

CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. 1-86 on H.B. No. 1954-86

The purpose of this bill is to propose an amendment to Article III, Section 10, of the Constitution of the State of Hawaii to allow the legislative recess or recesses to occur anytime after the deadline for bill introduction, to provide for flexibility in the scheduling of the recess days, and to require that the dates of the recess or recesses be determined by a majority vote of the members of each house vis-a-vis a concurrent resolution.

Your Committee has amended the bill to reflect the proposed statutory revision language of the bill as introduced, and by replacing a sentence which was inadvertently deleted during subsequent Senate revision.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1954-86, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1954-86, S.D. 1, C.D. 1.

Representatives Crozier, Metcalf, Souki, Tajiri and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. 2-86 on S.B. No. 1678-86

The purpose of this bill is to require that owners of land situated within, and within one thousand feet of proposed geothermal resource subzones be notified of public hearings on the designation of such zones.

Presently the law does not require the notification of persons who own land within or adjacent to proposed geothermal subzones. This bill clarifies the statutes by setting a clear and precise standard for notifying landowners within the vicinity of proposed geothermal resource subzones of public hearings to offer them the opportunity to express their views.

Your Committee upon further consideration has amended this bill to provide that county tax rolls be utilized to obtain the names and addresses of all owners of record of real estate whose properties are within the proposed subzone or lie within the one thousand foot radius.

Your Committee finds that this amendment would provide a clearly ascertainable means by which the Board of Land and Natural Resources may determine the identities and addresses of the landowners who are entitled to notices of hearing on the subzone designation process. Without the amendment, the consequences for failing to notify a single landowner of the public hearing could lead to the total invalidation of the hearing process at an unnecessary cost to the State. This amendment would largely eliminate that possibility and still provide a reasonable means of notifying the proper landowners.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1678-86, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1678-86, H.D. 1, C.D. 1.

Representatives Andrews, Say, Metcalf, Tajiri, Tam and Pfeil,
Managers on the part of the House.

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

Conf. Com. Rep. No. 3-86 on H.B. No. 172

The purpose of this bill is to provide for the confidentiality of records and information relating to sexually transmitted diseases.

Specifically, the bill would add a new part to Chapter 325, Hawaii Revised Statutes, which would provide for the following:

- (1) That any information or record from any source which identifies any person who has or is suspected of having a sexually transmitted disease shall be confidential and may be released for medical or epidemiological reasons only if the subject of the record or information cannot be identified or gives written consent, or in case of medical emergency, or to protect the general public, or for the purpose of enforcing the child abuse statutes;
- (2) Criminal penalties for illegal disclosure;
- (3) Civil penalties for negligent and willful disclosure;
- (4) Exemption of Department of Health personnel from examination in civil, special, or other proceedings regarding any individual's records, or the existence or contents thereof, without the written consent of the affected individual; and
- (5) That the part does not diminish, limit, or eliminate the responsibility of anyone to report sexually transmitted diseases to the proper authorities.

Your Committee finds that providing for the confidentiality of records of persons having or suspected of having a sexually transmitted disease is essential to the Department of Health's mission to protect the public health and consistent with declared public policies relating to protection of individual rights. Without confidentiality, the Department would be severely restricted in its ability to deal with sensitive problems such as A.I.D.S. and its transmission, because individuals affected therewith would be reluctant to seek treatment and counseling if they thought their condition would be reported and become public knowledge. Lack of confidentiality would also hamper efforts of medical personnel to diagnose and treat sexually transmitted diseases and educate the public regarding such conditions.

This bill would establish a method by which affected individuals and sources would be protected and violators severely punished, which your Committee believes satisfies the need for confidentiality of individual information and records without jeopardizing the ability of the Department and the medical profession in general to protect the public health.

Your Committee upon further consideration has amended this bill by deleting the criminal penalties, the civil penalties for negligent violation of confidentiality, and the civil penalty for negligent or willful violation which results in economic, bodily, or emotional harm to the person whose records were illegally released. Your Committee finds that criminal penalties are already statutorily provided for in Section 325-14, Hawaii Revised Statutes, and that the stiff civil penalty for willful violation, which is herein left intact, should be sufficient to deter wrongdoing.

