benefit to the correctional facilities' atmosphere by providing a constructive outlet for pent-up energies and frustration, thus reducing the tension and boredom created by confinement.

Your Committee on Corrections and Rehabilitation concurs with the intent and purpose of H.R. No. 85 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 773 Corrections and Rehabilitation on H.R. No. 79

The purpose of this resolution is to express the support of the House of Representatives for the efforts of the Correctional Industries Advisory Board and commend its achievements in attempting to develop correctional industries and vocational education programs to train prisoners, and to make the correctional system more self-sufficient.

Your Committee received testimony from the Department of Social Services and Housing, expressing support for this resolution and likewise praising the work of the Council to date. However, your Committee is concerned about the fact that substantial progress still needs to be made in developing prison industries. Accordingly, this resolution also urges the Board to continue its work in the development of prison industries.

Your Committee on Corrections and Rehabilitation concurs with the intent and purpose of H.R. No. 79 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 774 Corrections and Rehabilitation on H.R. No. 86

The purpose of this resolution is to request a study of the feasibility of implementing an expanded basic reading and writing skills program for those incarcerated in Hawaii's correctional facilities, including the possibility of establishing a competency test for either improved classification or as a condition of parole for certain inmates.

Your Committee finds that the education of inmates is not being adequately addressed in our State correctional facilities because there exists a high percentage of inmates who do not possess basic educational skills. Your Committee also finds that for an inmate to function successfully in our society, and to obtain

gainful employment, the inmate must possess a basic level of competency.

Your Committee heard testimony from the Department of Social Services and Housing and the University of Hawaii which stated that plans to expand the basic reading and writing skills program on a statewide basis are being developed in conjunction with the planned transfer of the educational program from the University to the Department.

Your Committee concurs with the Department's stated goals for improving educational programs for inmates. However, your Committee recognizes that many inmates lack a positive attitude towards education and therefore need incentives to participate in educational programs. Accordingly, your Committee has amended this resolution to expand upon the list of possible incentives for the Department to consider. Your Committee also recommends that the Department consider outside educational resources such as the Kamehameha Extension Education Program which could provide cost savings and efficient delivery of services. Finally, your Committee would like an updated report on the progress of the transfer of the educational program from the University to the Department.

Your Committee has amended this resolution by making the following changes:

(1) amending the "BE IT RESOLVED" clause by deleting the "House Committee on Corrections" as the body requested to conduct the study, and inserting in its place the "Corrections Division of the Department of Social Services and Housing, in consultation with the University of Hawaii and the Department of Education";

(2) deleting the last three lines of the "BE IT RESOLVED" clause and inserting a new clause as follows: "BE IT FURTHER RESOLVED that this study shall include, but not be limited to" the following items: "(a) the possibility of establishing a competency test for either improved classification or as a condition of parole for certain inmates; (b) the feasibility of crediting the participation of inmates in educational programs towards early parole or reduction of minimum sentences; (c) a review of possibilities in utilizing other outside educational resources, such as the Kamehameha Extension Education Program to augment correctional educational programs; (d) a report on the progress of the transfer of the educational program from the University of Hawaii (Hoomana School) to the Department of Social Services and Housing, and the implementation of a statewide education program";

(3) amending the first "BE IT FURTHER RESOLVED" clause to provide "that the Corrections Division of the Department of Social Services and Housing report its findings and recommendations to the Legislature at least twenty days prior to the convening of the Regular Session of 1986";

(4) inserting into the last "BE IT FURTHER RESOLVED" clause the phrase "the Chancellor of Community Colleges of the University of Hawaii, and the Superintendent of Education." and deleting "the Chair of the Committee on Corrections".

Your Committee has further amended this resolution by making technical, non-substantive corrections.

Your Committee on Corrections and Rehabilitation concurs with the intent and purpose of H.R. No. 86, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 86, H.D. 1.

Signed by all members of the Committee.

SCRep. 775 Health and Public Employment and Government Operations on S.B.
No. 72

The purpose of this bill is to transfer the Hawaii Advisory Commission on Drug Abuse from the Governor's office to the department of health for administrative purposes.

Your Committee heard testimony by the department of health supporting the bill and finds that the proposed transfer would more properly locate the Commission in the department which is the actual source of the Commission's administrative support.

Your Committees of Health and Public Employment/Government Operations are in

accord with the intent and purpose of S.B. No. 72, S.D. 1, and recommend that it pass Second Reading and be placed on the Calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 776 Human Services on H.R. No. 155

The purpose of this resolution is to request the Executive Office on Aging to establish a long-term respite demonstration project. This project would provide respite services to persons caring for others whose disabilities would require intermediate institutional care but who are being cared for at home. As originally proposed, respite would be provided by placing the disabled person in an intermediate care facility for a number of consecutive days each month.

The recent trend of caring for the elderly at home is positive and warrants further encouragement. In many cases family members are the caregivers. This contributes to efficient use of scarce resources, and it is frequently the choice of the elderly patient and the family. However, with this tremendous responsibility and the great demands on the caregivers, provision must be made to give the caregivers respite from these duties.

Your Committee received testimony from the Executive Office on Aging, Kokua Council for Senior Citizens of Hawaii, the Kuakini Gerontology Center, and a private citizen who has been a caregiver. All were in favor of the resolution but made suggestions for amendments.

The most prevalent comment was that caregivers need respite in different forms. Some need only occasional respite to allow for a yearly vacation. Such respite would entail placing the elderly patient in an intermediate care facility. Others need daily or weekly time in which to rest or take care of other matters. Still others require emergency respite under various circumstances such as hospitalization of the caregiver.

Testimony indicated that perhaps it would be best to compare the needs in the community with the availability of the various types of respite. After such study a more appropriate decision could be made on the types of respite that should be provided, and how provision can be made. Training for the basic skills of caregiving at home was also mentioned.

Your Committee agrees with the recommendations indicating that it is too early to decide what types of respite are needed. Therefore, your Committee has amended the resolution to reflect the need for an assessment and determination of the types of respite which family caregivers require and a description of a demonstration project to meet these needs. Your Committee has also provided that the Office on Aging shall work in connection with the Kuakini Gerontology Center to develop this project.

Your Committee on Human Services concurs with the intent and purpose of H.R. No. 155, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 155, H.D. 1.

Signed by all members of the Committee.

SCRep. 777 Human Services on H.C.R. No. 35

The purpose of this concurrent resolution is to request the Executive Office on Aging to establish a long-term respite demonstration project. This project would provide respite services to others caring for persons whose disabilities would require intermediate institutional care but who are being cared for at home. As originally proposed, respite would be provided by placing the disabled person in an intermediate care facility for a number of consecutive days each month.

The recent trend of caring for the elderly at home is positive and warrants further encouragement. In many cases family members are the caregivers. This contributes to efficient use of scarce resources, and it is frequently the choice of the elderly patient and the family. However, with this tremendous responsibility and the great demands on the caregivers, provision must be made to give the caregivers respite from these duties.

Your Committee received testimony from the Executive Office on Aging, Kokua Council for Senior Citizens of Hawaii, the Kuakini Gerontology Center, and a private citizen who has been a caregiver. All were in favor of the concurrent resolution but made suggestions for amendments.

The most prevalent comment was that caregivers need respite in different forms. Some need only occasional respite to allow for a yearly vacation. Such respite would entail placing the elderly patient in an intermediate care facility. Others need daily or weekly time in which to rest or take care of other matters. Still others require emergency respite under various circumstances such as hospitalization of the caregiver.

Testimony indicated that perhaps it would be best to compare the needs in the community with the availability of the various types of respite. After such study a more appropriate decision could be made on the types of respite that should be provided, and how provision can be made. Training for the basic skills of caregiving at home was also mentioned.

Your Committee agrees with the recommendation indicating that it is too early to decide what types of respite are needed. Therefore, your Committee has amended the concurrent resolution to reflect the need for an assessment and determination of the types of respite which family caregivers require and a description of a demonstration project to meet these needs. Your Committee has also provided that the Office on Aging shall work in connection with the Kuakini Gerontology Center to develop this project.

Your Committee on Human Services concurs with the intent and purpose of H.C.R. No. 35, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 35, H.D. 1.

Signed by all members of the Committee.

SCRep. 778 Judiciary on H.R. No. 137

The purpose of this resolution is to request the administrative director of the judiciary to examine the necessity for free witness parking not presently provided.

Your Committee finds that serious parking problems exist in the downtown business area surrounding the courts, including limited parking spaces and dense traffic congestion. These problems add to the stress placed on a witness or victim who must come to court to testify. According to testimony by Victim/Witness Kokua Services, a subpoenaed victim or witness is often frustrated as they drive in circles looking for a parking space and often risk being late for court. They then worry about receiving a ticket as they wait to testify on the stand in court.

Your Committee on Judiciary concurs with the intent and purpose of H.R. No. 137 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 779 Judiciary on H.C.R. No. 3

The purpose of this concurrent resolution is to study alternatives to expedite the adjudication of traffic cases.

The judiciary testified that the number of traffic violations has grown rapidly during the past decade. The increase is attributed to increases in the number of automobiles and drivers and to the public's growing concern for law enforcement and highway safety. As a result, the district court calendar is now facing serious caseload congestion since all traffic offenses are processed by district court. The judiciary has already started investigating alternatives and expects to present next session, its recommendations together with appropriate budgetary requests.

Your Committee on Judiciary concurs with the intent and purpose of H.C.R. No. 3 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 780 Judiciary on H.C.R. No. 2

The purpose of this concurrent resolution is to review the feasibility of establishing six member juries in civil cases.

The concurrent resolution requests that the judiciary study the current twelve member jury requirement in civil cases and determine whether civil cases may be tried with fewer number of jurors.

The judiciary cited a 1976 study which analyzed the jury trial system in Hawaii. The study recommended that the size of juries in civil cases remain the same. However, the study went on to say that if a change is made, the jury should be composed of eight jurors and that the change be implemented on a trial basis for two years. Further, the judiciary stated that it would update their study pursuant to the request of the Committee.

Your Committee on Judiciary concurs with the intent and purpose of H.C.R. No. 2 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 781 Human Services on H.R. No. 30

The purpose of this resolution is to request the House Committee on Human Services to conduct a comprehensive interim review of child abuse and neglect issues during the 1985 legislative interim to strengthen existing programs to reduce child abuse and neglect.

Recent publicity concerning child abuse and neglect has heightened public awareness of these issues and documented the fact that these problems are self-perpetuating. It is of utmost importance that this Legislature work towards breaking the cycle of abuse if progress is to be achieved in our efforts to reduce child abuse and neglect.

While many laws have been enacted to alleviate the problems, child abuse and neglect cases seem to have spiraled. Reports of child abuse and neglect have been increasing at a rate of 18 per cent each year, and the Department of Social Services and Housing has been unable to keep up with its responsibility for timely and adequate child protective services. If a solution is to be found, it is necessary to review the entire issue, address the essential elements and then make proposals for improvements. Too much of the area of child abuse and neglect has been approached on a piecemeal basis resulting in overlapping, inefficient, and temporary solutions.

Your Committee believes that by addressing the entire issue with all of its ramifications better, more permanent solutions can be found and a more comprehensive efficient system can be developed to meet the increasingly difficult challenge of child abuse and neglect.

Your Committee has amended this resolution to clarify that your Committee will conduct this review during the 1985 legislative interim.

Your Committee on Human Services concurs with the intent and purpose of H.R. No. 30, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as H.R. No. 30, H.D. 1.

Signed by all members of the Committee except Representatives Hashimoto and Kihano.

SCRep. 782 Education on H.R. No. 100

The purpose of this resolution is to request the Department of Education to study the need for and cost of building and maintaining a community library on donated land in the vicinity of Farrington Highway and Makakilo Drive.

Your Committee finds from testimony presented that there is a definite need for a community library for the present residents of Makakilo, Honokai Hale, and Barbers Point Naval Air Station because of the current growth of these communities and the lack of a library within a reasonable distance. Residents, especially

children, must often use libraries that are several miles away from their homes, such as the Ewa Beach Community-School Library, the Waipahu Library, and the Pearl City Regional Library. A mobile library does serve three different locations twice a month. Service and access to resource or research materials, however, are limited.

Your Committee finds from testimony presented that a readily accessible library will benefit residents of these communities and will also help children to fulfill their learning potential and build a strong educational foundation.

Your Committee on Education concurs with the intent and purpose of H.R. No. 100 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Yoshimura.

SCRep. 783 Education on H.C.R. No. 43

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to conduct a study in the public secondary schools to identify problems in counseling services, possible solutions, recommendations, plans for correction, and timetable for implementation of corrections.

Your Committee finds that counselors can bring about improvements and changes in the school environment and in the community. Currently, counselors are faced with such problems as frequent interruptions, extensive paperwork, and a high student-counselor ratio, all of which may impede counseling services.

Your Committee heard testimony in support of this concurrent resolution and concurs with the intent of this resolution that an objective and independent study is necessary to assist the Department in identifying problems in their counseling services.

Your Committee has made some technical, nonsubstantive amendments to this concurrent resolution for purposes of style and clarity.

Your Committee on Education concurs with the intent and purpose of H.C.R. No. 43, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 43, H.D. 1.

Signed by all members of the Committee.

SCRep. 784 Education and Human Services on H.R. No. 115 (Majority)

The purpose of this resolution is to request the Department of Education to: conduct a study of the curriculum available for family life education and parenting; design an appropriate curriculum; and prepare to initiate a pilot curriculum project in the tenth grade of one high school on Oahu.

Your Committees agree that child abuse and neglect are serious social problems affecting Hawaii's youth. According to testimony given by a representative from the Department of Social Services and Housing, over 3,000 cases were reported and over 50 percent of those cases were confirmed in 1984. These numbers are expected to increase in the future. In addition, education in the area of family life has been found to prevent child abuse and neglect, especially if education begins at the pre-kindergarten ages.

Your Committees find that the Department of Education has not adequately implemented a statewide program to address this problem. The existing programs in our public schools are implemented on a piecemeal basis, and the Department's position reflects a lack of commitment to implementing programs at the K-6 level where the most impact can be made. Your Committees, therefore, agree that a curriculum study by the Department of Education is necessary.

Your Committees have made the following amendments to this resolution: 1) the specification that the pilot curriculum project be conducted in the tenth grade in one high school was changed to read, "a public school", 2) the "BE IT RESOLVED" paragraph was divided for purposes of clarity, and 3) minor changes were made to correct technical drafting errors.

Your Committees on Education and Human Services concur with the intent and purpose of H.R. No. 115, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 115, H.D. 1.

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

SCRep. 785 Education and Human Services on H.C.R. No. 20 (Majority)

The purpose of this concurrent resolution is to request the Department of Education to: conduct a study of curriculum available for family life education and parenting; design an appropriate curriculum; and prepare to initiate a pilot curriculum project in the tenth grade of one high school on Oahu.

Your Committees agree that child abuse and neglect are serious social problems affecting Hawaii's youth. According to testimony given by a representative from the Department of Social Services and Housing, over 3,000 cases were reported and over 50 percent of those cases were confirmed in 1984. These numbers are expected to increase in the future. In addition, education in the area of family life has been found to prevent child abuse and neglect, especially if education begins at the pre-kindergarten ages.

Your Committees find that the Department of Education has not adequately implemented a statewide program to address this problem. The existing programs in our public schools are implemented on a piecemeal basis, and the Department's position reflects a lack of commitment to implementing programs at the K-6 level where the most impact can be made. Your Committees, therefore, agree that a curriculum study by the Department of Education is necessary.

Your Committees have made the following amendments to this concurrent resolution: 1) the specification that the pilot curriculum project be conducted in the tenth grade in one high school was changed to read, "a public school", 2) the "BE IT RESOLVED" paragraph was divided for purposes of clarity, and 3) minor changes were made to correct technical drafting errors.

Your Committees on Education and Human Services concur with the intent and purpose of H.C.R. No. 20, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 20, H.D. 1.

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

SCRep. 786 Housing on S.B. No. 110

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 buy-back 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 S.B. No. 110, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kiyabu.

SCRep. 787 Health on S.B. No. 62

The purpose of this bill is to change the number of service area board members and to clarify the method for defining service areas.

Under present law, service area boards, which advise service area centers on matters of mental health and substance abuse, consist of fifteen members appointed by the governor. This bill would reduce the number of board members to nine which should prove more efficient both with respect to the appointment process and the functioning of the boards.

Also under present law, service areas are defined as "catchment boundaries existing as of June 30, 1984." Under this definition, questions have arisen about the proper number and location of geographical service areas which are to be utilized for the delivery of services to prevent and treat mental or emotional disorder and substance abuse. According to the Department of Health, studies are currently underway to determine the proper number and location of service areas. The proposed changes in this bill will allow the department necessary time to reach a decision and will assure public input through the rule-making process, which shall be in conformance with the provisions of chapter 91, Hawaii Revised Statutes.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 62, S.D. 1, and recommends that it pass Second Reading and be placed on the Calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 788 Human Services and Judiciary on S.B. No. 1240

The purpose of the bill is to require those covered by our mandatory child abuse reporting law to submit additional information, to include medical records and reports, when requested by the department of social services and housing (DSSH) and the police department.

Your Committees find that alleged perpetrators of child abuse occasionally refuse to sign consents to release additional information from medical and school records. This delays the investigative process in attempting to confirm whether child abuse occurred and whether the child can safely remain at home.

Your Committees believe that in order for the DSSH and/or the police departments to more fully, and hopefully more accurately, report instances of alleged child abuse, access to medical reports and school records, without going through cumbersome legal procedures and arguments, is desirable.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of S.B. No. 1240, S.D. 1, 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 Kiyabu, Medeiros and Taniguchi.

SCRep. 789 Agriculture on S.B. No. 19

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 on Agriculture is in accord with the intent and purpose of S.B. No. 19, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 790 Ocean and Marine Resources on S.B. No. 93

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

Your Committee agrees that information shared with government authorities of the United States is useful for the management of local fisheries, however, it is your Committee's intent that such information sharing focus on benefitting local fishing industries, and not lead to competition from certain fishing interests that may infringe on fishing activities within Hawaiian waters.

It is your Committee's understanding that over the years, certain fishing interests have exploited fishing grounds in the Pacific, causing undue hardship to small local fishing enterprises. In addition, the local fishing industry is presently faced with national and international strategies that threaten its economic health and well-being.

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 well-being of the local fishing industry is preserved and protected from indiscriminate exchanges of information.

Your Committee has therefore amended this bill to further clarify that the information provided by the Department relative to fish catch reports, shall be limited to exchanges with the government agencies of the United States.

Your Committee is in accord with the intent and purpose of S.B. No. 93, as amended herein, and recommends that it pass Second Reading in the form attached herein as S.B. No. 93, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kamali'i.

SCRep. 791 Ocean and Marine Resources on S.B. No. 1224

The purpose of this bill is to: (1) prohibit the use of bullpen traps which exceed 2000 feet; (2) allow bullpen traps to remain in place for not more than

sixteen hours; and (3) prohibit the use of bullpen traps within 500 yards from shore between Kolo Wharf and Kamalo Harbor on Molokai, or within 200 yards from shore east of Kamalo Harbor also located on Molokai.

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 natural resources. In addition, your Committee further finds that the present law limiting the length of bullpen traps used to 750 feet lacks a clear scientific basis.

While in agreement with the provisions concerning the site specific Molokai shore restrictions, your Committee believes that there is a need to regulate the laying of bullpen traps in other waters surrounding the State. Your Committee has therefore amended subsection (d) of the bill in a manner that would preserve the integrity of the Molokai shore restrictions, and at the same time prohibit the use of bullpen traps within one thousand yards from the shore in all other areas of the State.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of S.B. No. 1224, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1224, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kamali'i.

SCRep. 792 Transportation on S.B. No. 132

The purposes of this bill are: 1) to require that the head lamps of motor vehicles operated upon public highways during certain hours display white lights of equal candle power; 2) to require that the headlight of any motorcycle, motor-scooter, or motorized bicycle operated upon a public highway during those hours display white light; and 3) to specify the acceptable location and placement of such head lamps and headlights.

Your Committee finds that some vehicle owners have been attaching to and installing upon their vehicles colored, transparent coverings over the clear headlight or head lamp lens, changing the color and diminishing the candle power of the light. According to standards established by the federal government, the 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 therefore agrees with the intent of this bill, to provide the police with the power to enforce the use of white head lamps and headlights and to require that they be installed in a specified location.

Your Committee has amended this bill at Section 2, page 3, lines 2 and 6, to clarify the language of the bill by specifying that the "lights" referred to thereat are "headlights".

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 132, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 132, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 793 Transportation on S.B. No. 1365

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 applicants seeking certain categories of Hawaii driver's license who are at least eighteen years of age and who possesses a valid driver's license issued by any other state in the United States, the District of Columbia, the Commonwealth of Puerto Rico, America Samoa, Guam, 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 Committee finds that most persons licensed by other jurisdictions who apply for a Hawaii driver's license satisfactorily demonstrate their ability the first time they take the road test. Thus, in most instances, a road test is not necessary. Your Committee also finds 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 pose a threat to the safety of Hawaii's driving public. Thus, this bill would permit the examiner of drivers to require a road test of persons with a history of poor driving.

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 Committee received testimony from the City and County of Honolulu that the U.S. Virgin Islands does not require applicants for driver's licenses to perform an actual demonstration of driving ability. Your Committee therefore believes that drivers licensed by the U.S. Virgin Islands should be required to perform the road test satisfactorily prior to being issued a Hawaii driver's license. For this reason, your Committee has amended the bill at page 2, line 10, by deleting reference to the U.S. Virgin Islands.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1365, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1365, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 794 Transportation on S.B. No. 1318

The purpose of this bill is to amend section 290-8, Hawaii Revised Statutes, 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 Committee finds 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 Committee has 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 Committee agrees 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 Committee wishes to make clear that its intent with respect to paragraph 4 of §290-8 is to include vehicles that have been registered in neither the current nor the previous registration period. It is believed that the present language of

the bill reflects this intent.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1318, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 795 Consumer Protection and Commerce on S.B. No. 194

The purpose of this bill is to specify the duration and conditions under which the Board of Dental Examiners may issue a temporary license to practice dental hygiene.

Your Committee received testimony in support of this bill from the Board of Dental Examiners who stated that the current law provides no time limitation for temporary license holders. Technically, these licensees could practice for an unlimited period without ever having to take or pass the dental hygiene examination.

This bill specifies the conditions under which the license is issued and the time period for which it shall remain in force and establishes a one year maximum period for which a temporary license is valid.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 194, S.D.1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 796 Consumer Protection and Commerce on S.B. No. 195

The purpose of this bill is to amend Section 464-8, Hawaii Revised Statutes, to require a graduate of a four-year engineering curriculum to have four years of full-time experience instead of three years to qualify for registration, to allow a graduate of a four-year engineering technology curriculum with eight years of full-time engineering experience to qualify for registration, and to delete passing of the qualifying written examination as a requirement for architect registration. The bill also makes several technical changes which have no substantive effect.

Your Committee heard testimony in favor of the bill from the Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects who testified that for a number of years, the Board has used the uniform national architect examination prepared by the National Council of Architectural Registration Boards (NCARB) as its basis for registration of architects. However, in June 1983, the NCARB changed the examination format by eliminating the qualifying examination and instituting a new single professional examination called the Architectural Registration Examination (ARE). All states currently use the uniform ARE for registration of architects.

The Board also testified that Hawaii is one of two states which require a graduate of a four-year engineering curriculum to have only three years of full-time experience to be eligible for registration. The increase from three to four years of experience would conform with the experience requirements of the other states. The Board further testified that registration for professional engineers requires that a person either have an engineering degree and three years of full-time experience, or in lieu of the degree, twelve years of full-time experience. A graduate with an engineering technology degree is, therefore, ineligible for registration until the graduate has fulfilled the twelve years of full-time experience requirement. For equity, the amendment will afford a person with an engineering technology degree and eight years of experience to apply for registration as a professional engineer.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 195 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 797 Consumer Protection and Commerce on S.B. No. 189

The purpose of this bill is to allow the Office of Consumer Protection to seek recovery from the travel agency recovery fund on behalf of aggrieved consumers if the Office of Consumer Protection obtains a court order directing payment of restitution to those consumers. Alternatively, this bill also allows aggrieved consumers to pursue collection from the travel agency recovery fund on their own, based upon court orders for restitution obtained on their behalf by the Office of Consumer Protection.

Your Committee received testimony from the Office of Consumer Protection (Office) in favor of this bill. The Office testified that there is a question whether it may seek recovery from the travel agency recovery fund (fund) on behalf of aggrieved consumers and whether the aggrieved consumers may pursue collection from the fund on their own, based upon court orders and other procedural steps taken by the Office on their behalf. The question arises because Chapter 468K, Hawaii Revised Statutes, requires that the "aggrieved person" or individual obtain a judgment against the registered travel agency or registered sales representative and must follow all procedural steps under Section 468K-5, Hawaii Revised Statutes, before seeking recovery from the fund.

Your Committee, upon further consideration, has amended this bill by incorporating the amendments proposed by S.B. No. 204, S.D. 1.

The purpose of S.B. No. 204, S.D. 1, is to replace the Director of Commerce and Consumer Affairs (Director) as trustee in charge of the management of the fund, with three trustees selected and appointed by the Director from among persons licensed under Chapter 468K, Hawaii Revised Statutes.

Your Committee finds that this amendment removes the Director from an awkward situation wherein the Office of Consumer Protection as principal investigator and prosecutor of complaints filed against travel agents and sales representatives would have to file an action against the Director in order to seek recovery from the fund.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 189, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 189, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 798 Consumer Protection and Commerce on S.B. No. 191

The purpose of this bill is to have examination procedures for the restorative technique examination deleted from the law and delineated in the rules based on current trends in dental education.

Your Committee received favorable testimony from the Board of Dental Examiners. The Board stated that the law currently requires them to administer a restorative technique examination in gold foil to qualified applicants of foreign dental colleges. Since the procedure for gold foil restoration is no longer taught in many dental schools and rarely used in practice, the Board needs to replace this procedure with one that is more current and relevant.

Accordingly, to be flexible and up-to-date with current trends and procedures, the exact requirements and procedures for the restorative technique examination need to be delineated in the rules of the Board of Dental Examiners.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 191 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 799 Consumer Protection and Commerce on S.B. No. 218

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 Board of Hearing Aid Dealers and Fitters who stated that continued licensure was necessary for the protection of consumers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 218, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 800 Consumer Protection and Commerce on S.B. No. 193

The purpose of this bill is to specify the duration and conditions under which the Board of Dental Examiners may grant a temporary license to practice dentistry.

Your Committee received favorable testimony from the Board of Dental Examiners. The Board stated that the current law provides no time limitation for temporary license holders with the exception of dentists who service Hansen's disease patients whose temporary license remains valid for three years. Technically, these other licensees could practice for an unlimited period without ever having to take or pass the dental examination.

This bill specifies the conditions under which a license is issued and the time period for which it remains in force and establishes one year as the maximum period for which a temporary license is valid.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 193 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 801 Finance on S.B. No. 35

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 S.B. No. 35, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 35, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 802 Finance on S.B. No. 34

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 million 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 on Finance is in accord with the intent and purpose of S.B. No. 34, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 803 Finance on S.B. No. 479

This bill provides a technical amendment by deleting the reference to chapter "244", which was repealed by the First Special Session of the State Legislature in 1984, and inserting chapter "244D", the new liquor tax law which the Legislature reenacted without the constitutionally questioned exemptions.

The change made by this bill updates references throughout the Hawaii Revised Statutes.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 479, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 804 Judiciary and Higher Education and the Arts on H.R. No. 167
(Majority)

The purpose of this resolution is to support the creation of an institute for peace at the university of Hawaii.

Your Committee heard testimony in support of the resolution from representatives of the university of Hawaii and from various public interest groups and individuals in support of the resolution.

With the proliferation of nuclear weapons, there is a growing concern that a nuclear holocaust could destroy life on earth. In October 1984, the federal government created the United States institute of peace and the university is currently in the planning stage to establish an institute in the pacific area. Your Committees heard testimony that the peace institute would serve as a center for people to meet and discuss nonviolent resolutions of conflicts.

Your Committees expressed concern that all viewpoints be represented at the institute. From the testimony, some committee members were of the opinion that the institute would embody the views of only a certain segment of the community. Another concern of your Committees was the feeling that problems in the community were being ignored or were of less significance. The proponents of the resolution testified that the institute would also consider concerns at the local as well as

the national level. Peace and conflict resolution was applicable universally and not limited to international affairs.

Your Committees on Judiciary and Higher Education and the Arts concur with the intent and purpose of H.R. No. 167 and recommend its adoption.

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

SCRep. 805 Judiciary on H.R. No. 145 (Majority)

The purpose of this resolution is to urge President Ronald Reagan, and the members of Congress, including Hawaii's congressional delegation to seriously consider a policy of no-first-use of nuclear weapons.

Your Committee finds that the current policy of the United States provides for the first use of nuclear weapons by members of NATO Alliance in order to repel an attack upon Western Europe by the Soviet Union.

Your Committee further finds that there is a strong possibility that any use of nuclear weapons in Europe would rapidly escalate into an all-out nuclear war between the United States and the Soviet Union. The Soviet Union declared that it has adopted a no-first-use of nuclear weapons policy. If the United States and NATO adopt a similar policy and there are modest improvements in NATO's conventional defenses, then there would be less reliance by the United States and NATO upon the use of nuclear weapons. As a result, the risk of nuclear war would be diminished and the credibility of a deterrent based upon conventional weapons would be enhanced.

Your Committee on Judiciary concurs with the intent and purpose of H.R. No. 145 and recommends its adoption.

Signed by all members of the Committee.
(Representatives Jones and Liu did not concur.)

SCRep. 806 Judiciary on H.R. No. 109 (Majority)

The purpose of this resolution is to urge the governments of the United States and the Soviet Union to reaffirm their commitments in the 1972 Antiballistic Missile (ABM) Treaty and to undertake serious negotiations to immediately ban the further development of anti-satellite systems, restrict research and development on space defense and space offense systems, and instead, promote cooperative ventures in peaceful uses of space.

Your Committee finds that the implementation of the space anti-satellite defense system, commonly known as the "star wars" system, would violate the 1972 ABM Treaty, and may not be effective against certain types of nuclear delivery systems.

Your Committee further finds that there are many current and potential uses of space for peaceful purposes, such as communications, Earth resources surveys, and weather surveillance, which may be impaired by the development and operation of space warfare systems.

In order to preserve space for peaceful purposes, it is necessary to enter into negotiations to prevent further development of anti-satellite systems, to restrict research and development of space defense and space offense systems, and instead, promote cooperation in developing peaceful and productive uses of space.

Your Committee on Judiciary concurs with the intent and purpose of H.R. No. 109 and recommends its adoption.

Signed by all members of the Committee.
(Representatives Jones and Liu did not concur.)

SCRep. 807 Judiciary on H.R. No. 118

The purpose of this resolution is to request a review of "living will" or "natural

death" proposals and related legislation, to examine the legislation and experiences in other states and to allow input from interested parties.

Your Committee finds that there is an increasing interest by patients in their right of self-determination, including whether or not to continue medical treatment beyond natural limits. Balanced against this right are the concerns of the medical profession who face the possibility of legal action or ethical sanctions for their decisions with regard to the patient. Your Committee believes in an attempt to fairly deal with all the issues raised by the testimony relating to self-determination and living wills, it is time to have a comprehensive review of all available legislation and information.

Your Committee on Judiciary concurs with the intent and purpose of H.R. No. 118 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 808 Judiciary on H.R. No. 135 (Majority)

The purpose of this resolution is to urge the President of the United States, the Chairman of the Presidium of the U.S.S.R. Supreme Soviet, the United States Secretary of State, and members of Congress, including the Hawaii congressional delegation that the United States and the Soviet Union establish an immediate, mutual, and verifiable moratorium on the production, testing, and deployment of nuclear weapons; to enter into a treaty providing for a comprehensive ban upon the testing of nuclear weapons; and to agree upon a schedule for rapid, mutual, and verifiable reductions in nuclear weapons and delivery systems.

Your Committee finds that the United States and Soviet Union combined, have nuclear weapons which have firepower equivalent to 6,000 times the firepower expended during World War II, in which 50 million people were killed.

The use of a small amount of this firepower would not only kill hundreds of millions of people by direct effects, but would also result in disastrous side effects, such as a "nuclear winter", ozone depletion, radioactive poisoning of the food chain, and epidemics of fatal diseases.

In order to reduce the potential use of nuclear weapons, both the Soviet Union and the United States must take immediate action. It is recognized that the solution to the grave problem of the use of nuclear weapons is not simple. However, it is clear that if both nations take the actions recommended in this resolution, then the potential for nuclear conflict would be reduced and probably eliminated.

Your Committee on Judiciary concurs with the intent and purpose of H.R. No. 135 and recommends its adoption.

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

SCRep. 809 Ocean and Marine Resources and Agriculture on H.C.R. No. 42

The purpose of this concurrent resolution is to request that all counties in the State of Hawaii define aquaculture as a form of agriculture under their governing ordinances, codes, and rules and regulations.

Your Committees find that it has been the intent of the Legislature to make aquaculture coequal with agriculture. Over the years, the State has steadily increased its attention on, and its commitment to, the development of a strong aquaculture industry, resulting in the State becoming a national leader in aquaculture development. However, comments from existing and would-be aquafarmers indicate that many county ordinances, codes, and rules and regulations relating to zoning, building, taxation, and water incorrectly treat aquaculture activities differently from agriculture activities, causing a time-consuming and costly impact on commercial aquaculturists to comply with their laws. Moreover, such difficulties on the county level experienced by the aquaculture industries may serve as a strong disincentive to investment in this industry.

Your Committees have amended this concurrent resolution to correct certain

typographic, technical, and stylistic errors; no substantive changes were made.

Your Committees on Ocean and Marine Resources and Agriculture concur with the intent and purpose of H.C.R. No. 42, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 42, H.D. 1.

Signed by all members of the Committees except Representative Kamali'i.

SCRep. 810 Planning, Energy and Environmental Protection and Agriculture on
H.C.R. No. 37

Your Committees have modified Section B(5)(c) of the State Agriculture Functional Plan of November 1984, to more closely reflect the intent and purpose of Article XI Section 3 of the Hawaii State Constitution. As a guideline, this provision will provide the State with the needed direction to fulfill its commitment to wisely manage its important agricultural lands.

Your Committees recommend that the State Agriculture Functional Plan of November 1984, as transmitted to the Legislature, and modified by the amendments set forth in the attached Exhibit A, be adopted as the State Agriculture Functional Plan.

Your Committee on Planning, Energy, and Environmental Protection and your Committee on Agriculture concur with the intent and purpose of H.C.R. No. 37, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 37, H.D. 1.

Signed by all members of the Committees.

SCRep. 811 Ocean and Marine Resources on H.R. No. 170

The purpose of this resolution is to request that the Federal government conduct a study of the migratory patterns of ahi and marlin.

The Department of Land and Natural Resources testified that it has been monitoring and tagging tuna and billfish for the past thirty years and cited ongoing efforts by other government agencies and organizations to study the migratory patterns of tuna and billfish. In essence, the Department indicated that these present efforts are adequate.

The Hawaii Institute of Marine Biology and the Sea Grant College testified that present studies have been small in scale, and that large scale studies will require additional funding than might be available at the local level. As such, both supported this measure.

A Kona fisherman also supported this measure and indicated that he would be able to recruit several fishermen on the Big Island's Kona Coast to tag small ahi of two and three pounds in size for this study effort.

Your Committee finds that a large scale effort by the Federal government would enhance those studies presently being undertaken by local government and other organizations, and that such collective efforts might yield information to aid in the development of management and harvesting opportunities for local fisheries.

Your Committee on Ocean and Marine Resources concurs with the intent and purpose of H.R. No. 170 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 812 Ocean and Marine Resources on H.C.R. No. 45

The purpose of this concurrent resolution is to request that the Federal government conduct a study of the migratory patterns of ahi and marlin.

The Department of Land and Natural Resources testified that it has been monitoring and tagging tuna and billfish for the past thirty years and cited ongoing efforts by other government agencies and organizations to study the migratory patterns of tuna and billfish. In essence, the Department indicated that these

present efforts are adequate.

The Hawaii Institute of Marine Biology and the Sea Grant College testified that present studies have been small in scale, and that large scale studies will require additional funding than might be available at the local level. As such, both supported this measure.

A Kona fisherman also supported this measure and indicated that he would be able to recruit several fishermen on the Big Island's Kona Coast to tag small ahi of two and three pounds in size for this study effort.

Your Committee finds that a large scale effort by the Federal government would enhance those studies presently being undertaken by local government and other organizations, and that such collective efforts might yield information to aid in the development of management and harvesting opportunities for local fisheries.

Your Committee has amended this concurrent resolution to correct a technical error by inserting the word "Concurrent" into the last "BE IT RESOLVED" clause; no substantive change was made.

Your Committee on Ocean and Marine Resources concurs with the intent and purpose of H.C.R. No. 45, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 45, H.D. 1.

Signed by all members of the Committee.

SCRep. 813 Health and State Planning, Energy and Environmental Protection on
H.R. No. 175 (Majority)

The purpose of this resolution is to request the Department of Health to install air pollution detection equipment in and about Makakilo, in Leeward Oahu, to monitor the levels of dust emissions in the air, and to ascertain whether or not any health hazards exist from exposure to the dust emissions.

This resolution also requests the Department of Health to take necessary corrective action if the dust emission levels are found to be hazardous to human health, and to submit a report to the legislature on its findings and actions taken.

Your Committees find that there are sufficient facts to lead to the belief that the people in Makakilo, Leeward Oahu, are being exposed to a high level of dust emission, and that constant exposure to high levels of dust emission might create a health problem in the future or might be hazardous to those persons already suffering from respiratory illnesses.

Your Committees on Health and State Planning/Energy, Ecology and Environmental Protection concur with the intent and purpose of H.R. No. 175 and recommend that it be referred to the Committee on Finance.

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

SCRep. 814 Human Services on H.R. No. 153

The purpose of this resolution is to request Hawaii's Congressional delegation to provide for the distribution of federal grants to each state according to a formula based on the number of military personnel and their dependents based in the state. This Resolution also requests that the Department of Social Services and Housing (Department) act as a liaison between the State government and the Congressional delegation, and to initiate a meeting between the Department, the Office of Children and Youth, and the appropriate officials of the Pacific Command of the United States Department of Defense to coordinate State and federal programs which provide child abuse and neglect services to military personnel and their dependents.

With the increase in child abuse and neglect reports over the past few years of which 20 percent are reportedly cases involving military personnel and their dependents, the federal-state cooperative efforts in this area needs to be strengthened and further developed.

Hawaii prides itself in being a State which cares for the needs of its children especially those who are victims of abuse and neglect. To meet the needs of all these children, it is necessary that all parties who have a responsibility for providing services as a result of abuse or neglect share in the cost of these services.

Your Committee believes that further discussion and coordination between the responsive State agency and the military in Hawaii will lead to a better effort in this area.

Child abuse and neglect is a community-wide problem and as such must be addressed by the entire community. More coordination between the State and the military can only bring the community closer to more effective responses to the increasing problems of child abuse and neglect.

Your Committee has amended this Resolution to provide for dissemination of certified copies to all military bases in Hawaii, and has made non-substantive amendments for clarity and style.

Your Committee on Human Services concurs with the intent and purpose of H.R. No. 153, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 153, H.D. 1.

Signed by all members of the Committee.

SCRep. 815 Human Services on H.R. No. 184

The purposes of this resolution as received are to:

(1) support a method of Medicaid reimbursement for noninstitutional medical health providers which will equal at least sixty percent of the noninstitutional provider's usual charges, and

(2) request that the Department of Social Services and Housing adjust the reimbursement schedules yearly according to changes in the Consumer Price Index and request appropriations to reflect such adjustments.