Your Committee has also amended this bill by changing the effective date to July 1, 1986.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 172, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 172, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 4-86 on H.B. No. 2280-86

The purpose of this bill is to provide a definition for "handicapped status" in the Employment Practices Law and to make employment-related discrimination against those individuals with such a status illegal. It is the intent of this legislation to allow mentally or physically handicapped persons whose impairment is permanent the opportunity to gain or retain employment in situations in which their skills would merit their selection or retention.

The definition of "handicapped status" is a general definition covering all mental and physical impairments which substantially limit one or more major life activities of a person, who has a record of such impairment, or who is regarded as having such an impairment. Your Committee finds that any needed clarification about specific conditions of such status may be achieved in rules or interpretations by the appropriate departmental agency. One of the necessary clarifications will include a statement that "handicapped status does not include alcohol or drug abuse where the current use of alcohol or drugs prevents performing the duties of the job in question or where employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others," which your Committee finds will assure that the language of the state law will be consistent with federal rules and law.

Upon further consideration, your Committee has made the following amendment to H.B. No. 2280-86, H.D. 2, S.D. 1:

On line 12, the word, "an" has been added so that the definition of "handicapped status" will read, "...the state of having a physical or mental impairment which substantially limits one or more major life activities, having a record of such an impairment, or being regarded as having such an impairment."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2280-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2280-86, H.D. 2, S.D. 1, C.D. 1.

Representatives Tungpalan, Souki, Manegdeg, Oshiro, Takamine, Anderson and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. 5-86 on H.B. No. 2170-86

The purpose of this bill is to indemnify individuals who may be sued for drawing a blood sample at the request of a police officer, from a driver suspected of intoxication, for testing of the sample for alcoholic content.

Currently, a fear of civil liability persuades some qualified personnel to refuse a police officer's request to take a blood sample from an individual suspected of driving while intoxicated. The fear derives from a Hawaii Supreme Court decision, Rossell v. City and County of Honolulu, in which the Court held liable a physician who drew a suspect's blood without the suspect's consent.

Your Committee finds that a driver cannot be effectively prosecuted or referred for appropriate treatment unless a blood sample is obtained and tested for alcohol content. Although a person who operates a motor vehicle in Hawaii gives an implied consent to a blood test for alcohol, unless the reservations of those asked to draw a suspect's blood are overcome, public policy cannot be effectuated.

Your Committee, upon further consideration, finds that a stronger commitment is needed to the State's public policy position in this matter and, accordingly, has made the following amendments to H.B. No. 2170-86, S.D. 2:

(1) Changed the provision providing an indemnity for civil damages resulting from a person's withdrawing blood, to providing for non-liability for civil damages. The effect of this change is to provide an immunity from civil liability to those qualified persons who draw blood at the request of a police officer.

(2) The protection of non-liability for civil damages is accorded not only to those qualified persons who draw blood but also to any hospital, laboratory or clinic, employing or utilizing the services of such person, and owing or leasing the premises on which such tests are performed.

(3) Amended line 6 of page 1 of the bill by adding the word "properly" between the words "who" and "withdraws", and by deleting the word "direction" and substituting therefor the words "written request".

Your Committee also has made a nonsubstantive amendment to the bill for clari-

fication.

The non-liability for civil damages does not extend to damages arising from the authorized person's gross negligence or wanton acts or omissions.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2170-86, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2170-86, S.D. 2, C.D. 1.

Representatives Bunda, Tom, Blair, Cachola, Leong, Lindsey, Metcalf, Cavasso and Jones,
Managers on the part of the House.

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

Conf. Com. Rep. 6-86 on H.B. No. 2444-86

The purpose of this bill is to amend section 291-21.3, Hawaii Revised Statutes, deleting the definition of "luminous reflectance". In addition, this bill deletes the requirement for luminous reflectance standards from section 291-21.5(d)(7) and (8), Hawaii Revised Statutes.

The bill, as passed by the Senate, also amends section 291-21.5(d)(7) and (8), Hawaii Revised Statutes, to allow exemption from safety inspection (1) sun screening devices for front side wing vents and windows that have a light transmittance of no less than twenty-five per cent plus or minus three per cent, and (2) sun screening devices for rear windows which have a light transmittance of no less than fifteen per cent plus or minus three per cent.

Your Committee, upon further consideration, has made the following amendments to H.B. No. 2444-86, S.D. 1:

(1) Retained the original light transmittance standards for section 291-21.5(d)(7) and (8), Hawaii Revised Statutes, of thirty-five per cent plus or minus three per cent.