After receipt of testimony and independent research for further clarification, your Committee decided to amend the concurrent resolution to limit its focus on the reimbursement of individual practitioners such as physicians, dentists, psychologists and optometrists. These individual practitioners, whose services are fundamental and critically needed for the Medicaid program, are reimbursed on the basis of a profile of usual, customary, and reasonable charges.

Current Medicaid reimbursements for individual practitioners are based on 79.5% of the 1979 profile. This reimbursement profile adjusted by a 10% reduction of payments and rates effective June 30, 1983, has resulted in individual practitioners being reimbursed at increasingly lower rates. By the end of fiscal year 1983-1984, over 40% of the amounts billed to Medicaid by individual practitioners was denied because many of these amounts were above the reimbursement ceilings. And while these practitioners received approximately \$53,600,000 in Medicaid payments, approximately \$41,400,000 in claims were denied. This drastic reduction in reimbursement has meant that these practitioners cannot afford to keep the present number of patients on Medicaid being serviced, and that private patients are being forced to subsidize those on Medicaid.

Your Committee received testimony from the Hawaii Medical Association, the Hawaii Federation of Physicians and Dentists, and from four clinics and service centers all of whom agreed with the intent of the resolution. A number of these organizations presented figures showing the dramatic drop in the percentage of charges reimbursed compared to their cost for providing the services. Many organizations presenting testimony were not even reimbursed for their cost of the services.

Given these figures and assuming that the current downward reimbursement trend continues, it is not difficult to understand that many of these practitioners will be forced to give up the Medicaid portion of their business, and as a consequence people on Medicaid may not be able to find a competent health care provider.

Your Committee feels that continued availability of noninstitutional providers for those on Medicaid is essential for public's health and welfare, and that the Legislature should provide mechanisms to continue such coverage.

Your Committee on Human Services concurs with the intent and purpose of H.R. No. 184 as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 184, H.D. 1.

Signed by all members of the Committee.

SCRep. 816 Human Services on H.C.R. No. 50

The purposes of this concurrent resolution as received are to:

(1) support a method of Medicaid reimbursement for noninstitutional medical health providers which will equal at least sixty percent of the noninstitutional provider's usual charges, and

(2) request that the Department of Social Services and Housing adjust the reimbursement schedules yearly according to changes in the Consumer Price Index and request appropriations to reflect such adjustments.

After receipt of testimony and independent research for further clarification, your Committee decided to amend the concurrent resolution to limit its focus on the reimbursement of individual practitioners such as physicians, dentists, psychologists and optometrists. These individual practitioners, whose services are fundamental and critically needed for the Medicaid program, are reimbursed on the basis of a profile of usual, customary, and reasonable charges.

Current Medicaid reimbursements for individual practitioners are based on 79.5% of the 1979 profile. This reimbursement profile adjusted by a 10% reduction of payments and rates effective June 30, 1983, has resulted in individual practitioners being reimbursed at increasingly lower rates. By the end of fiscal year 1983-1984, over 40% of the amounts billed to Medicaid by individual practitioners was denied because many of these amounts were above the reimbursement ceilings. And while these practitioners received approximately \$53,600,000 in Medicaid payments, approximately \$41,400,000 in claims were denied. This drastic reduction in reimbursement has meant that these practitioners cannot afford to keep the present number of patients on Medicaid being serviced, and that private patients are being forced to subsidize those on Medicaid.

Your Committee received testimony from the Hawaii Medical Association, the Hawaii Federation of Physicians and Dentists, and from four clinics and service centers all of whom agreed with the intent of the resolution. A number of these organizations presented figures showing the dramatic drop in the percentage of charges reimbursed compared to their cost for providing the services. Many organizations presenting testimony were not even reimbursed for their cost of the services.

Given these figures and assuming that the current downward reimbursement trend continues, it is not difficult to understand that many of these practitioners will be forced to give up the Medicaid portion of their business, and as a consequence people on Medicaid may not be able to find a competent health care provider.

Your Committee feels that continued availability of noninstitutional providers for those on Medicaid is essential for public's health and welfare, and that the Legislature should provide mechanisms to continue such coverage.

Your Committee on Human Services concurs with the intent and purpose of H.C.R. No. 50, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 50, H.D. 1.

Signed by all members of the Committee.

SCRep. 817 Tourism on H.R. No. 201

The purpose of this resolution is to request the House Committee on Tourism to examine the feasibility of expanding the role of the Hawaii Visitors Bureau to

include activities other than marketing, advertising and research.

Your Committee finds that the Hawaii Visitors Bureau is the organization with the most experience in promoting tourism in Hawaii, and is considered by many to be the most appropriate body to take the lead in helping guide the future development of the industry. Your Committee believes that an expansion of the Bureau's role to that of a liaison between private tourism enterprises and state and county governments would provide the Bureau with more independence and could greatly improve the overall climate and economic health of the visitor industry throughout the state.

Your Committee on Tourism concurs with the intent and purpose of H.R. No. 201 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 818 Tourism on H.C.R. No. 56

The purpose of this Concurrent Resolution is to request the appointment of a joint Senate-House interim committee to examine the feasibility of expanding the role of the Hawaii Visitors Bureau to include activities other than marketing, advertising, and research.

Your Committee finds that the Hawaii Visitors Bureau is the organization with the most experience in promoting tourism in Hawaii, and is considered by many to be the most appropriate body to take the lead in helping guide the future development of the industry. Your Committee believes that an expansion of the Bureau's role to that of a liaison between private tourism enterprises and state and county governments would provide the Bureau with more independence and could greatly improve the overall climate and economic health of the visitor industry throughout the state.

Your Committee has amended this Concurrent Resolution to provide that the report of the interim committee be submitted to the Legislature rather than to only the House of Representatives, and by including the President of the Senate and the Chairperson of the Senate Committee on Tourism as recipients of certified copies. A technical, non-substantive amendment to correct a minor drafting error was also made.

Your Committee has made a technical, non-substantive amendment to this Concurrent Resolution to correct a minor drafting error.

Your Committee on Tourism concurs with the intent and purpose of H.C.R. No. 56, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as H.C.R. No. 56, H.D. 1.

Signed by all members of the Committee.

SCRep. 819 Planning, Energy and Environmental Protection and Public
Employment and Government Operations on H.C.R. No. 47

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct an audit of programs within the Environmental Protection and Health Services Division of the Department of Health. The purpose of the audit is to determine:

- (1) Whether the current programs are being implemented in accordance with State environmental policies and goals;
- (2) Whether current programs are effective in addressing environmental contamination problems;
- (3) Whether current programs are being managed efficiently;
- (4) Whether the structural organization of the Division promotes or hinders effective program implementation and management; and
- (5) What additional resources are needed and where they can be most effectively used.

Your Committees find that the Legislative Reference Bureau's study on the feasibility of establishing a State level environmental protection agency reported a lack of commitment to pollution control, division-wide leadership, and communications. Your Committees further find that any improvement in the State's capability to protect the public health and the environment begins with positive changes within the Division.

Your Committees find that a comprehensive assessment of the Division's programs is essential to the formulation of statutory changes.

Your Committees on Planning, Energy and Environmental Protection and Public Employment and Government Operations are in accord with the intent and purpose of H.C.R. No. 47 and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Kamali'i.

SCRep. 820 Human Services on H.R. No. 269

The purpose of the resolution is to request the Department of Social Services and Housing (Department) to find ways to expand the availability of health care plans for Medicaid recipients.

Your Committee believes that developing a framework under which Medicaid recipients can exercise freedom of choice, without sacrificing quality of care for the recipients, and yet providing cost-savings to the State is possible and prudent State policy. The consistent yearly increases in the Medicaid budget, and the reductions in the Federal share of the Medicaid budget, place the State in a difficult situation.

The ten-year, \$80 million Rand Corporation study, comparing the cost and use of medical care in an innovative test program in Seattle, Washington, shows a 28% reduction in annual cost per participant, 40% fewer hospital admissions and days of hospitalization per person and less costly styles of medicine when comparing health maintenance organizations (HMOs) with fee-for-service medical care.

Your Committee is aware, however, that requiring all Medicaid recipients to enroll in HMOs is not currently possible. First, federal waivers would be required. Secondly, there are not enough currently available HMOs to accept the approximately 81,000 Medicaid recipients. Thirdly, the success of the pilot program which requires all Medicaid recipients on Kauai to receive medical services from a federally qualified HMO and the success of the guaranteed enrollment plan enacted by the Twelfth Legislature have not yet been determined and assessed.

Your Committee has amended the resolution by requiring that a report be submitted to the Legislature on the success of the pilot program on Kauai; the possibility of negotiating with other federally qualified HMOs to provide medical services for Medicaid recipients in other localities and islands; and the success, or lack thereof, of the guaranteed enrollment program.

Your Committee on Human Services is in accord with the intent and purpose of H.R. No. 269, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 269, H.D. 1.

Signed by all members of the Committee except Representative Bunda.

SCRep. 821 Finance on S.B. No. 937

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 further finds that it is imperative that the State support and encourage energy industries that utilize indigenous sources of energy such as solar and wind resources. At present, solar water heaters, wind energy devices, and heat pump systems contribute significantly in reducing Hawaii's dependence upon petroleum based fuels. Your Committee finds that the present tax credit available to resident taxpayers for the installation of such energy saving devices has served to encourage the use of such equipment. With the prospect that Congress may not choose to extend the federal tax credit beyond the established expiration date, your Committee finds that an extension and increase of the present state energy device tax credit is timely. In this regard, this bill provides for the extension and increase of the state energy tax credit presently available for the installation of solar, wind and heat pump devices.

Your Committee has amended this bill by deleting the section providing for the exemption from taxation of proceeds arising from the organization of sport tournaments which deposit such proceeds into a trust fund for the benefit of the tournament and its participants.

Your Committee has also made some 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 S.B. No. 937, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 937, S.D. 2, H.D. 2.

Singed by all members of the Committee.

SCRep. 822 Finance on S.B. No. 1170

The purpose of this bill is to amend section 88-122, HRS, to provide an eight per cent investment yield on which to base the actuarial valuations for the years ending June 30, 1985 and 1986, the valuations forming the bases for determining the appropriations for the 1987-1989 fiscal biennium.

Your Committee on Finance agrees with the findings of your Committee on Public Employment and Government Operations in Stand. Com. Rep. No. 748, and concurs with the amendments made as a result of those findings.

Your Committee has made a nonsubstantive amendment to this bill to correct a technical error.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1170, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1170, H.D. 2.

Signed by all members of the Committee.

SCRep. 823 Finance on S.B. No. 1286

The purpose of this bill is to amend section 304-4 and 304-17, Hawaii Revised Statutes, and to repeal sections 304-15 and 304-17, Hawaii Revised Statutes in order to effect changes in the State-sponsored tuition assistance programs at the University of Hawaii. This bill will consolidate tuition waivers and scholarships, as there is no significant difference between the two, as interpreted by the University. Also, this bill recognizes the leadership role the University plays in Pacific-Asian affairs, and provides for tuition waivers for qualifying students from those areas.

Your Committee agrees that the increased flexibility in awarding tuition waivers will allow a greater number of those waivers to be utilized, and allow the granting of waivers to certain foreign students who have the potential to make beneficial contributions to this State.

Your Committee has made nonsubstantive technical amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of S.B.

No. 1286, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1286, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 824 Finance on S.B. No. 1299

The purpose of this bill is to allow county liquor commissions to control, supervise and regulate the manufacture, importation and sale of liquors by investigation, enforcement and education. The bill also provides that educational programs for licensees and their employees be financed with money collected from the assessment of fines against licensees.

Your Committee agrees with the purpose of this bill.

Your Committee has amended pages 1 and 5 of this bill to correct nonsubstantive drafting errors.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1299, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1299, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 825 Finance on S.B. No. 20

The purpose of this bill is to appropriate funds, to be matched dollar-for-dollar by the Hawaii Sugar Planters' Association, for sugar research and development, including research on alternate crops.

Your Committee concurs with the findings of the House Committee on Agriculture 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.

While your Committee agrees that past research efforts on the development of disease-resistant and high yielding varieties of cane have benefited the industry and have been directly responsible for helping maintain industry profitably in this period of depressed prices, your Committee supports research on alternate crops and by-products which can be important for the future of Hawaii's sugar industry.

Your Committee has amended this bill by changing the sum appropriated to \$2,000,000. Your Committee has also amended the language in section 2 of this bill to emphasize that a portion of the funds appropriated shall be used for research and development of alternative crops.

Your Committee has also 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 S.B. No. 20, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 20, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 826 Finance on S.B. No. 95

The purpose of this bill is to: (1) implement the reorganization of aquatic resources and wildlife functions of the Department of Land and Natural Resources, and (2) consolidate certain sections in Title 12, Hawaii Revised Statutes, to specifically reflect aquatic resources.

Your Committee agrees that this bill will facilitate referencing and locating of specific statutes, and is intended to minimize confusion, misunderstanding and misinterpretation of aquatic resources laws codified in the Hawaii Revised Statutes.

Your Committee has amended this bill to correct numerous technical and stylistic errors; no substantive changes were made.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 95, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 95, H.D. 2.

Signed by all members of the Committee.

SCRep. 827 Finance on S.B. No. 153

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.

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 concurs with the amendments made by the House Committee on Planning, Energy, and Environmental Protection that (1) require the board to adopt and administer rules to establish a basis on which royalty payments by a lessee to the state will be fixed or waived and (2) further clarify the board's responsibility to assess royalty waivers or adjustments on the basis of contingent requirements.

Your Committee has amended this bill by (1) deleting the requirement of the board to submit a written report of all geothermal royalty dispositions to the legislature in accordance with section 171-29, HRS, and (2) deleting the requirement for legislative review, with the option to disapprove, of royalty waivers or adjustments administered by the board.

Your Committee has also 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 S.B. No. 153, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 153, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 828 Finance on S.B. No. 236

The purpose of this bill is to amend sections 103-43 and 103-45, Hawaii Revised Statutes, relating to the mandatory purchase of Hawaii products, and public works contract specifications, respectively, to:

(1) provide that, in any expenditure of public funds, a government agency shall purchase equivalent, comparable, or substitutable Hawaii products that will fit the specifications; and

(2) require that in all public works projects, that equivalent, comparable, or substitutable Hawaii products shall be used.

Your Committee finds that the legislative intent of section 103-45, HRS, was to encourage and ensure that suitable Hawaiian-made products were utilized in public works projects in order to promote local business and economic opportunity, and lessen dependence on imports. Purchase of such suitable products were to be mandatory so long as the products were available and met the price qualifications.

Your Committee also finds, however, 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 concurs with amendments made by your Committee on Public

Employment and Government Operations as explained in Standing Committee Report Number 752.

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 S.B. No. 236, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 236, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 829 Finance on S.B. No. 64

The purpose of this bill is to place all licensing functions for care homes and boarding homes within the department of health.

Under current law, family and residential care homes are licensed and regulated by the department of health (DOH). Group living homes and family boarding homes are licensed and regulated by the department of social services and housing (DSSH). The present dual system of licensing and regulation does not promote efficiency in state government operations.

Your Committee has amended the definition of "domiciliary care" on page 10 to mean "the provision of twenty-four-hour living accommodations and personal care services and appropriate medical care, as needed, to adults unable to care for themselves by persons unrelated to the recipient in or other facilities."

Your Committee further amended this bill by deleting the \$298,278 appropriated by the House Committee on Human Services and substituting the sum of \$127,202 in section 16 of this bill.

Your Committee concurs with the findings of the House Committee on Human Services that additional funds are necessary to enable the DOH to meet the additional workload. The DSSH's present boarding home surveyors are social workers without the medical training necessary to properly assess the level of care necessary for each resident.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 64, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 64, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 830 Finance on S.B. No. 78

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

Currently, Part II provides that it is unlawful for an employer to require an employee or a job applicant to submit to a lie detector test as a condition of employment or continued employment and provides for a fine of not more than \$1,000 or imprisonment of not more than one year, or both; however, fines are assessed only in the event of criminal prosecution. This bill provides a remedy for the aggrieved party and for civil and criminal penalties for each violation, and authorized the attorney general or the county prosecutors to take civil and criminal actions.

This bill would require 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. This would protect the employer should there be some discrepancy as to whether or not the employee or prospective employee had been informed of the employee's or prospective employee's rights.

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 S.B. No. 78, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 78, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 831 Finance on S.B. No. 726

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

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

Your Committee approves the appropriation of \$40,000 for the purposes of this bill.

Your Committee has amended this bill by making nonsubstantive correction on pages 12, 13, 16, and 17.

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

Signed by all members of the Committee.

SCRep. 832 Finance on S.B. No. 592

The purpose of this bill is to require a person who enters into a contract with a person convicted of a crime or found not guilty under chapter 704, Hawaii Revised Statutes, for information about the crime, to pay all moneys earned or owed to the criminal injuries compensation commission.

Presently a person convicted of a criminal offense is free to exploit his or her crime by selling information relating to the crime. Your Committee believes that a convicted person should not be allowed to financially profit from his crime by retaining the proceeds of a contract for sale of information relating to the crime unless the victim of the crime is first compensated for the harm suffered as a result of the crime.

This bill accomplishes this objective by requiring the person who contracts with the person who committed the crime to deposit moneys payable under the contract with the criminal injuries compensation commission. The moneys deposited would then be used to pay a money judgement obtained by the victim.

Your Committee concurs with the amendments made to the bill by the House Committee on Judiciary as explained in Stand. Com. Rep. No. 738.

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 S.B. No. 592, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 592, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 833 Finance on S.B. No. 665

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.

Your Committee concurs with amendments made by your Committee on Consumer Protection and Commerce as explained in Standing Committee Report No. 679 regarding exemptions and clinical training.

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 S.B. No. 665, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 665, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 834 Finance on S.B. No. 702

The purpose of this bill is to extend Act 275, Session Laws of Hawaii 1984, for two years and to clarify certain of its provisions.

Act 275 designates the Office of Environmental Quality Control (OEQC) as lead agency in the areas of pesticide control and environmental quality in the State until June 30, 1985. This bill extends the authority until June 30, 1987 and also requires the OEQC to submit a report of its activities to the Regular Session of 1986.

Your Committee finds that there is continued need for the OEQC to provide statewide leadership in the areas of pesticide use and control and environmental quality. Your Committee, therefore, favors continuation of Act 275 for two years.

Your Committee has amended the bill to delete the additional appropriation for fiscal biennium 1985-87 as it will be provided for in the general appropriations bill.

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

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

Signed by all members of the Committee.

SCRep. 835 Finance on S.B. No. 1487

The purpose of this bill is to establish the amount of contribution by a public employer for the health benefits plan of an employee who retired after June 30, 1984 with at least five but less than ten years of credited service, excluding sick leave.

The board of trustees of the public employees health fund has proposed this bill to correct an inadvertent consequence resulting from the nonintegration of Acts 252 and 254, Session Laws of Hawaii 1984. Prior to Act 252, a retiree from public employment was not required to contribute towards the cost of the health benefits plan. Act 252, however, requires an employee who retired after June 30, 1984, with at least five but less than ten years of credited service, excluding sick leave, to make a contribution for the employee's health benefits plan. The amount of the contribution had been intended to be the difference between the public employer's statutory contribution and the cost of the plan. Act 254, however, eliminated the public employer's flat statutory contribution subject to collective bargaining agreement or adjustment under the excluded officers and employees law. The net effect of the combination of the Acts is to require the employee to pay for one hundred per cent of the cost of the health benefits plan. This bill requires the employee and public employer to share in the cost of the health benefits plan, consistent with the intent of Act 252.

Your Committee concurs with the amendment made by the House Committee on Public Employment and Government Operations which provides for contribution by the public employers to the health benefit plan, the children's dental plan, and the group life insurance benefits.

Your Committee has amended this bill to specify the exact dollar amounts of the

public employer's contributions to the health benefits plan and the children's dental plan.

Your Committee has also 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 S.B. No. 1487, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1487, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 836 Finance on S.B. No. 1358

The purpose of this bill is to set forth by statute particular costs which may be awarded to the prevailing party in a civil action.

Presently, under statutes, rules of court, and Hawaii case law, an award of costs pursuant to a taxation of costs is severely limited. Litigation has become more complex and more expensive, however, the items permitted to be taxed as costs against the losing party have not changed.

This bill provides for the recovery of costs for intrastate travel expenses for counsel and witnesses, deposition transcript originals and copies, and other incidental expenses, such as copying costs, intrastate telephone charges, and postage. The bill further provides that in determining what costs should be taxed, the court shall consider the equities of the situation.

Your Committee amended this bill by making technical, nonsubstantive changes for style and clarity.

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

Signed by all members of the Committee.

SCRep. 837 Finance on S.B. No. 1354

The purpose of this bill is to amend state law to allow Hawaii to join the Interstate Compact on the Placement of Children (ICPC).

The department of social services and housing has indicated that Hawaii is only one of three states in the nation not belonging to the ICPC. By not doing so, Hawaii is at a definite disadvantage in attempting to place children out of state with relatives or other caretakers. Additionally when foster families move to other states, our state has experienced difficulty in obtaining supervision over the children. In instances where the placement fails, by not being part of the ICPC, the State may not be notified. Your Committee agrees that without the safeguards of the ICPC, more children will "fall through the cracks" of social service agencies and will not be properly cared for, thereby increasing our national statistics of exploited children.

Your Committee further agrees that improving our placement ability for children within our jurisdiction is in the State's interest.

Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of style and clarity.

Your Committee is in accord with the intent and purpose of S.B. No. 1354, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1354, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 838 Finance on S.B. No. 732

The purpose of this bill is to provide psychological services be included within

the provision of services to and screening of exceptional children in the public schools.

Your Committee finds that services provided to and screening of exceptional children by psychologists should not be limited to those provided by licensed psychologists. Psychologists exempt from licensure by Section 465-3, Hawaii Revised Statutes, should continue to be able to provide services under the Department of Health and the Department of Education. Under Chapter 465, "psychologists" include licensed psychologists as well as psychologists who are exempt from licensure. Exempt psychologists include those employed by government agencies, such as the Department of Health. It is the intent of your Committee that exempt psychologists, when practicing within the limitations of the exemption, be allowed to serve exceptional children.

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

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 732, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 732, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 839 Finance on S.B. No. 113

The purpose of this bill is to: (1) Extend the Nursing Home Without Walls demonstration project for an additional two year period (July 1, 1985 - June 30, 1987); (2) to remove the provision which limits the services to the island of Oahu and allows them to be provided on a statewide basis; and (3) to provide an exception to the 75 per cent expenditure ceiling for the two year development phase of the project on 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 concurs with the findings and amendments of the House Committee on Human Services as explained in House Standing Committee Report No. 698. However, your Committee has amended this bill to provide for an appropriation of \$285,300 for fiscal year 1985-86, and an appropriation of \$689,700 for fiscal year 1986-87. Your Committee understands that these general fund appropriations will be equally matched by federal funds.

Your Committee has also amended this bill by making technical, nonsubstantive amendments to correct drafting errors.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 113, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 113, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 840 Finance on S.B. No. 459

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. The board, which will sunset on June 30, 1989, will promote interagency cooperation and coordination in the development of a statewide criminal justice information system.

Currently, as mandated by section 846-2, Hawaii Revised Statutes, there is an interagency advisory committee to the data center.

Your Committee believes that this bill will help provide for the coordination of efforts between agencies to improve the criminal information system available to all segments of the criminal justice community in this State.

Your Committee approves the \$7,000 appropriation made for the purposes of this bill.

Your Committee on Finance concurs with the amendments made by your Committee on Judiciary, as explained in Stand. Com. Rep. No. 733.

Your Committee on Finance has amended this bill to specify that the department of the attorney general shall expend the sum appropriated by this bill.

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

Signed by all members of the Committee.

SCRep. 841 Finance on S.B. No. 338

The purpose of this bill is to extend the expiration date of the public service company tax exemption of certain contract carriers (ocean-going vessels exceeding 10,000 gross tons), primarily engaged in the business of transporting persons for tourism or sightseeing purposes from June 30, 1986, to June 30, 1991.

American Hawaii Cruises (AHC), operates the S.S. Independence and the S.S. Constitution. Its cruise ship business in the State was started in 1980 with one ship, the Independence. With legislative enactment of the above mentioned tax exemption in 1981, AHC launched the Constitution in 1982. In 1984, AHC was able to turn a small profit for the first time, although its liabilities still exceed its assets by approximately \$20 million. With an extension of the present tax exemption, AHC envisions a promising future of growth, generating benefits to the tourism industry, the Aloha Tower Development, and the State.

Your Committee finds the extension of the tax exemption by this bill is in order.

Your Committee has amended this bill to correct a bracketing error on line 11.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 338, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 338, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 842 Finance on S.B. No. 460

The purpose of this bill is: (1) to specifically authorize the Hawaii criminal justice data center to use fingerprinting as part of their identification system; (2) to enlarge the class of persons to be included in this identification system; and (3) to require the data center to record and compile information relating to crime.

The bill will amend section 846-2.5, Hawaii Revised Statutes, to allow fingerprinting for identification purposes. In addition, the bill will add to the data base those persons who have been issued a penal summons and subsequently convicted, and those persons who have entered pleas of deferred acceptance of guilty (DAG) or nolo contendere. At the present time, the criminal history system does not have stored in its data base cases where penal summons have been issued or where DAG, or nolo contendere pleas have been entered.

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 data base for the State.

Your Committee has amended this bill to designate the attorney general as the expending agency. An appropriation of \$8,000 for the purposes of this bill is approved by your Committee.

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

Signed by all members of the Committee.

SCRep. 843 Finance on S.B. No. 463

The purpose of this bill is to authorize an appropriation to provide for payment of judgments against the State, settlements, and other miscellaneous claims as provided by Section 37-77, Hawaii Revised Statutes.

As received, this bill listed thirty-one claims for payment and appropriated the sum of \$5,814,962.48 to satisfy them.

Your Committee has amended this bill to delete the claim for reimbursement of the City and County of Honolulu in the amount of \$2,024,952.99. In all other respects, your Committee on Finance concurs with the amendments made by your Committee on Judiciary, as explained in Stand. Com. Rep. No. 739. Therefore, as amended, this bill lists thirty claims for payment and appropriates the sum of \$3,790,009.49 to satisfy them.

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

Signed by all members of the Committee.

SCRep. 844 Consumer Protection and Commerce on S.B. No. 217

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 heard testimony in favor of the bill from the Board of Medical Examiners. The Board, however, recommended the deletion of Section 6 of the bill which addresses the manner in which hospitals shall accord privileges to licensed podiatrists. The Board testified that this activity is outside of the Board's scope, and that the Board is not organized to examine the conduct of hospitals nor to discipline hospitals.

Your Committee, upon further consideration, has amended the bill by deleting Section 6. Your Committee has also made several nonsubstantive amendments to the bill to correct technical, stylistic, and typographical errors.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 217, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 217, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 845 Consumer Protection and Commerce on S.B. No. 1175

The purpose of this bill is to preclude the continuous refinancing of balloon payments at terms less favorable to the buyer than terms contained in the original credit sale contract.

Your Committee heard testimony from the Office of Consumer Protection and the Hawaii Bankers Association. The Association testified that the proposed language which reads: "... which shall not be less than the term of the original contract", would create unanticipated problems.

Your Committee, upon further consideration and in light of the testimony offered by the Association, has made the following amendment:

- (1) The proposed language has been amended to read:

"..., except that the payment schedule may be modified so as to effect the amortization of the total amount refinanced over the period for which it is refinanced, which shall not be less than the term of the original contract, or that no scheduled payment required upon refinancing shall be greater than the amount of the average scheduled payment required by the original contract."

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

intent and purpose of S.B. No. 1175, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1175, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 846 Consumer Protection and Commerce on S.B. No. 201

The purpose of this bill is to change the name of the Board of Certification for Practicing Psychologists, to substitute the word "license" for certificate, to clarify the limitations of those exempt from the licensing requirements and to delete gender references.

Your Committee received testimony from the Board of Certification for Practicing Psychologists (Board) in favor of this bill. The Board testified that these amendments would accomplish the following:

- (1) The Board name will be amended to the Board of Psychology;
- (2) Sections 26-9, 26H-4 and 481B-11, Hawaii Revised Statutes, will be amended to substitute the word "license" for certificate;
- (3) Section 465-3(a)(2), Hawaii Revised Statutes, will be amended to clearly state that any person exempt from the licensing requirements will be prohibited from representing himself to others that he is a psychologist and/or licensed to practice psychology;
- (4) Section 465-3(a)(4), Hawaii Revised Statutes, will be amended to prohibit a person training to be a psychologist from representing or implying to the public that he is a psychologist and/or licensed to practice psychology;
- (5) Section 465-3(a)(5), Hawaii Revised Statutes, will be repealed since Chapter 453, Hawaii Revised Statutes, already defines what a licensed physician is qualified to do; and
- (6) Section 465-3(c), Hawaii Revised Statutes, will be deleted.

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

- (1) Subsection 465-7(2), Hawaii Revised Statutes, has been amended as follows:

Holds a doctoral degree from [an accredited institution of higher education with training and education in the field of psychology adequate to the satisfaction of the board.] a training program approved by the American Psychological Association (APA) or meets the academic and experiential requirements for inclusion in the National Register of Health Service Providers in psychology.

- (2) The following language will be added to the 1985 Session Laws of Hawaii:

"Any person enrolled in an APA-approved program or a regionally accredited school prior to January 1, 1986, and who meets the requirements established by the Board of Psychology, need not meet the one year, supervised post-doctoral clinical experience requirement and shall be allowed to sit for the examination."

This proposed amendment would grandfather students who are currently scheduled to graduate in May, 1985.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 201, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 201, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 847 Consumer Protection and Commerce on S.B. No. 932

The purpose of this bill is to amend Sections 501-101.5 and 502-85, Hawaii Revised Statutes, to provide that the claims or liens upon real estate covered by the agreement of sale shall automatically transfer to the proceeds from the satisfaction of the agreement of sale, in the same priority with respect to other transferred claims or liens and with respect to other claims or liens on such proceeds.

Under current statute, any claim or lien arising out of a conveyance or judgment against the vendor that is filed or recorded after the filing or recordation of the agreement of sale, attaches to the real estate covered by the agreement of sale. This situation has delayed and even prevented vendees in some cases from obtaining clear title to the real estate after satisfying the agreement of sale.

Your Committee received testimony from the Hawaii Association of Realtors; the Judiciary, State of Hawaii; Title Guaranty Escrow Services, Inc. and Hawaii Financial Services Association in support of the bill. Hawaii Financial Services Association testified that the bill would eliminate a problem that some title companies have perceived with Act 205 (1984). Accordingly, this bill would reword the provisions to provide for an automatic extinguishment of a claim if the buyer has satisfied his agreement of sale as defined in the bill.

Your Committee, upon further consideration, has amended the bill by adding a new section 3 which would amend Section 478-8, Hawaii Revised Statutes. The amendment would provide that after July 1, 1987, upon extension at maturity or renegotiation of the agreement of sale, the maximum rate of interest charged thereafter on the agreement of sale shall not be more than four percentage points above the highest rate of interest charged on any mortgage on the property sold under the agreement of sale or four percentage points above the contracted rate of interest in the agreement of sale, whichever is greater.

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

Signed by all members of the Committee.

SCRep. 848 Consumer Protection and Commerce on S.B. No. 454

The purpose of this bill is to require arbitration for disputes between an owner and a condominium association's Board of Directors, managing agent, or another apartment owner regarding the interpretation, application, or enforcement of the association's declaration, bylaws, or house rules.

Your Committee heard testimony from the Real Property Section of the Hawaii State Bar Association, the Hawaii Council of Associations of Apartment Owners and the American Arbitration Association (AAA) in support of the bill. The AAA testified, however, that including the term "welfare" within the proposed language would create an overly-broad loophole which would discourage aggrieved parties from pursuing the arbitration of internal condominium disputes.

Your Committee, upon further consideration, has amended the bill by deleting the words "or welfare" from page 1, line 15.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 454, S.D.1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 454, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 849 Consumer Protection and Commerce on S.B. No. 1144

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 heard favorable testimonies from optometrists, and unfavorable testimonies from ophthalmologists and other medical professionals. The issues discussed focused on the adequacy of optometric education and training in diagnosis of eye abnormality and systemic diseases, use of diagnostic pharmaceutical agents, and handling of medical crises arising from reactions to pharmaceutical agents. The issues of malpractice and the status of similar legislation on the mainland were also discussed.

The ophthalmologists testified that optometrists should not be allowed to diagnose eye diseases or use pharmaceutical agents because they are not medical doctors. They postulated that if a medical crisis from a reaction to the agents were to occur, only medical doctors could provide proper care and treatment. They also expressed concern that expensive malpractice suits could result from an optometrist's misuse of pharmaceutical agents.

The optometrists testified that they are thoroughly trained in the detection of eye abnormalities and diseases and in the use of pharmaceutical agents by optometric schools which are nationally accredited. Currently, 43 states and all armed forces branches allow them to use pharmaceutical agents for examination purposes, and no successful malpractice suits have resulted. The optometrists also testified that medical crises rarely occur as a result of the use of pharmaceutical agents, and that they are adequately trained to handle such emergencies. They believe this bill would provide consumers with better and lower cost eye care.

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

(1) On page 3, line 2, the words "permitted by" has been deleted and replaced with "granted to". This amendment makes it clear that the use of pharmaceutical agents will be granted to an optometrist, as opposed to being permitted by an optometrist.

(2) On page 3, lines 4 to 11 have been amended to read as follows:

"If while examining a patient a licensed optometrist finds, by history or examination, any ocular abnormality or any evidence of systemic disease requiring further diagnosis and possible treatment by a licensed physician, the optometrist shall refer that patient to an appropriate licensed physician [for diagnosis and possible treatment]. [Failure to do so shall constitute malpractice.]

[Misuse of the pharmaceutical agents shall constitute malpractice.]"

The proposed new language "requiring further diagnosis and possible treatment by a licensed physician" will insure that all optometric patients will not have to be needlessly referred.

The proposed deletion of "...for diagnosis and possible treatment. Failure to do so shall constitute malpractice. Misuse of the pharmaceutical agents shall constitute malpractice" allows the courts to properly make the determination as to whether there is malpractice involved. Further, keeping such proposed language could prevent optometrists from obtaining malpractice insurance.

(3) Page 12, lines 16 to 22 have been amended to read as follows:

"(11) Failure to refer a patient to an appropriate[ly] licensed physician [for diagnosis and possible treatment] upon discovery, by history or examination, that the patient evidences an ocular abnormality or symptoms of systemic disease requiring further diagnosis and possible treatment by a licensed physician."

(4) Your Committee has also amended the bill by adding a new Section 6, which would require the Board of Examiners in Optometry to promulgate rules and regulations which will require a licensed optometrist to report findings of adverse effects experienced by any of the optometrist's patients from his use of pharmaceutical agents during an examination.

(5) Finally, your Committee has made nonsubstantive amendments to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1144, S.D. 1, as amended herein, and recommends

that it pass Second Reading in the form attached hereto as S.B. No. 1144, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 850 Consumer Protection and Commerce on S.B. No. 1130

The purpose of this bill is to revise Section 294-5, Hawaii Revised Statutes, to limit 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.

This bill attempts to remedy the recent Hawaii Supreme Court decision in Maldonado v. Transport Indemnity. By way of history, the Insurance Commissioner initially ruled in Maldonado 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 Hawaii Supreme Court reversed the Commissioner's initial ruling and held that the claimant was entitled to recover his total wage losses from both worker's compensation and no-fault subject to the benefit limits provided by each policy.

Your Committee received testimony from the Department of Commerce and Consumer Affairs, MTL, Inc., the Hawaii Insurance Council, the Hawaii Independent Insurance Agents Association and Hawaiian Electric Company, Inc. in favor of the bill.

Your Committee, upon further consideration has amended the bill by providing that the aggregate of payments from both sources shall not exceed 80 percent of the person's monthly earnings, as suggested by the Department.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1130, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1130, S.D. 1, H.D. 1, and be place on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 851 Consumer Protection and Commerce on S.B. No. 669 (Majority)

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.

This bill would require persons to 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 20 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.

Your Committee 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, to be consistent with the Minnesota Takeover Act, amended the bill to clarify the time period in which a shareholders' meeting should be held in a control share acquisition. Your Committee also 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 S.B. No. 669, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 669, S.D. 1, 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. 852 Consumer Protection and Commerce on S.B. No. 1231

The purpose of this bill is to amend Section 46-76, Hawaii Revised Statutes, to permit that portion of the total cost of relocating utility facilities in improvement districts as determined by the legislative body of the appropriate county to be equally apportioned among the utility companies, and to clarify that this equal apportionment applies to the relocation of facilities whether they are located above or below ground.

Your Committee heard testimony from GASCO, Inc. and Hawaiian Telephone Company in favor of the bill and from the Department of Public Works, City and County of Honolulu, who opposed the bill on the ground that the City has developed a policy regarding the proration of costs of relocating existing overhead utility facilities to underground in improvement districts.

Your Committee, after further consideration, has amended the bill to reflect the language contained in H.B. No. 1054, H.D. 1, as follows:

(1) On page 1, line 15, the words "located or" have been deleted and the phrase "removed, relocated, replaced or reconstructed" have been added.

(2) On page 2, line 8, the following language has been inserted after the word "sum", "that the portion of the cost to be borne by the utility companies shall be the same percentage of the total relocation cost for each utility company required to remove, relocate, replace or reconstruct its facilities within the improvement district".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1231, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1231, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 853 Consumer Protection and Commerce on S.B. No. 1270

The purpose of this bill is to require disclosure of the agency relationship of a real estate broker to the buyer and seller in a real estate transaction.

Presently, there is confusion and misunderstanding among the users of real estate brokerage services about the agency relationship and the duties of brokers

to their principal and to other parties.

Your Committee received testimony from the Real Estate Commission (REC) and the Hawaii Association of Realtors in support of the bill.

Your Committee, upon further consideration, has adopted changes offered by the REC by amending the bill as follows:

- (1) On page 1, line 8, the word "agency" has been deleted;
- (2) On page 1, line 9, "January 1, 1988" has been changed to "July 1, 1987";
- (3) On page 4, line 9, the language in item (12) has been replaced 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;"
- (4) On page 5, line 13, the effective date has been changed to July 1, 1987.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1270, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1270, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 854 Consumer Protection and Commerce on S.B. No. 1138

The purpose of this bill is to exempt employees of an investment advisor from the criteria for registration which is required of the investment advisor and to increase the bond requirement from \$10,000 to \$50,000.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs and the International Association for Financial Planning, Inc. in support of this bill. In implementing Act 281, Session Laws of Hawaii 1984, the Department encountered unresolved issues that caused some implementation problems. An Attorney General's opinion was obtained by the Department which stated that all persons engaged in giving investment advice must be registered and meet the requirements of bonding, insurance, certified financial statements, net worth and other requirements as laid out in Act 281. This placed a severe hardship on the investment companies and therefore, this bill creates a new category of registration similar to salesmen for broker/dealer relationships.

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

- (1) On page 12, lines 14-21, the following language has been deleted:

"an applicant who has evidence of successfully passing an examination required by the Securities and Exchange Commission or by any national securities exchange or national securities association registered under the Securities Exchange Act of 1934 or who was registered as an investment advisor by the Securities and Exchange Commission as of January 1, 1983, shall be exempt from that requirement."

and the following language has been inserted in its place:

"the Commissioner may by rule or regulation set forth exemptions to the examination requirement."

- (2) On page 14, line 12, the following language has been added to subsection (4):

"if the investment advisor 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 advisor has no custody of or discretionary authority over client money, securities or other assets;"

- (3) On page 20, line 13 after the word "business" the following language has been added:

"; provided that the commissioner may by rule or regulation set forth exemptions to the examination requirement."

(4) On page 24, line 17, 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 on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1138, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1138, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 855 Consumer Protection and Commerce and Housing on S.B. No. 224

The purpose of this bill is to continue Act 189, Session Laws of Hawaii 1980, beyond its scheduled termination date of December 31, 1985.

Generally, the purpose of Act 189, Session Laws of Hawaii 1980, is to require developers of a condominium project to offer to sell at least fifty per cent of the residential apartment units being developed to prospective owner-occupants. The developer is required to publish a notice in a newspaper of general circulation in the county giving material information about the project to prospective purchasers. A reservation list of prospective owner-occupants who apply to purchase one of the apartment units must be compiled and the seller must sell to qualified buyers on such list.

Your Committees heard testimony from the Real Estate Commission of the Department of Commerce and Consumer Affairs and the Hawaii Council of Associations of Apartment Owners. The Real Estate Commission supports this bill; however, only with the extensive recommended amendments or, in the alternative, the version reflected in H.B. No. 520, H.D. 1, which has adopted the Commission's amendments to Act 189, Session Laws of Hawaii 1980.

Your Committees find that H.B. No. 520, H.D. 1, addresses the concerns of all parties. Accordingly, your Committees have amended this bill by deleting its proposed language and have inserted the proposed language of H.B. No. 520, H.D. 1.

Your Committees on Consumer Protection and Commerce and Housing are in accord with the intent and purpose of S.B. No. 224, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 224, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Gaulty and Lindsey.

SCRep. 856 Judiciary on S.B. No. 644 (Majority)

The purpose of this bill is to exempt from Sections 291-3.2 and 291-3.3: (1) certain motor vehicles licensed by the public utilities commission (PUC) which have a barrier between the driver and the passengers, and (2) the living quarters of a housecar.

Under present law, there is an exemption from these two sections for the living quarters of a trailer or camper. However, your Committee finds that vehicles that are chauffeur driven are covered by the present statute which prevent the consumption, possession or storage of an open container containing intoxicating liquor. These vehicles are often used for VIP travel and special occasions such as weddings. Currently, no intoxicating beverage may be served in such vehicles.

Your Committee believes that the bill would benefit limousine services by allowing service of liquor in limousines where a barrier prevents transfer of liquor between the driver and passengers.

Your Committee amended the bill by deleting reference to an exemption for

housecars and specifying that only limousines with a barrier, and which have a PUC certificate with a 1-7 passenger classification be granted an exemption. Such an amendment narrows the scope of the bill to prevent consumption, possession or storage of an open container in larger vehicles.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 644, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 644, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 857 Judiciary on S.B. No. 253

The purpose of this bill is to amend Chapter 586, Hawaii Revised Statutes, relating to domestic abuse protection, in the following respects: (1) to allow an applicant to file a petition for domestic abuse protection on behalf of an incapacitated adult person; and (2) to allow an order for protection which protects the applicant's family and household members.

Under present law, an applicant may apply for relief only for the applicant's own protection or for the protection of a family or household member who is a minor. Your Committee finds that there are many instances where adults, incapacitated because of age or infirmity, require protection. This bill will afford an incapacitated adult person protection from domestic abuse.

Further, under present law, an applicant may apply for relief in order to protect only children or other relatives residing with the applicant at the time of the granting of the order. Your Committee finds that there is no good reason for restricting the protection afforded under Chapter 586 in this manner. Rather, any person who has an interest in protecting a household or family member should be able to obtain an order, even though he or she may not live in the same residence. This bill will afford this additional and often necessary protection.

Under this bill, a petition for relief may be filed to protect a family or household member who is "physically or mentally" incapacitated. Your Committee finds that an incapacitated person, regardless of how the incapacity is characterized, is entitled to protection. Therefore, your Committee has amended this bill by deleting the words "physically or mentally" found on page 1, lines 6 and 7 of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 253, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 253, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 858 Judiciary on S.B. No. 76

The purpose of this bill is to amend the schedules of controlled substances to conform with recent changes in the federal law and to make clear that cocaine, whether natural or synthetic, is a controlled substance.

Your Committee finds that these modifications are necessary for the proper enforcement of the Uniform Controlled Substances Act.

Testimony presented by the deputy director of environmental health and G.A. Morris, Inc. indicated that the federal government recently reclassified the drug, "buprenorphine" and published the changes in the Federal Register. The drug "buprenorphine" was reclassified to a Schedule V drug, that is, Section 329-22 of the Hawaii Revised Statutes.

Therefore, your Committee amended the bill by adding "buprenorphine" to Schedule V substances on page 9, line 12.

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

the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 859 Judiciary on S.B. No. 461

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

Your Committee received testimony in favor of this measure from the Office of the Attorney General, the Chamber of Commerce, the Retail Merchants of Hawaii, the Hawaii Food Industry Association, Times Supermarket, Sears Roebuck and Longs Drug Stores.

Under present law, a store owner may sue in civil court only for actual damages suffered as a result of merchandise being stolen. This bill proposes that a shoplifter be liable to the owner for actual damages and a civil penalty to the owner of not less than \$50 nor more than \$500. The bill would put the economic burden where it should belong by transferring part of the cost of shoplifting from the honest customer to the shoplifter. Further, if the shoplifter is a minor, the minor's parents are liable for the civil penalty.

Your Committee amended the bill to place a ceiling of \$500 on the amount of actual damages that can be recovered. In addition, your Committee amended the bill to make the civil penalty range from not less than \$50 to not more than \$250. Your Committee expressed concern that allowing merchants to demand a civil penalty in their demand letters will result in inconsistent application of the civil penalty provision. Therefore, your Committee amended the bill to require that awards of civil penalties be determined by the court.

Your Committee also made a technical, nonsubstantive amendment.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 461, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 461, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 860 Judiciary on S.B. No. 1155

The purpose of this bill is to clarify the definition of "moped" under sections 249-1, 286-2, and 291C-1, Hawaii Revised Statutes.

Under Sections 249-1, 286-2, and 291C-1, a "moped" is defined as a motorized device, having among other features, two or three wheels and having a motor capable of one and one-half horse power or less. Your Committee believes that this bill clarifies the definition of "moped" in these sections by making clear that a "moped" may or may not have foot pedals.

Your Committee believes that the description of foot pedals as being pedals of the type by which a "moped" is "capable of being propelled solely by human power," as provided in this bill, is superfluous. Therefore, your Committee has amended this bill by deleting the language "by which the device is capable of being propelled solely by human power" found at page 1, lines 5 and 6; page 2, lines 5 and 6; and page 2, lines 22 and 23 of this bill.

Your Committee on Judiciary is in accord with the intent and purposes of S.B. No. 1155, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1155, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 861 Judiciary on S.B. No. 1404

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes which will address situations where a debtor attempts to hinder payment of a debt to a creditor. This bill will enact the uniform fraudulent transfer act which was

drafted by the national conference of commissioners on uniform state laws.

Presently, there is no statutory law which would address the problem of fraudulent transfers. The leading case in Hawaii appears to be Achilles v. Cajical, 39 Haw. 493 (1952). In that case, the court specified eight badges, or indicia of fraud. The uniform act would increase the number of badges and categorize these into two divisions.

Your Committee heard testimony in support from the Hawaii commission for promulgation of uniform legislation. A representative of the commission stated that the national conference at its midyear executive committee meeting proposed certain technical changes to sections -2 and -8 of the uniform act. Your Committee recommends that those changes be included in the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1404, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1404, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 862 Judiciary on S.B. No. 377

The purpose of this bill is: (1) to amend Section 290-12, Hawaii Revised Statutes, by eliminating the element of "knowingly" in defining the offense of leaving abandoned or derelict vehicles; and (2) to increase the minimum fine from \$50 to \$150.

Presently, Section 290-12 provides that a person commits an offense under this section if he "intentionally and knowingly" leaves an abandoned or derelict vehicle. This creates confusion because "intentionally" and "knowingly" are distinct states of mind, with "intentionally" being the higher state of mind and more difficult to prove. The bill reduces this confusion by eliminating the element of "knowingly".

Your Committee believes that there is no need to require a high state of mind such as "intentionally" or "knowingly" in leaving an abandoned or derelict vehicle. Therefore, your Committee has amended this bill by eliminating the need to show either of these states of mind in order to prove an offense under Section 290-12. Specifically, the word "intentionally" found on page 1, line 4, of the bill has been deleted.

Your Committee further finds that the increase in the minimum fine under Section 290-45 from \$50 to \$150 is appropriate.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 377, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 377, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 863 Judiciary on S.B. No. 1408

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

Your Committee received testimony in favor of this measure from the victim-witness kokua services, the Honolulu police department, the child and family service, the Hawaii state commission on the status of women and the Hawaii state committee on family violence.

The bill broadens the applicability of the spouse abuse criminal statute to family and household members, which is defined in section 586-1, Hawaii Revised Stat-

utes, as "spouses, former spouses, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit."

Concern was expressed by your Committee that the definition may be overly broad. In addition, the senior judge of the family court testified that there may be due process problems with using a civil definition in a criminal statute. To resolve this conflict, your Committee amended the bill by deleting references to "family and household members" and keeping the present wording of the statute.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. 1408, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 1408, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 864 Consumer Protection and Commerce on S.B. No. 588

The purpose of this bill is to permit leasehold apartment owners to combine their rent payments with their monthly maintenance fees.

Currently, the law prohibits commingling lease rent with the owner's maintenance fees and with the condominium association's operating account. This requires that the association collect the lease rent if the declarations of Horizontal Property Regimes and bylaws require them to do so on behalf of the lessor.

Your Committee heard testimony from the Real Estate Commission supporting this bill and adopted the Commission's suggestion to allow associations the option at its annual meetings to vote on what system of payment they prefer.

Your Committee also received testimony from the Institute of Real Estate Management (IREM) and Certified Management in favor of the bill. IREM respectfully requested, however, that the bill be amended and submitted proposed amendments to the bill.

Your Committee, upon further consideration and in light of the testimony offered by IREM has made the following amendments:

- (1) On page 3, lines 20-23, the following language has been deleted:

"and that the continuance or discontinuance of collection and payment is voted on at the annual meeting of the association of apartment owners."

This amendment is necessary since the continuance or discontinuance of ground lease rent collection and payment is not discretionary on the part of the apartment owners.

- (2) The following proposed language has been inserted in place of the above deleted language:

"provided that the managing agent shall not pay ground lease rent to the ground lessor in excess of actual ground lease rent collected from individual apartment owners."

This amendment would prohibit managing agents from paying the ground lessor any ground lease rent that has not been collected from individual apartment owners who are delinquent in the payment of ground lease rent.

- (3) The language in Sections 1 and 3 have been deleted.

- (4) A new section has been inserted to amend Chapter 514A, Hawaii Revised Statutes, to require a yearly audit of the association's financial accounts and no less than one yearly unannounced audit of the association's financial accounts by a certified public accountant, unless the owners during the annual association meeting decide otherwise.

- (5) A new section has been added to delete Section 514A-82(20), Hawaii Revised Statutes, since it would no longer be necessary if the proposed language in Section 1 is incorporated.

(6) A new section has been added to amend Section 514A-85, Hawaii Revised Statutes, to prohibit telephone transfer of association funds between accounts.

(7) A new section has been added to amend Section 514A-86(b), Hawaii Revised Statutes, to require mandatory purchase of directors' and officers' liability insurance.

(8) A new section has been added to amend Section 514A-95(a), Hawaii Revised Statutes, to require that a managing agent be licensed as a real estate broker in compliance with Chapter 467, Hawaii Revised Statutes, and the rules of the real estate commission.

(9) The effective date has been amended to December 31, 1985, in order to provide adequate time for managing agents to comply with the requirement for licensure as a real estate broker.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 588, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 588, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 865 Consumer Protection and Commerce and Judiciary on S.B. No. 539

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes to regulate alarm businesses.

Your Committees heard testimony from the Office of Consumer Protection, the Honolulu Police Department, and the Retail Merchants of Hawaii in favor of the bill, and from Information Alternatives, who recommended the deletion of § -2 of the bill which requires a surety bond.

Your Committees, after further consideration, have amended the bill by deleting the following sections and renumbering the remaining sections accordingly:

(1) § -2, which required that alarm businesses be covered by a surety bond in the sum of \$5,000 during its first five years of operation.

(2) § -8, which required that alarm businesses share with the Police Department information about false alarms and alarm systems in operation in order to determine the monthly false alarm rate for each alarm business.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of S.B. No. 539, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 539, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 866 Consumer Protection and Commerce on S.B. No. 327

The purpose of this bill is to provide that expenses paid to a person injured in a motor vehicle accident should be conclusively presumed to be reasonable and necessary in establishing the medical-rehabilitation limit.

Your Committee heard testimony by the Department of Commerce and Consumer Affairs, the Hawaii Independent Insurance Agents Association, the Hawaii Insurer's Council, and the Hawaii Academy of Plaintiffs' Attorneys, and finds that the purpose of the current law is to limit an injured party's ability to sue in tort in all but the most serious cases in return for a sure and expeditious source of payment through no-fault insurance. However, a conclusive presumption that medical-rehabilitative expenses are reasonable and necessary may result in the fraudulent padding of less serious claims in an effort to reach the threshold.

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

(1) On page 2, line 8, the word "conclusively" has been deleted; and

(2) On page 2, line 16, the following language has been added to the end of the sentence:

"The party against whom the presumption under this section is directed shall have the burden of proof to rebut the presumption."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 327, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 327, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 867 Ocean and Marine Resources and Water, Land Use, Development
and Hawaiian Affairs on S.B. No. 1310

The purpose of this bill, as received, is to amend subsection 205-33(a), Hawaii Revised Statutes, by:

(1) limiting the taking of sand from a public beach for personal and non-commercial use to not more than one gallon; and

(2) eliminating the exception which permits the mining or taking of sand on public beaches by the State or county, if it is for the replenishment of beach areas at Hilo Bay, Waikiki, Ala Moana and Kailua.

Your Committees find that limiting the taking of sand for personal and non-commercial use to one gallon may be unreasonably restrictive. Therefore the bill has been amended to allow the taking of sand for this specific purpose to five gallons. This bill was also amended to limit the removal of the sand taken for personal and non-commercial use to hand containers such as hand shovels, buckets and pails to discourage any large-scale removal of sand from our shores.

Your Committees were also informed that there is an ancient fishpond at Kualoa on the island of Oahu which is culturally significant as it is believed to be the last fully functioning fishpond in the State. A concern has been raised that sand mining on any scale at Kualoa may have an irreversibly negative impact on the fishpond's physical structure, resulting in a diminution of its productivity caused by changes to the near- and off-shore ocean current. In addition, it is believed that large scale sand mining may adversely affect the fragile Kualoa ecosystems.

While your Committees plan to make a site visit to the Kualoa park area during the interim, the bill has been further amended to exempt the Hakipu'u Sandbar at Kualoa Park, Oahu, Hawaii from all sand mining activities.

Technical non-substantive amendments to the bill have also been made 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 S.B. No. 1310, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1310, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 868 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
1196

The purpose of this bill is to amend Chapter 171, Hawaii Revised Statutes, by authorizing the Board of Land and Natural Resources to dispose of or lease public lands for use in urban historic preservation and restoration projects. In effect, the bill would allow State lands to be made directly available to private sublessees engaged in historic preservation or restoration of buildings without being limited by the stipulation of "fair market value".

According to testimony from the Department of Land and Natural Resources, it is generally required by statutes to set the sale price of public land or the price of any negotiated lease at fair market value, except when dealing with government

agencies. Your Committee is in agreement that private groups engaged in urban renewal projects through historic preservation and building restoration may spur redevelopment of urban areas by their investment of private capital in public service.

Your Committee, however, recommends an amendment on page 2, lines 6-7, of the bill. The Department testified that title of these lands should remain in the State and that dispositions should therefore be by lease only. This change will prevent land being sold in fee simple at below market price. Therefore, the phrase "the board may dispose of public lands or lease such lands in the State" has been replaced by "the board may lease public lands in the State".

Other non-substantive amendments have been made to correct grammatical errors.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 1196, S.D. 1, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 1196, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kamali'i.

SCRep. 869 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
1223

The purpose of this bill is to amend Section 202(b) of the Hawaiian Homes Commission Act, 1920, as amended, relating to the appointment of personnel exempt from civil service and compensation laws, by allowing the Department of Hawaiian Home Lands to appoint temporary personnel without regard to Chapters 76 (civil service law), 77 (compensation law), and 78 (general provisions on public service), Hawaii Revised Statutes.

Under current statute, the Department of Hawaiian Home Lands is allowed to hire exempt personnel by contract for no more than two years at a time, and for no more than a total of six years. With the approval of the Governor, temporary employment of essential staff may be extended beyond six years.

According to testimony from the Department, its current efforts to accelerate the distribution of land to homestead applicants on waiting lists have made it necessary for the Department to fill temporary positions expeditiously. By avoiding time-consuming classification and recruitment procedures, the Department may reduce considerably the time involved in filling a temporary vacancy.

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

(1) Page 1, line 15: To delete the word "or"; and to add, after the word "funds", the phrase "or native Hawaiian rehabilitation fund". This change would expressly allow the Department to use the rehabilitation fund to hire temporary staff required in carrying out the rehabilitation fund's projects.

(2) Page 2, line 6: To delete all remaining language in this paragraph following the phrase "Hawaii Revised Statutes". The current statutory language refers to converting non-civil service employees who were employed before June 30, 1963, to civil service status. This conversion was completed, and the statutory provisions are no longer needed.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 1223, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1223, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kamali'i.

SCRep. 870 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
280

The purpose of this bill is to require that the new lease rental rate for a lease of State land be determined at least six months before the time of reopening; that fair market value be the basis for lease rental determination, rather than the fair

market value or rental for the immediately preceding period, "whichever is the higher"; and that the lessee be promptly notified of the determination.

Subsection 171-17(d), Hawaii Revised Statutes, provides that the rent upon reopening "shall be the rental for the immediately preceding period or the fair market value at the time of reopening, whichever is the higher".

Your Committee heard H.B. No. 957, the companion bill of S.B. 280, and reported it out as H.D. 1. S.B. No. 280, S.D. 1, and H.B. No. 957, H.D. 1, read exactly the same. Your Committee is in agreement with the intent of this bill; however, your Committee is of the opinion that an amendment is appropriate in order to specify that the provisions of subsection (d) should apply to present leases, but only if the original rental reopening dates fall after this bill is enacted into law. Therefore, your Committee recommends the following amendment, as a separate paragraph, following line 3, page 2:

"Any language in present leases to the contrary notwithstanding, the provisions of this subsection, when possible and notwithstanding the six month notice required, shall apply to leases with original lease rental reopening dates effective after the enactment of this bill into law".

It is the intent of your Committee that the provisions of this subsection be prospective, rather than retroactive, in application.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 280, S.D. 1, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 280, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kamali'i.

SCRep. 871 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
404

The purpose of this bill is to amend provisions in the Hawaiian Homes Commission Act, 1920, as amended, relating to general leases, the minimum age of a lessee, and the one-year mandatory time period for a homestead lessee to occupy or use a homestead lot.

This bill would require the Department of Hawaiian Home Lands (DHHL) to provide for withdrawal of leased land during a general lease made after July 1, 1985. A withdrawal clause provision was previously required when the general leases were administered by the Department of Land and Natural Resources. By requiring a withdrawal clause, DHHL could then reserve the right to terminate the lease in the future and recover those trust lands for the uses intended by the Hawaiian Homes Commission Act. The bill also proposes lowering the minimum age for an original homestead lessee from 21 to 18 years of age, the same minimum age for a person assuming a homestead lease by transfer, and allowing the DHHL greater flexibility in establishing a minimum time period for the occupation and use of a homestead lease, rather than the existing requirement that a homestead lease be occupied or used within one year from the time a homestead lease is made.

Your Committee supports this bill as providing timely amendments which further the goals of best utilizing DHHL resources for the benefit of eligible beneficiaries under the Hawaiian Homes Commission Act. However, your Committee recommends a minor, but substantive, amendment to page 2, line 22. The provision for withdrawal of leased land during a general lease should begin not after July 1 but after June 30, in conformance with statutory drafting standards.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 404, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 404, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kamali'i.

SCRep. 872 Water, Land Use, Development and Hawaiian Affairs and Housing
on S.B. No. 235

The purpose of this bill is to amend Section 206E-14, Hawaii Revised Statutes:

(1) By permitting the Hawaii Community Development Authority to buy back residential projects in Kakaako;

(2) By deleting the repurchase price formula and allowing the Authority to consider each residential project individually, or a portion of each project, and to establish a repurchase price, at the time of original sale, based on market considerations including interest rates, land values, construction costs, and federal tax laws; and

(3) By allowing the Authority to waive the "buy back" requirement if the residential project, or a portion of the project, is to be sold at market prices.

Under current statute, speculation in the sale or lease of redevelopment projects by the Hawaii Community Development Authority is 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.

According to testimony from the Authority, Section 206E-14 may require clarification and specification in order to assist the Authority in fulfilling its public obligations described in the community development plan for Kakaako. First of all, there may be a problem of definitions. A redevelopment project is always comprised of a residential project; however, a residential project is not necessarily always a part of a redevelopment project. Your Committees are in agreement that, since the current buy-back provisions are intended to ensure that speculation of units which benefit from government subsidies is controlled, these provisions should be applied to residential projects as well.

Secondly, the deletion of a repurchase price formula and its replacement by a specific repurchase price itself, rather than a formula setting forth a basis for the repurchase price, may create a difficult situation in which the Authority finds it unfeasible to establish a specific repurchase price at the time of original sale. Setting a price ten years in advance is not good practice.

Your Committees therefore recommend the following amendments to the bill:

(1) Page 1, line 11: To add the phrase "or redevelopment projects" after the words "residential projects". This change will allow the Authority to apply "buy-back" requirements equally to redevelopment projects which include residential projects and to residential projects which are not included in redevelopment projects.

(2) Page 2, lines 3-4: To replace the phrase "intent of this section" with the phrase "community development plan". This change will clarify that any repurchase activity should be "in conformity with the community development plan" as already mandated in Section 206E-14 (page 1, line 10).

(3) Page 2, lines 15-16: To replace the phrase "in a residential project" with the phrase "a formula setting forth a basis for". This change will conform with the statutory language proposed in H.B. No. 921, H.D. 1, the companion bill to S.B. No. 235, which your Committee on Water, Land Use, Development and Hawaiian Affairs heard and reported out.

(4) Page 2, line 17: To add the phrase "but not being limited to" between "including" and "interest rates". This is a minor, but substantive, change in helping the Authority to determine a repurchase price formula.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and on Housing are in accord with the intent and purpose of S.B. No. 235, S.D. 1, as amended herein, and recommend that it pass Second Reading, in the form attached hereto as S.B. No. 235, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Kamali'i.

SCRep. 873 Water, Land Use, Development and Hawaiian Affairs on S.B. No.
468

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 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 S.B. No. 468, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 468, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kamali'i.

SCRep. 874 Planning, Energy and Environmental Protection and Agriculture on
S.B. No. 1353

The purpose of this bill is to eliminate use of pesticides that the Environmental Protection Agency suspends or cancels, and to empower the chairman of the Board of Agriculture to ban use of certain pesticides that cause unreasonably adverse effects on the environment.

Your Committees are in accord with the intent of this bill to provide a State response in such cases as the current discovery of DBCP contamination of drinking water.

Your Committees find that some reworking of the bill enhances its effectiveness and corrects some technical problems.

Your Committees find that the Department of Agriculture has no jurisdiction in "special local needs registration"; as this is an EPA decision, this reference has been deleted from the bill.

Testimony from a cross-section of parties to this issue has suggested a more sharply focussed approach to a State response. Your Committees have accordingly amended this bill as follows:

(1) The paragraph prohibiting pesticide use has been combined with the paragraph empowering the Chairman of the Board, into a paragraph stating the Chairman's responsibility to determine whether conditions warrant restricting or eliminating uses.

(2) A proposal in S.B. No. 906, S.D. 1, to use detection of a pesticide in drinking water as a trigger for governmental response, has been incorporated into this bill; and testimony has provided language to require determination also in cases of suspended or cancelled uses that have special local need registration.

Your Committees on Planning, Energy and Environmental Protection and Agriculture are in accord with the intent and purpose of S.B. No. 1353, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1353, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Kamali'i.

SCRep. 875 Planning, Energy and Environmental Protection and Ocean and
Marine Resources on S.B. No. 86

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 Committees find that the aquaculture industry is a new, environmentally sound, economic activity that is consistent with the State's environmental policy and goals. Your Committees believe that the aquaculture industry should be recognized, promoted and encouraged on its own merits. Accordingly, this bill has been amended by placing reference to aquaculture in its own subsection; Separate and apart from the subsection on agriculture.

Your Committees on Planning, Energy and Environmental Protection and Ocean and Marine Resources are in accord with the intent and purpose of S.B. No. 86, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 86, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Kamali'i.

SCRep. 876 Planning, Energy and Environmental Protection and Water, Land
Use, Development and Hawaiian Affairs on S.B. No. 149

The purpose of this bill is to provide the Land Use Commission with new decision-making criteria focusing on areas of State-wide concern. This bill also provides the Commission with the option to undertake a five year district boundary review. In addition, this bill directs the Commission to consider the State's interest in all district boundary amendment petitions with the stipulation that, except in cases involving conservation district amendments, petitions involving areas of fifteen acres or less receiving a negative determination by the Commission shall be forwarded to the county for processing.

Your Committees find that it is a major goal of this State to improve Hawaii's existing land use management process in the following respects:

- (1) to maintain and protect the State's interest in land use matters;
- (2) to emphasize the need for long-range planning in the land use planning process;

(3) to reduce the time and cost involved in the district boundary amendment process by reducing unnecessary delays and duplication; and,

(4) to provide for a smooth transition from the existing system to a new one.

Your Committees concur with testimony presented by the Department of Planning and Economic Development stating that S.B. No. 149, S.D. 1 would not achieve the foregoing objectives of this State. Accordingly, this bill has been amended to more closely reflect the intent and purpose of the original administration bill, S.B. No. 149.

The amendments to this bill have the following effect:

(1) Section 205-18 has been amended to require the Land Use Commission to conduct a five year review of land classification in this State. The section further provides that the Commission shall confine its review to county general and development plans and shall initiate amendments toward greater conformance with these plans.

(2) Section 205-3.1(c) has been amended to provide that any boundary amendments involving areas of fifteen acres or less, except those involving the conservation district, shall be processed by the counties.

(3) Section 205-4(j) provides that all parties participating in hearings involving petitions for changes in district boundaries involving the conservation district and areas greater than fifteen acres may enter into stipulations as to the findings, conclusions and conditions of reclassification regarding the proposed change.

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 S.B. No. 149, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 149, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 877 Planning, Energy and Environmental Protection on S.B. No. 70

The purpose of this bill is to amend the process for environmental impact statements, making housekeeping changes agreed upon in workshops attended by a cross-section of affected parties. These changes:

(1) Distinguish between "draft" and "final" environmental impact statements, and start the clock for acceptance with the filing of the final statement;

(2) Accordingly reduce the time period for acceptance from 60 to 30 days, and the applicant-requested extension period from 30 days to 15 days; specify a 45-day public review period;

(3) Incorporate a recent Hawaii Supreme Court ruling that projects involving conservation lands require a statement for procedures to withdraw a statement;

(4) Update the reference to Waikiki as a Special Design District; recognize that land use designations are made in development plans in the City and County of Honolulu, while the neighbor islands use general plans; and

(5) Make syntactic changes for clarity.

Your Committee has amended this bill by making grammatical corrections to the proposed language for Section 343-6(3), Hawaii Revised Statutes.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 70, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 70, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 878 Planning, Energy and Environmental protection and Judiciary on
S.B. No. 775

The purpose of this bill is to provide that anyone who disposes of litter in a public place or on private property must do so with the consent of the property owner in order to avoid conviction for criminal littering under the penal code.

Your Committees find that various courts have construed the litter law as imposing the burden on the prosecution to establish that there was no consent by having the owner of the property in question to testify. Often, this creates an insurmountable task to the prosecution. Your Committees find that no competent property owner would intentionally allow his or her property to be littered, and that the intent of this bill is to avoid the necessity of requiring an owner's testimony in court to prove lack of consent.

Your Committees agree that the defendant should bear the burden in terms of the proving consent of the property owner to discard litter. However, your Committees have amended this bill to clarify this defense. Your Committees have clarified the term "owner" to mean the "owner in control of the property". This bill has also been amended by including Section 339-4, Hawaii Revised Statutes in its text, and inserting identical language within this section for consistency.

This bill has been further amended by providing exceptions to the definition of criminal littering as it currently exists in Section 708-829(1), Hawaii Revised Statutes.

Your Committees on Planning, Energy and Environmental Protection and Judiciary are in accord with the intent and purpose of S.B. No. 775, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 775, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Bunda and Hirono.

SCRep. 879 Public Employment and Government Operations on S.B. No. 462

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.

S.B. No. 462, S.D. 1, specifies a beginning date of January 1 and an ending date of December 31 for each term. However, the Attorney General testified 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.

On the other hand, if the July 1-June 30 term were established, the terms of the 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 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 S.B. No. 462, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 462, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Medeiros.

SCRep. 880 Housing and Planning, Energy and Environmental Protection on
S.B. No. 234 (Majority)

The purpose of this bill is to add a new part to Chapter 46, Hawaii Revised Statutes, to provide enabling legislation for the counties authorizing the enactment of ordinances permitting each respective county to execute development agreements.

Existing laws and ordinances oftentimes create conflicting and ambiguous "ground rules" as to the point in time in the development process a landowner or developer may safely rely on existing regulations to begin or complete a project. Clearly, this is not in the public interest.

Your Committees recognize the need to resolve the issue of when to properly proceed with building projects. Currently, landowners and developers proceed at their own risk when project planning and/or construction commences, as project plans are designed to meet existing regulations, and may be subject to new or subsequent regulatory provisions not in effect or being considered at a project's commencement date. This lack of certainty inherent in the current development approval process appears to weaken public commitment to comprehensive planning, discourages the efficient utilization of resources, and contributes significantly to escalating housing costs.

Due to the increasingly complex, time-consuming, and costly requirements and procedures that must be met to develop real property, your Committees believe that development agreements would provide the developer and landowner with the needed assurances to develop a property cost-effectively and efficiently while at the same time maintaining government authority to promote the public safety, health, and general welfare of the people.

Under this bill, the county by ordinance may authorize itself to enter into development agreements with those having a legal or equitable interest in a real property proposed for development. Upon execution of a development agreement by a developer and county, the right to develop real property in accordance with the existing laws, ordinances, resolutions, rules, and policies is vested.

The provisions outlined in this measure are not intended to circumvent current requirements in the development approval process. The laws, ordinances, resolutions, rules, and policies in effect at the time the development agreement is executed apply to the project, without modification, for the duration of the project. The bill provides that each development agreement shall be considered an administrative act of the government body made party to the agreement.

Representatives from the Hawaii Housing Authority, the City and County of Honolulu, the Construction Industry Legislative Organization, the Building Industry Association of Hawaii, the James Campbell Estate, the Honolulu Board of Water Supply, the Land Use Research Foundation, and the Hawaii Association of Realtors submitted testimony in support of this bill, citing the need to provide assurances to the developer. The Hawaii Housing Authority also testified that the Authority regularly enters into development agreements under its Act 105 program and that the agreements have worked well for the Authority.

Your Committees agree that these development agreements could be useful documents to provide the needed assurances to the landowners and developers. However, your Committees are concerned that these development agreements might be used for developments of a nonstructural nature, such as agricultural parks or cemeteries. It is your Committees' intent that these development agreements shall only be used for actual building projects.

Upon further consideration, your Committees have amended the bill to provide that upon approval of the development agreement, the project will not be restricted or prohibited by subsequently enacted or adopted legislation by the county. As amended, this bill now provides that the development agreements would specify the development rights for a property over a fixed period of time, regardless of subsequent regulatory changes by the county.

Your Committees have also amended the bill to clarify that for a development agreement to be binding on the county, the agreement must be approved by the county legislative body and executed by the mayor. The bill was also amended to correct technical drafting errors.

Your Committees on Housing and Planning, Energy and Environmental Protection are in accord with the intent and purpose of S.B. No. 234, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 234, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Kamali'i.
(Representatives Hagino, Nakata, Shon, Isbell and Pfeil did not concur.)

SCRep. 881 Judiciary and Corrections and Rehabilitation on S.B. No. 249

The purpose of this bill is to provide that the records of the adult probation division be considered confidential and not public records.

Under the present law, it is not clear whether the records are confidential. The adult probation division testified that the question of confidentiality of its information has had a chilling effect upon information sources and has hampered the work of the probation officers.

The prosecutor's office, city and county of Honolulu opposed the bill because the presentence report contains relevant information which will not be available to them. Even though the prosecutor's office would be able to keep their copies of the report, concern was expressed because the confidentiality of the report would appear to preclude the prosecutor's office from using the report in a subsequent hearing. However, the probation division testified that the current practice is to allow the prosecutor's office to use the report in subsequent hearings and further, that the proposed amendment would not preclude the prosecutor's office from using the report in subsequent hearings. Because the bill will allow the prosecutor's office to obtain copies of the report, your Committees believe the prosecutor's office is entitled to use or introduce the report in subsequent hearings, if the information contained is relevant.

Your Committees amended the bill to make copies of the presentence reports available to the department of health, psychiatrists, psychologists, and other groups, if needed for the treatment of a convicted defendant. The department of health testified that the report was needed if convicted defendants were ordered on probation into mental health care.

Your Committees on Judiciary and Corrections are in accord with the intent and purpose of S.B. No. 249, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 249, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 882 Consumer Protection and Commerce and Judiciary on S.B. No. 735

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 Judiciary of the State of Hawaii, the Hawaii Food Industry Association, the Retail Merchants of Hawaii, the National Federation of Independent Business (NFIB) and the Chamber of Commerce of Hawaii.

The NFIB testified that nationwide estimates amount to \$5 billion a year in losses for small businesses as a result of bad checks. Also, rough estimates from the Honolulu Police Department show approximately 6,865 bad checks written over the

past two years for a total loss of over \$250,000.

This bill would provide people with a civil remedy in their collection on bad checks. They would not have to pursue criminal prosecutions and they would not place additional strains upon the criminal justice systems.

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

(1) On page 2, line 1, the word "fourteen" has been deleted and replaced with "ten";

(2) On page 2, line 7, the word "fourteen" has been deleted and replaced with "ten".

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of S.B. No. 735, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 735, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 883 Health and Education on S.B. No. 59

The purpose of this bill is to establish immunization requirements for attendance at any school in the State; to permit the Department of Health to suspend provisional entrance to schools when there is danger of an epidemic from a communicable disease, and to authorize the Department of Health to implement emergency measures to refuse, modify, or limit school attendance if it is determined that there is imminent danger of an epidemic or a serious outbreak of a communicable disease.

Your Committees heard supporting testimony and find that there is a need to strengthen the Department of Health's powers to maintain certain health levels in the school population, a population which has great potential for the rapid spread of communicable diseases. In furtherance thereof, your Committees have amended the bill to provide that a student without immunization shall not be admitted to any school. The bill appears to give a school the option of admitting a student even if the child is not immunized.

Your Committees on Health and Education are in accord with the intent and purpose of S.B. No. 59, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 59, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 884 Human Services on S.B. No. 99

The purpose of this bill is to: (1) more precisely define who are eligible for burial assistance by substituting "deceased public assistance recipients or unclaimed corpses" for "indigent persons"; and (2) exempt the Department of Social Services (Department) from bidding requirements necessary to establish a list of certified providers for mortuary and burial/crematory services.

Existing law requires the Department to obtain services from a list of certified providers under contract. In the past several years, however, the Department has been unsuccessful in obtaining an acceptable bid from Hawaii's mortuaries as all bids exceeded the maximum allowed by law. The proposed revisions will allow the Department to pay any licensed provider of these services up to the maximum allowed by law.

Your Committee believes that these amendments will provide a reasonable mechanism for the Department to carry out its responsibilities under the law and insure that these needed services will be performed.

Your Committee has made a clarificatory amendment to page 1, line 3 of the bill by deleting the word "indigent" and substituting the words "deceased public assistance recipients or exclaimd corpses" in order to conform the title with the

language in the section.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 99, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 99, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 885 Human Services on S.B. No. 102

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 S.B. No. 102, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 102, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Shito.

SCRep. 886 Transportation and Water, Land Use, Development and Hawaiian
Affairs on S.B. No. 163

The purpose of this bill is to repeal the provisions of §266-2, Hawaii Revised Statutes, which authorize the Department of Transportation to plan, construct, operate, and maintain any harbor facility in the State without the approval of county agencies.

Your Committees find that the Department of Transportation's exemption from obtaining county permits and approvals for harbor projects has been questioned by the federal Office of Ocean and Coastal Resource Management in its evaluation of the Hawaii Coastal Zone Management Program. The sponsor of the bill (the Department of Planning and Economic Development) testified that the exemption provided the Department of Transportation may create some problems relating to federal approval of Hawaii's Coastal Zone Management program which could possibly entail the loss of federal funding provided for the Coastal Zone Management program.

According to the testimony of Murray Towill of the Department of Planning and Economic Development, the federal Office of Ocean and Coastal Resource Management had indicated that the exemption presently provided in §266-2 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 state exemption from having to obtain a SMA permit, a permit granted by county governments under Chapter 205A, Hawaii Revised Statutes, forecloses an important opportunity for local decision-makers and the public to review the impact of a harbor development 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."

At the recommendation of the Department of Transportation and the Department of Planning and Economic Development, your Committees have amended Section 1, page 2, lines 17 through 22 of the bill, as originally referred, to read as follows, to satisfy the concerns of both agencies:

"[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 processes. At the same time, for projects that have important impact upon State economic interests, it retains the Department of Transportation's authority to proceed by limiting the counties' authority to delay or block a harbor development project.

The Department of Transportation testified that it presently seeks to comply with county permit and approved procedures despite its statutory exemption. It assures your Committee that it will contrive to seek and consider local citizen and county input into its harbor development projects.

Your Committees on Transportation and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of S.B. No. 163, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 163, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Kamali'i.

SCRep. 887 Transportation on S.B. No. 854

The purposes of this bill are:

- (1) To require all nonexempt motor carrier vehicles to be given a safety inspection every six months regardless of whether or not the motor carrier vehicle has a gross vehicle weight rating (GVWR) exceeding 10,000 pounds;
- (2) To explicitly require all car rental transport vehicles and all other vehicles which transport passengers in furtherance of a commercial enterprise to be given a safety inspection twice a year; and
- (3) To define "car rental customer transport vehicles".

Under present law, §286-201(3), Hawaii Revised Statutes, a "motor carrier vehicle" is any motor or other vehicle used by a motor carrier to transport passengers or property on the public highways. Section 286-201(4), Hawaii Revised Statutes, defines "motor carrier" as "any person who owns a motor vehicle used in, or engaged in transportation of persons or property by motor vehicle on public highways in the furtherance of any commercial, industrial, or educational enterprise".

Your Committee heard testimony from the State Department of Transportation and the Hawaii Transportation Association favoring the intent of this bill. Pursuant to

§286-209(a), Hawaii Revised Statutes, motor carrier vehicles weighing less than 10,000 pounds (GVWR) are given safety inspections only once each year, whereas heavier motor carrier vehicles are inspected every six months. Because of the frequency of use of commercial motor carrier vehicles and the large numbers of passengers transported by them, your Committee believes that these vehicles should be given and pass a safety inspection two times a year. Your Committee received testimony that car rental transport vehicles are examples of heavy use commercial motor carrier vehicles that require more frequent inspections to ensure passenger safety.

Your Committee is concerned, however, that the bill as it is presently written would require numerous small motor carrier vehicles used for "industrial" and "educational", as well as "commercial" purposes to go through a burdensome additional safety inspection each year. Your Committee believes that such "industrial" and "educational" vehicles are not used as frequently and for such distances as are "commercial" vehicles. In the absence of any demonstrated safety-related need for a blanket requirement that all small industrial- and educational-use motor carrier vehicles be inspected every six months, your Committee hesitates to impose such a requirement. Therefore, your Committee has amended the bill by removing the brackets surrounding "or" and surrounding "having a gross vehicle weight rating of more than 10,000 pounds" at Section 1, page 1, lines 5, 6, and 7, of the bill.

Your Committee recognizes that car rental transport vehicles are a sub-category of the category of motor carrier vehicles. Therefore, and in order to clarify the intent of your Committee, your Committee has rewritten the language at Section 1, page 1, lines 7 through 9 of the bill to read as follows: "and motor carrier vehicles having a gross vehicle weight rating of 10,000 pounds or less which transport passengers in the furtherance of a commercial enterprise, including car rental transport vehicles".

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 854, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 854, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 888 Transportation on S.B. No. 1264

The purpose of this bill is to amend present bumper height limitations for motor vehicles.

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 having amended H.B. No. 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 received testimony on the House "companion" to this measure 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).

Your Committee received testimony from the State Department of Transportation noting that the bill, in its present form, could be interpreted to apply only to passenger vehicles. Because this is not the intent of the bill, your Committee has made the following amendments:

1. On page 1, line 9, the words "Front" and "Rear" have been aligned with the phrase "Gross Vehicle Weight Rating"; and
2. On page 1, line 10, after the phrase "Passenger Vehicles", the heights "22 inches" and "22 inches" have been added directly below the words "Front" and "Rear" of line 9.

Your Committee also received testimony from the State Department of Transportation recommending the adoption of the maximum bumper heights set by VESC (Vehicle Equipment Safety Commission) regulation 12. The Department testified that these VESC standards have been tested and demonstrated to be safe. Your Committee has therefore made the following amendments to the bill:

(1) In Section 1, page 1, line 11, the figures "27" have been replaced by the figure "24" for the front bumper and "26" for the rear bumper;

(2) In Section 1, page 1, line 12, the figures "31" have been replaced by the figures "27" for the front bumper and "29" for the rear bumper; and

(3) In Section 1, page 1, line 13, the figures "32" have been replaced by the original figures "28" for the front bumper and "30" for the rear bumper.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1264, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1264, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 889 Judiciary on S.B. No. 1413

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

The intent of the sunshine law when it was enacted in 1975, was to provide that discussions, deliberations, decisions, and actions of governmental agencies should be conducted as openly as possible and not in secret.

Your Committee heard testimony in support from numerous public interest groups and individuals. There was also testimony that agreed with the general intent of the bill but expressed concern with some of the amendments.

After hearing testimony, your Committee has made several amendments to the bill.

(1) The bill provides that the boards afford all interested persons an opportunity to submit data, views, or arguments in writing or orally on any agenda item. Your Committee recommended that this amendment be amended to require boards to accept, in writing, data, views, or arguments on any agenda item, and to allow the board discretion whether to accept oral testimony. Your Committee wanted to ensure that interested persons be allowed to present their views but it felt that there had to be some balance between access to the boards and the boards ability to conduct business.

(2) Your Committee amended the last sentence of Section 92-4, Hawaii Revised Statutes to clarify that the reason for holding an executive meeting be publicly announced. Apparently, there was some confusion that each board member had to publicly announce his or her reason for holding an executive session. The intent behind the amendment was to require that an announcement be made at the meeting. Testifiers reported that some boards had stated they were holding an executive meeting without announcing the reason.

(3) Concern was expressed that the amendment pertaining to the board consulting with their attorney attempts to abrogate or severely limit the commonly recognized attorney-client privilege. There may be instances when a board may need to consult with their attorney on matters other than pending or future litigation. Your Committee felt boards should be able to consult with their attorney in private, just as private parties do. If a board consulted with its attorney in an open meeting the privilege, or confidentiality of their communications would be lost. Without the confidentiality, a board may not adequately inform their attorneys of facts and as a result may receive misguided advice. Your Committee was not willing to accept the premise that the client is the public and therefore the public should be able to attend meetings when the board consulted with its attorney. Your Committee amended the bill to allow a board to meet in executive meeting with their attorney to consult on their legal responsibilities, on legal issues or on actual or proposed lawsuits.

(4) Your Committee also expressed concern with the amendment that would limit the ability of a board to make a decision or deliberate toward a decision in executive meetings. A "meeting" is defined in Section 92-2, Hawaii Revised Statutes, as "...the convening of a board...in order to make a decision or to deliberate toward a decision..." If a board cannot deliberate toward or make a decision in an executive meeting, the board will not be able to have any meeting closed to the public. Your Committee amended the bill to clarify that the matters that can be acted on in an executive meeting must be reasonably related to the exceptions for holding an executive meeting.

(5) The bill provides that an item of "reasonably major importance" cannot be considered at a meeting continued to a later date. Parties testified that there have been problems where important issues have been continued and advance notice of subsequent meetings has not been sufficient. Your Committee is concerned because the phrase "reasonably major importance" is unclear. Your Committee further believes that it is unreasonable to require that items of "reasonably major importance" must be acted upon at a meeting. There are situations that arise which require a meeting to be continued such as when additional information is required, many people wish to testify on an agenda item, a board lacks a majority vote on a decision and it would be better to recess and consider the matter at a later date, or an unresolved item could delay ending with a meeting. Your Committee amended the bill by deleting the proposed amendment.

(6) Your Committee believes in order to enforce the law, it is necessary to investigate a complaint, therefore, the proposed amendment to Section 92-12(a), Hawaii Revised Statutes, is unnecessary.

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

Signed by all members of the Committee except Representative Bunda.

SCRep. 890 Judiciary on S.B. No. 615

The purpose of this bill is to allow for a mandatory award of reasonable attorney's fees and costs to the prevailing party where a private party has sued another private party who has undertaken development without obtaining a required permit or approval.

Your Committee finds that as a result of the volume of development in this State, it may be difficult for the State or the counties to investigate violations of or enforce permit or approval requirements. As a result, valuable environmental and other public resources may be lost unless a private party brings a civil action to enjoin the development.

However, because of litigation costs, a private party may be deterred from bringing an action unless the party can be assured of recovering the attorney's fees and costs from the party undertaking the development. This bill encourages a private party to bring such an action by providing for a mandatory award of attorney's fees and costs should the party prevail. On the other hand, in order to discourage the bringing of a frivolous action, this bill provides that the party undertaking the development shall be entitled to a mandatory award of attorney's fees and costs should that party prevail.

Your Committee has amended this bill by requiring that the party bringing an action post a bond of not less than \$2,500. Your Committee believes that in some instances the party filing the action may be judgment proof. Under these circumstances, the threat of the assessment of attorney's fees and costs against the party may not deter the filing of a frivolous suit. The bond provides an additional disincentive to the filing of a frivolous suit. More importantly, the bond promotes fairness by providing a source from which the party undertaking the development may recover its attorney's fees and costs where the party bringing the action loses the case and is judgment proof.

Further, your Committee believes that there may be circumstances in which the party undertaking the development has failed to obtain a permit or approval because the party relied in good faith upon the advice or opinion of a government agency that the permit or approval was not required. Your Committee believes that requiring the party to pay attorney's fees and costs under these circum-

stances would be unfair. Your Committee has amended this bill by adding a subsection (f) to this section.

Your Committee further amended this bill to require that in order to be entitled to an award of attorney's fees and costs, the party filing the action must first provide written notice of the failure to obtain a permit or approval. The written notice must be provided no less than forty-five days before the filing of the action and be delivered to the appropriate government agency, the party undertaking the development, and any other party having a recorded interest in the property subject to development.

Your Committee believes that the written notice requirement will decrease the filing of unnecessary actions and will promote the efficient resolution of the problem by giving the appropriate government agency the initial opportunity to investigate the violation and enforce the permit or approval requirement. Further, the party undertaking the development and other parties having an interest in the property should have the opportunity to cure the problem before an action is brought against them and attorney's fees and costs thereby assessed.

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

Signed by all members of the Committee except Representative Bunda.

SCRep. 891 Consumer Protection and Commerce on S.B. No. 1127

The purpose of this bill is to permit licensed dental hygienists to take dental impressions for study casts and administer local anesthetics under the direct supervision of a dentist. Authorization to administer local anesthetics would be contingent upon the hygienist having passed a Board of Dental Examiners' program and being certified as competent to do the procedure.

The main goal of dental hygiene is the prevention of dental disease, and an integral component of periodontal treatment is deep scaling, root planing, and soft tissue curettage which may require a local anesthetic to provide patient comfort. This bill would permit licensed, certified dental hygienists to perform those functions, but only while under the direct supervision of a dentist, and also prohibits dental hygienists from establishing or operating a separate dental hygiene facility.

Your Committee received testimony from the Board of Dental Examiners, the Hawaii Dental Hygienists Association and the Hawaii Dental Association in support of the bill.

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

(1) On page 2, line 11, the phrase "intra-oral infiltration" has been inserted after the word "administer".

(2) On page 2, lines 18-20, the following language has been deleted:

"which shall cover both the theoretical and practical aspects of the application of local anesthetics."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1127, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1127, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 892 Corrections and Rehabilitation and Human Services on S.B. No. 1157

The purpose of this bill is to provide a clearer, more concise statement of the purposes of the Hawaii Youth Correctional Facility.

Your Committees find that the existing statement of purpose in section 352-2,

Hawaii Revised Statutes, does not accurately reflect the policies and purposes currently in effect at the Hawaii Youth Correctional Facility (HYCF), and that this bill would provide a clearer statement of purpose for the HYCF as recommended by the Juvenile Justice Inter-agency Board.

Your Committees heard testimony from the Department of Social Services and Housing (DSSH) and the Office of the Public Defender, State of Hawaii. DSSH testified that this bill better states the existing services already being provided at HYCF. The Office of the Public Defender also testified in support of this bill and further recommended that for the purposes of intent and for a declaration of legislative policy, a new paragraph should be added which would, in effect, materially aid the director in his coordination of services provided to the facility by other departments and agencies, and allow for individualized programming and continuous programming throughout the year.

Your Committees believe that this bill will assist in the development of long range goals and programs for the HYCF. Your Committees also believe that to further strengthen this bill, the recommendation of the Office of the Public Defender should be incorporated. Your Committees have therefore amended this bill by inserting a new paragraph in page 1, lines 8 through 14. Your Committees have also amended page 2 by deleting the words "community reintegration" on line 11, and inserting the phrase "and institutional care and services to reintegrate into their communities and families" on lines 20 through 22. This amendment would clarify the mission of HYCF.

Your Committees also made technical, nonsubstantive stylistic amendments.

Your Committees on Corrections and Rehabilitation and Human Services are in accord with the intent and purpose of S.B. No. 1157, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1157, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Lindsey.

SCRep. 893 Finance on S.B. No. 558

The purpose of this bill, as received, is to exempt from the general excise tax, moneys received by employee benefit plans including contributions, dividends, interest, and other income, and amounts received by any entity established by such employee benefit plan or group of employee benefit plans to provide administrative services to employee benefit plans.

The exemptions provided in chapter 237, Hawaii Revised Statutes, do not presently include employee benefit plans and their related administrative services.

Your Committee has amended this bill by specifying that only amounts received by a nonprofit organization or office, as payments for costs and expenses incurred for the administration of an employee benefit plan are exempt from the general excise tax.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 558, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 558, S.D. 2, H.D. 1, and that it be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 894 Finance on S.B. No. 1089

The purpose of this bill is to appropriate \$2,750,000 to pay for the settlement agreement reached in State of Hawaii vs. Goodfellow Bros., Inc., Civil No. 6635, Second Circuit Court of Hawaii.

The suit involves a contract awarded by the department of transportation to Goodfellow Bros., Inc., for the federally aided highway construction of the Piilani Highway on Maui. The original claim by Goodfellow Bros., Inc., totaled about \$12,000,000. Considering the estimated cost of defending the case and the potential cost of liability if the case proceeded to trial, your Committee finds that the payment of the settlement amount will be in the best interest of the State.

Your Committee has amended this bill by correcting the civil number of the suit between the State of Hawaii and Goodfellow Bros., Inc. to read "Civil No. 6635(2)".

Your Committee has also amended this bill by deleting section 3 and by making technical, nonsubstantive changes for purposes of style and clarity.

Further, your Committee is aware of the typographical error present in the title of this bill.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1089, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1089, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 895 Finance on S.B. No. 237

The purpose of this bill is to increase the personal exemption for income tax purposes to \$1,040.

Your Committee finds that the increase of the personal exemption from \$1,000 to \$1,040 will reduce the income taxes imposed on our taxpayers and increase their present income. This increase is also the same as that provided by the federal government for 1985 in Internal Revenue Code.

The bill as received by your Committee also adjusted the income brackets and credits allowed under the excise tax credit and adopted the income brackets and tax rates for corporations suggested by the Tax Review Commission. These provisions have been deleted from this bill.

Your Committee has also deleted the provision repealing the credit for dangerous drugs. The sections of this bill are accordingly renumbered.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 237, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 237, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 896 Finance on S.B. No. 115

The purpose of this bill, as modified, amends section 431-318, Hawaii Revised Statutes, to change the tax paid by insurers on premiums received.

Your Committee has altered the original purpose of this bill by deleting all provisions conforming the Hawaii income tax law with the amendments made to the federal Internal Revenue Code during the 1984 calendar year.

Your Committee finds that in view of the recent Supreme Court decision, Metro-politan Life Insurance, et al v. Ward, W.G., et al, state laws giving preferential treatment to local insurance companies by taxing out-of-state firms at a higher rate, may be declared unconstitutional. Although the full ramifications of the aforementioned court decision has not been determined, the ruling could affect 32 states with "domestic preference" taxes on the sale of insurance policies. Hawaii is one of the states with a differential taxing policy with regards to the sale of insurance policies. Your Committee finds that this bill is necessary to provide a vehicle whereby changes in the current law providing for a tax on the sale of insurance policies may be enacted.

Your Committee has amended section 431-318, Hawaii Revised Statutes, by changing the amount of tax each authorized insurer and each life insurer, both domestic and foreign, shall pay on the gross premiums received from all risks or property located within the state. Your Committee has left the amount of tax owed by the insurers blank for future consideration.

Your Committee has also amended this bill by making technical, nonsubstantive

changing for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 115, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 115, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 897 Finance on S.B. No. 239

This bill, as received, amends (1) the general excise tax to provide exemptions for affiliated and controlled groups of corporations and for common paymaster situations, and (2) clarifies the problems created by the department of taxation's stand regarding "gross up".

Your Committee has amended this bill by deleting all provisions relating to exemptions from the general excise tax for affiliated and controlled groups of corporations and for common paymaster situations.

Your Committee finds that clarification of the departmental stance regarding "gross up" is required due to the artificiality of their concept. The principle of "gross up" is used by the department to provide that if a company uses an outside third party, whether or not there is an apparent agency relationship, to sell the company's services, any commissions or discounts the department attributes to the third party will be added to the gross proceeds of the company using such third party, even though the company never receives the money. Such additions to gross proceeds are subject to the general excise taxation. For example, if a tour company offers a tour at \$20 and advertises such fact and an independent person sells a ticket on that tour for \$15, the department attributes the difference between \$20 and \$15 as commissions paid the independent person and includes the \$5 difference in the gross proceeds of the tour company. The department applies the concept even though the company never sees the extra \$5 and may have no control over the price at which the person sells the ticket. Your Committee finds that this practice is inequitable and carries a broader implication for businesses which use the discount and independent agent concepts. This is particularly true in Hawaii where many of the hotels and other tourist activities package their services with discounts.

As amended, this bill augments section 237-20, HRS, to provide that funds paid by a customer or customer's agent to a travel agent or tour packages for tickets, reservations, tour, or travel services which are not transmitted to the persons or entities furnishing the tour or package of travel services or accommodations shall be presumed not to be a part of the gross proceeds or gross income received by such persons or entities. This presumption may be rebutted by showing an agreement to the contrary.

Further, your Committee has amended this bill by inserting a new Section 2 to provide for the exemption from taxation, any proceeds arising from the organization of sports tournaments held for the benefit of the entrants, and used to furnish prizes and to pay for entrants' tournament-related expenses while they are engaged in organized sports tournaments such as golf, tennis, and fishing.

Your Committee has also amended this bill by making technical, nonsubstantive changes for drafting purposes.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 239, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 239, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 898 Finance on S.B. No. 384

The purpose of this bill is to authorize the issuance of general obligation bonds and to declare findings that the total amount of principal and interest estimated for such bonds and all bonds authorized but unissued and calculated for all bonds issued and outstanding will not cause the debt limit to be exceeded at the time of

issuance.

This bill is intended to meet the requirement of Article VII, section 13, of the Constitution of the State of Hawaii. This constitutional provision requires the legislature to include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the debt limit will not be exceeded upon the issuance of bonds authorized by the law and in the past.

Your Committee has reported this bill out in incomplete form to expedite required legislative process. Your Committee has amended this bill on page 12, line 11.

Amounts in the bill and the proper bill references have been left incomplete since the precise data or best estimates are not known at this time. It is the intent of your Committee that such amounts will be inserted at a later time when they become known.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 384, as amended herein, and recommends that it pass Second Reading and be placed on the calendar for Third Reading in the form attached hereto as S.B. No. 384, H.D. 1.

Signed by all members of the Committee.

SCRep. 899 Finance on S.B. No. 1057

The purpose of this bill is to provide funds for capital improvement projects throughout the State.

This bill in its amended form, provides an additional \$15,137,700 for capital improvement projects. The authorization for bonds necessary to fund the projects contained in this bill is accounted for in the bond declaration bill. Furthermore, the addition of these projects will not cause the debt limit to be exceeded.

One of the most important assets a neighborhood community has is the public school. While the need to meet classroom space is of paramount consideration, your Committee believes that existing school facilities must now be upgraded and modernized to foster school/community pride and esprit de corps. In consonance with the above, the accelerated funding and early implementation of these and other school projects were deemed imperative. The sum of \$8.4 million has been appropriated for this purpose.

Together with growth in population, housing and employment centers, vehicular traffic has increased on our highways. Thus, creating potentially hazardous conditions. To provide for vehicular and pedestrian safety, the sum of \$2.8 million has been appropriated for pedestrian walkways, traffic signals/warning devices, drainage and other road improvements.

As in past years, the legislature continues to provide, somewhat generously, assistance to the counties in funding capital improvement projects which are fundamentally their responsibility, but which otherwise might not be implemented to timely fulfill the community's expectations.

After close scrutiny, your Committee believes that the projects contained herein reflect the legislature's intent to appropriate funds where needed most which will work for the benefit of and contribute to the lives of the general populace of the State of Hawaii. This bill, through additional capital improvements, will assist the State in realizing that intent.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1057, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1057, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 900 Finance on S.B. No. 1185

The purpose of this bill is to exempt sales of prescription drugs from the general excise tax.

In its review of this measure, your Committee recognizes that Hawaii's tax laws form an integrated whole and any amendment to one part produces multiple effects in other areas. Therefore, your Committee fully examined and researched the various impacts of the changes proposed in this bill. Out of this examination, and after full consideration of all the concerns expressed in testimony, your Committee has realigned Hawaii's tax laws to accomplish the following:

- (a) lessen the tax burden on local residents by exporting state and county taxes;
- (b) help attract new business and high tech industry to create a healthy business climate and jobs for our people;
- (c) provide a reasonable level of revenue sharing with the counties, to carry out their mandated functions; and
- (d) provide the needed resources to support our visitor industry.

Your Committee has amended this bill by:

- (a) tripling the renter credit to \$150 per exemption and increasing the income eligibility level to \$45,000 of adjusted gross income;
- (b) exempting the first \$175,000 of assessed valuation of owner-occupied homes and apartments;
- (c) exempting groceries and prescription drugs from the excise tax;
- (d) exempting farming, manufacturing, and producing, including high-tech industry, from the general excise tax;
- (e) eliminating the excise and use tax on sales and imports of capital goods for all businesses;
- (f) exempting contract sales to the federal government from the excise tax;
- (g) providing the counties a fair share of state revenues that will support their economic growth; and
- (h) enacting a hotel room tax and a two percent increase in the excise tax on retailing activities;

Your Committee is aware of the many concerns expressed in public hearings on the impact of this bill. Accordingly, your Committee has conducted extensive research and consulted with tax experts in formulating this realignment of Hawaii's tax laws. Your Committee's analysis and findings are enumerated below.

TAX SAVINGS TO INDIVIDUALS

Your Committee carefully reviewed the full impact of this measure on Hawaii's taxpayers. Testimony presented in public hearings claimed that the elderly and the lower income and middle income families would not benefit from the changes in the tax system included in this bill. Your Committee is satisfied that the elderly poor and lower and middle income families, including retirees, will be better off financially under the bill's provisions, even with the new excise tax rates. The tax relief from the elimination of the four percent tax on food and drug, the increase in renters' tax credit, and the setting of real property tax exemptions at \$175,000 for owner occupied single family homes and apartments will more than offset any other tax adjustment.

Renters Tax Relief

Under this bill, the renter tax credit will triple from \$50 to \$150 per exemption. If an individual is over 65, the renter tax credit doubles to \$300 per exemption. At the same time, more middle income renters will be eligible for the tax credit because the income eligibility has been increased from \$20,000 to \$45,000. This means that renters with annual adjusted gross incomes of up to \$45,000 will now be able to benefit from the renter tax credit.

For the family of four, the new renter credit will mean annual savings of approximately \$700 a year. Larger families will realize more savings. A retired

couple, age 65 or older, will also gain approximately \$700 a year because of the multiple exemptions for age and the elimination of the food and drug tax. In calculating these estimates of tax savings, your Committee took into consideration the new excise tax rate that will be applicable to rents and other retail purchasing activities.

Homeowners Tax Relief

Homeowners will also realize benefits approximately equal to the savings for renters. This bill has been amended to provide tax relief to low and middle income homeowners by not taxing the first \$175,000 of assessed valuation of owner-occupied homes and apartments.

Per capita tax comparisons misleading. Your Committee reviewed criticism which implied that since Hawaii's per capita property tax is already low, property tax relief is not needed. Your Committee notes that the arbitrary comparison of national averages is not an accurate indicator of the tax burden.

Your Committee is sensitive to the public's experience that they presently labor under a property tax burden that is high. Moreover, recent attempts by the counties to raise the property tax rate have been met with strong community opposition, including political and legal action to reduce, not increase, property tax. Therefore, your Committee believes that statistical arguments that Hawaii's property tax is low do not take into consideration the people's plea for property tax relief.

Selective property tax increase unjustified. Your Committee addressed the concern of selective property tax increase. Testimony before your Committee alleged that since the real property exemption is directed to owner-occupied units, the counties would increase the real property tax on those dwellings which are utilized as rentals. After consultation with the county governments, your Committee is confident that the proposed revenue sharing for counties included in this bill is fair and generous, and there will be no justification for counties to increase taxes for any class of property.

New home exemption encompasses present county ordinance. Your Committee is aware that its amendments to the home exemption will have an effect on the current exemption provided under the counties' Uniform Property Tax Ordinance, especially the provision which allows for increased exemption for those over 60. Your Committee's amendment encompasses the present county ordinance provision and extends the benefits to allow for up to \$175,000 of assessed valuation to be exempt.

"Circuit-breaker" approach too costly. Your Committee also reviewed the concept of a "circuit-breaker" tax credit program which attempts to tie the amount of a homeowner's real property tax to his income or ability to pay. In concept, the "circuit-breaker" approach seems to offer an equitable system of tax relief. After reviewing the findings of a House of Representatives study on this issue conducted seven years ago, your Committee discarded the idea of a "circuit-breaker" program because of the many administrative uncertainties and cost of implementing such a program.

Your Committee feels that the home exemption method is the simplest and most effective means of providing uniform property tax relief. Other systems may offer theoretical benefits, but are too difficult to implement or too costly to administer.

FOOD AND DRUG EXEMPTION

The major concern presented in hearings before your Committee was the administration of a selective tax exemption, such as food and drug, and its effect on the small "mom and pop stores" which may find administering such a tax relief to be a burden.

Simplified Administration of Food Tax Exemption

To address this concern, your Committee has developed a simplified definition of food to be exempted from the excise tax. Further, the views expressed in testimony regarding the administration of such an exemption should be resolved by the development of simple administrative rules implementing the exemption. One way to address the amount of tax liability for a small business would be to simply assign an "effective excise tax rate" that is less than 6 percent, and subject that

"effective rate" to the present ongoing auditing program. This simplifies implementation and ensures that grocers, especially the small "mom and pop stores", are not overburden with bureaucratic rules and regulations.

Your Committee heard testimony questioning the implementation of the food and drug exemption vis-a-vis the consumer. Unlike the large supermarket chains, which have computer capabilities to exempt excise tax on food, the small "mom and pop stores" may require a simplified system of distinguishing between food and non-food items. Your Committee notes that many of the small "mom and pop stores" already include the excise tax in their pricing structure and that this exemption will not result in the administrative burden suggested in testimony heard before your Committee.

Simplified Administration of Drug Tax Exemption

The administration of the exemption for drugs and medical appliances will be simple since the medical items must be prescribed by a physician, dentist, osteopath, optometrist, podiatrist, hospital, pharmacist or any licensed practitioner.

Food and Drug Tax Exemption Common Practice in Other States

Your Committee notes that the exemption of food and drugs from the sales tax is a common practice among a majority of the states. Hawaii is only one of five states that continues to tax food and drug. Twenty-seven states do not have taxes on food and drug purchases and eighteen exempt one or the other. Your Committee recognizes the public sentiment in favor of this exemption and strongly believes this tax relief is long overdue.

Direct Exemptions Superior to Tax Credit System

Your Committee weighed the merits of either instituting a tax credit system or providing an exemption for food and drug. While the tax credit system would be more efficient and easier to administer from the government's point of view, your Committee feels that the taxpayer prefers an exemption on food and drug over a tax credit system. Further the tax credit system does not fairly reimburse each taxpayer the actual amount of excise tax paid for food and drug.

Your Committee is aware of the argument that visitors to Hawaii will also be affected by the food and drug exemption. After careful study, we have concluded that any loss in revenue through visitor purchases of food and drug would not be a significant justification for rejecting this exemption.

BUSINESS TAX EXEMPTIONS

Your Committee is aware that some people claim that Hawaii's present business tax system results in tax pyramiding, and that any change in the general excise tax would aggravate the problem. Your Committee reiterates the findings of the Tax Review Commission that tax pyramiding of our excise and use tax is minimal. Studies conducted for the Commission concluded that the overall impact of pyramiding is negligible because many intermediate transactions are taxed at a low one-half percent rate. Therefore, your Committee retained the one-half percent excise tax on wholesaling and intermediate services.

Despite the findings of the Tax Review Commission, there still is a perception, among the business community, that any tax rate adjustments may lead to greater tax pyramiding. Mindful of that existing view, your Committee has addressed this concern by providing direct tax relief to Hawaii's businesses.

Excise Tax Elimination for High Tech Industry, Farming, Manufacturing, and Producing

This bill eliminates the one-half percent excise tax for farming, manufacturing, and producing, including high tech. This exemption will encourage exports of Hawaii-made and produced items such as clothing, flowers, macadamia nut products, papaya, and computer software.

Tax Exemption on Capital Goods for all Businesses

This bill eliminates the excise and use tax on sales and imports of capital goods for all businesses. Your Committee considered eliminating the use tax in its entirety. However, such action would discriminate against local vendors by allow-

ing out-of-state vendors to escape taxation. Therefore, we have retained the use tax except for the import of capital goods by business.

The elimination of the excise and use tax on sales and imports of capital goods rids our present tax system of a major disincentive for expansion and start-up. This is especially burdensome for high tech firms which require large capital equipment investment as part of their start-up costs.

Presently, Hawaii is only one of twelve states that continues to tax capital goods. According to the newly formed High Technology Development Corporation exempting capital goods from taxation will send a strong signal to capital equipment intensive companies that Hawaii has a positive business climate.

Excise Tax Exemption of Construction and Contract Sales to Federal Government

Your Committee finds that local contractors are at a disadvantage in bidding for federal work because mainland contractors are not required to include the general excise tax in their bids. On the other hand, local contractors include the general excise tax which they pay to the State. The application of an excise tax on local contractors has resulted in mainland contractors beating out Hawaii contractors for federal jobs. In 1983, the federal government offered \$171 million in work of which Hawaii contractors received \$68 million. This amendment will put Hawaii contractors in a competitive position with mainland contractors.

SHARING OF STATE RESOURCES WITH COUNTIES

In public hearings, some individuals speculated that the proposed revenue sharing would:

- (a) make the receipt of State grants contingent upon the non-exercise of real property taxing authority;
- (b) only replace revenues lost from the higher home exemptions;
- (c) place present and prospective holders of bonds in a less financially secured position; and
- (d) not allow counties to recover from the loss of potential revenues.

Your Committee is satisfied that this bill, as amended, adequately meets the above concerns.

County Taxing Authority Preserved

This bill does not remove any real property taxing authority from the counties. The tax relief provision utilizes an existing mechanism, the home exemption for owner-occupied homes and apartments. The new home exemption would encompass and extend the present home exemptions, and counties would be reimbursed for any revenue loss.

Increased Revenue Sharing Entitlement

The revenue sharing provision in this bill would, in addition to replacing revenues lost from the higher home exemptions, provide counties an increase of \$37 million over and beyond the present \$19.4 million grants-in-aid program. The total grant-in-aid for the counties would be as follows: Oahu, \$35.7 million; Hawaii, \$8 million; Maui, \$7.5 million; and Kauai, \$5.2 million. These amounts do not include an additional reimbursement to the counties for the higher home exemptions.

Security of Bondholders not Impaired

The new revenue sharing program assures that each county will receive the amount lost from the higher property tax exemption and a generous grant-in-aid. This starting base will increase annually by at least four percent, or more if excise tax collections increase. This compares favorably with the present grants-in-aid program that has remained at the same fixed level for over a decade. It is also favorable since the counties' own estimates show that the annual increase in property valuations and property tax collections over the next few years will not exceed four percent per year. Therefore, the notion that present and prospective holders of bonds would fall to a less financially secured position is unfounded.

Bonding Capacity of the Counties Ensured

The new revenue sharing program will not impair the counties' bonding capacity because it does not curtail the revenue producing ability of the counties. Further, it will generously reimburse the counties for the revenue loss from the new home exemption provision. This reimbursement added to the present grant-in-aid program and other state financial support will eliminate any need for counties to increase property tax rates. Your Committee also notes that the debt margins available to the counties will continue to be adequate to meet the counties' present and future bond financing requirements.

Recovery of Potential Revenue Loss

The claim that the counties would lose revenue is unfounded. According to the estimates of the various counties, collections from property taxes are not expected to exceed the guaranteed four percent growth factor provided in this bill. Maui county, for example, expects net assessed valuations to decrease by 1.3 percent in 1986. The city and county of Honolulu estimates an increase in real property tax collections of 1 percent in 1986, and 1.8 percent in 1987.

Your Committee believes that the revenue sharing provision in this bill provides the measure of fiscal stability and financial strength needed to help fund county operations. With this generous revenue sharing program, counties will not need to raise property taxes.

CHANGES TO EXCISE TAX RATES

As amended, this bill will provide an eight percent hotel room tax implemented over three years and a two percent increase in the excise tax on retailing activities beginning January 1986.

Tax Relief Through Exporting of Taxes

The adjustment to the excise tax and the hotel room tax is designed to achieve greater exporting of state and local taxes, by shifting the burden away from residents. The Tax Review Commission reported that this practice is a legitimate tax policy, should be pursued to the fullest extent, and is consistently used by other states such as the widespread use of severance taxes by natural resource exporting states, the use of gaming taxes in Nevada, and the widespread use of hotel room taxes in other tourist destination areas.

Hotel Room Tax

Your Committee has provided for an eight percent hotel room tax to be implemented over a three year period. Beginning January 1986, the tax on a hotel room will be six percent; in January 1987, seven percent; and eight percent in January 1988.

Your Committee notes that this eight percent excise tax on visitor accommodations is not excessive. Most jurisdictions have a hotel tax, some as high as fifteen percent. Your Committee wishes to emphasize that the actual impact of the tax on hotels will be only four cents more on a dollar.

General Excise Tax on Retail Transactions

Although the new excise tax rate will place an additional two cents on the dollar on certain retailing transactions, it will not result in a Hawaii's people paying more taxes. With the complementary property tax exemptions for homeowners, exemption on food and drug, and renter credit for the individual, and the exemptions of the use and excise tax on sales and imports of capital goods and exemptions of the excise tax on farming, manufacturing, and producing, this tax rate change will have no impact on the local taxpayer.

Further, your Committee finds that among states, Hawaii's four percent excise tax rate ranks on the very bottom. Nationally, the median tax rate is 5.5 percent, with 21 states having rates of six percent or higher. Some states have tax rates as high as 8.25 percent, when state and local taxes are combined.

Your Committee restates that the change in the excise tax on retailing will not apply to any business selling or importing capital goods for use in their operations, since your Committee has exempted capital goods from all taxation. Farming,

manufacturing, producing, including high tech, and federal contracts are also exempt from excise tax. In addition, the new excise tax rate will not apply to intermediary services and wholesaling, since the present one-half percent rate has been retained.

Need for Hotel and Retailing Excise Tax

A hotel room tax alone or in combination with changes to other taxes, would not generate revenue levels sufficient to permit tax relief to local citizens and businesses, and would not fully achieve the intent to export county and state taxes.

Revenues from a hotel room tax alone will not give lower and middle income renters the \$700 in tax savings from the increased renter credit, and families with an adjustable gross income between \$20,000 and \$45,000 will not be eligible for renter tax credits. It would also mean that the homeowner tax exemption would remain at \$20,000, resulting in homeowners continuing to pay property taxes of several hundred to a thousand dollars a year. Furthermore, the taxpayer would continue to pay taxes on food and drugs.

With only a hotel room tax, business would continue to pay the excise and use tax on capital goods. Farming, manufacturing, and producing activities would not be exempted from the half percent excise tax, thereby removing any incentive for those businesses to expand or establish new enterprises in our State.

A combination of a hotel room tax, a general excise tax, increased exemptions and credits for homeowners and renters, elimination of the food and drug tax, and tax breaks for business, offers the strongest approach to exporting taxes and providing direct tax relief to our citizens.

BUDGET SURPLUS MISCONCEPTION

Your Committee is aware of arguments that use present and future surplus predictions as a justification for not changing our tax system.

Your Committee wishes to clear up the misconception regarding the State "surplus".

First, the only so-called "surplus" realized by the State has been a result of not spending, of sacrificing or foregoing some things so that an artificial surplus is created.

Second, this artificially created "surplus" is used to pay the cost of providing for such unanticipated expenses as additional funds for government employee salary adjustments negotiated under the collective bargaining law, to make annual principle and interest payments of over \$250 million for the nearly \$2 billion in outstanding loans, and to meet other fiscal crisis that have occurred over the years.

Third, surplus predictions have been inaccurate and faulty. In fact, end of the year balances have shown that the estimates of surplus have been vastly overstated by several hundred millions of dollars. Thus, using the argument that predicted surpluses do not warrant a change in the tax system is irresponsible and would jeopardize the State's ability to fully meet its obligations to the people.

Fourth, a decade of maintaining an artificial "surplus" has led to a deterioration of school buildings endangering the safety of our children, a decline in the quality of our higher and lower education instructional program, an ineffectiveness in our ability to respond to environmental crisis, and a weakening of our economic development programs which could have been used to encourage new industries and provide additional jobs for our people.

Finally, your Committee suggests that those who advocate no change in our tax system appear short-sighted and self-interested. These individuals do not seem to have the commitment to fix our public schools so that our children can learn in a wholesome educational atmosphere, give our children the best education we can, including providing them with up-to-date computer technology, clean up our drinking water, beautify our community, fix our roads which we have long neglected, and provide adequate park and recreational facilities. Further, they are insensitive to the taxpayer's plea for property tax relief. As public officials, this type of thinking cannot distract us from our overriding commitment to meet our present

needs as well as safeguard our children's future.

OTHER MAJOR ISSUES

Positive Impact on Housing

Under the provisions in this bill, the homebuyer will benefit through having a lower monthly mortgage payment, which in turn would allow more people to qualify for loans to purchase their home.

Your Committee notes that the present excise tax on construction is of the value-added type, a taxing concept which does not lend itself to pyramiding since the tax is taken only on the value added as each transaction between contractors and subcontractors occurs. Moreover, this bill, as amended, provides for an exemption on capital goods such as construction equipment purchased for use by contractors. The only excise tax remaining is the one-half percent on sales to contractors on wholesaling which this bill does not increase.

The two percent increase in the excise tax when a new home is sold will have a negligible impact when amortized over time. On a \$150,000 home, the two percent increase represents \$3,000. This higher price spread over the life of the mortgage is just a fraction of the annual savings resulting from the higher home exemption.

With the greater affordability of homes resulting from the excise tax exemptions on capital goods and the lower property tax, your Committee asserts that this bill will stimulate the new home construction industry resulting in more jobs for our people.

Uniform Tax Relief as a State Goal

Your committee is cognizant of the concern regarding the separation of tax sources between local and state government under the home rule concept. In the 1980 constitutional convention, the home rule issue, as it applies to property taxes, was debated and finally settled through the people's ratification of the our present State Constitution.

Your Committee acknowledges that providing statewide tax relief which affects the counties' revenue may be an unusual action that appears contrary to the home rule concept. However, your Committee believes that such action is warranted when it is intended to achieve legitimate state goals such as providing uniform property tax relief. Further, none of the amendments proposed in this bill will impair county authority or compromise the home rule concept.

Effect of Excise Tax Adjustment on Tax Delinquencies Unfounded

Your Committee examined the assertion that tax changes in this bill will aggravate the tax delinquency problem by doubling the amount now in arrears. Tax department figures show delinquency has been on the decline over the past three years. Further, tax delinquency rates are industry-related and are not a function of the tax rate.

CONCLUSION

The legion of tax-change proposals reviewed by your Committee during this 1985 legislative session is indicative of a deep concern that our present tax structure is deficient and in need of revision to make it a more useful instrument in achieving State goals.

Your Committee believes that this bill, as amended, represents an effective tax package which would move Hawaii forward to meet today's needs and tomorrow's challenges. This bill will give us the resources to improve educational opportunities for our young, enhance the quality of our environment, effectively promote economic development and shape our economic future, and sustain full and complete operations of state government. Your Committee is clear that this reform of our tax system will provide for the future of our people, our business enterprises, and our island communities.

Hawaii is at a critical juncture, and we legislators are facing a major decision which will impact the future of this State. To continue in the restrictive manner of the past decade would impose a grave injustice on our people and future

generations.

Your Committee on Finance is in accord with the intent and purpose of S.B. 1185, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. 1185, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 901 Finance on S.B. No. 1287

As received, the purpose of this bill was to amend Chapter 304, Hawaii Revised Statutes, by adding new sections establishing several special and revolving funds.

Your Committee has amended this bill as follows:

1. Changing the UH Manoa intercollegiate athletics fund and the UH Hilo intercollegiate athletics fund to a special fund instead of a revolving fund.
2. Deleting the creation of a UH Manoa internal support services revolving fund and UH Hilo internal support services revolving fund.
3. Deleting the creation of a financial aid transcript revolving fund.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1287, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1287, S.D. 2, H.D. 2

Signed by all members of the Committee except Representative Kamali'i.

SCRep. 902 Finance on S.B. No. 1186

The purpose of this bill, as amended is to make specific drafting amendments to section 27-22.5, Hawaii Revised Statutes.

Your Committee has amended this bill to abrogate the original purpose of the bill which was to allow the director of health, with the approval of the governor, to contract with private individuals or corporations for the administration or lease of all facilities of the county/state hospitals division in the county of Hawaii, collectively.

As amended, this bill (1) removes the brackets surrounding §27-22.5 and (2) changes rules and regulation to read rules.

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

Signed by all members of the Committee except Representative Kamali'i.

SCRep. 903 Finance on S.B. No. 1193

The purpose of this bill is to promote the health, safety, and welfare of the residents of depressed areas of the State which have not benefited from economic growth, by authorizing the counties to designate enterprise zones.

The concept of enterprise zones refers to areas in which local, State, and federal incentives encourage economic activities which employ residents, strengthen the economy, and indirectly contribute to the tax base.

Your Committee has amended this bill by deleting all references to State responsibility and tax benefits for enterprise zones.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1193, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading, in the form attached hereto as S.B. No. 1193, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representative Kamali'i.