(2) Inserted a new paragraph exempting from safety inspection sun screening devices for side windows which are to the rear of the driver and rear windows on vans, minivans, trucks, or buses; provided that the vehicles are equipped with rearview mirrors on both sides.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2444-86, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2444-86, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 7-86 on S.B. No. 425

The purpose of this bill is to permit the negotiation of the number of incremental steps and the length of service necessary for incremental and longevity step increases in the public service.

Under present law, these subjects may not be negotiated and step increases are prohibited in any year in which a negotiated pay increase is effective, whether by statute or collective bargaining agreement, resulting in a situation in which some public employees have been unable to move laterally on their respective salary schedules. Because employees are unable to move beyond this entry level step, they can never catch up to those employees on the higher steps. This inequity affects many employees in the bargaining units and lowers morale.

Your Committee finds that the ability to negotiate incremental and longevity steps will provide the means to address and resolve such inequities and improve morale, while also recognizing years of service. Moreover, it may provide an

additional opportunity for both the employer and the exclusive representative to reach a contract agreement.

To assist the public employer in containing costs, your Committee explicitly states that incremental and longevity step increases are not automatic, but must be negotiated and included as part of the overall cost package which is subject to appropriation by the Legislature.

Upon further consideration, your Committee has amended this bill by clarifying that movement between steps and the number of longevity steps, as well as the number of incremental steps, are proper subjects for negotiation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 425, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 425, S.D. 2, H.D. 2, C.D. 1.

Representatives Yoshimura, Kiyabu, Manegdeg, Takamine and Anderson,
Managers on the part of the House.

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

Conf. Com. Rep. 8-86 on S.B. No. 2190-86

The purpose of this bill is to authorize the Hawaii Housing Authority to establish taxable mortgage securities programs.

Federal legislation threatens to significantly curtail the Authority's use of tax-exempt bonds to fund public programs, such as Hawaii's Hula Mae Program. The federal guidelines would institute a volume aggregate cap and would place strict income limits on prospective applicants.

This bill provides the Hawaii Housing Authority with alternatives to finance mortgage loans by taxable securities.

Your Committee finds Hawaii's Hula Mae Program has been an effective tool to assist Hawaii families to obtain home ownership and should be supported to ensure continued program benefits for Hawaii residents.

Toward this end, your Committee has amended the bill by inserting an authorization amount of \$200 million. This would permit the Hawaii Housing Authority to commence its taxable mortgage securities programs as soon as necessary.

The bill has been further amended by making nonsubstantive changes as follows:

1. Page 1, line 11 - the word "needed" has been deleted and "used" substituted therefor.
2. Page 6, line 5 - the letter "s" has been added to the word "conveyance" to correctly identify the Bureau of Conveyances.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2190-86, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2190-86, S.D. 1, H.D. 2, C.D. 1.

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

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

Conf. Com. Rep. 9-86 on S.B. No. 2309-86

The purpose of this bill is to require every county or city and county to protect the public health, safety, and welfare by licensing, controlling, and regulating by ordinance or resolution taxicab transportation service operated within the jurisdiction of the county or city and county.

Under this bill, Chapter 46, Hawaii Revised Statutes, is amended to provide legislative findings that the orderly regulation of vehicular traffic is essential to the welfare of the people and that privately-operated public passenger vehicle service provides vital transportation to Hawaii's people and persons who travel to the State for business or tourist purposes. Further, the Legislature finds that the economic viability and stability of privately-operated public passenger vehicle service is a matter of statewide importance and thus it is the policy of the State to promote safe and reliable service through the regulation of privately-operated public passenger vehicle service. The Legislature further declares that the policy of the State is to require that counties regulate privately-operated public passenger vehicle service and that a county or city and county shall not be subject to liability under the federal antitrust laws. Thus, this bill provides that, where not within the jurisdiction of the Public Utilities Commission, every county or city and county is empowered to regulate entry into the business of taxicab service, rates charges for taxicab service, and establishment of stands for a limited number of taxicab firms.

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

(1) Subsection (b) on page 2, line 18, the word "shall" has been replaced with the phrase "may provide rules to" in order to allow the county or city and county to adopt rules to implement this law.

(2) Subsection (c) on page 3, the word "taxicab" has been replaced with the phrase "public passenger vehicle service" in order to conform the language within the section and to authorize regulation of all forms of public passenger vehicle service rather than just taxicab service.

(3) Nonsubstantive changes have been made by inserting appropriate commas in line 19, page 2, capitalizing the word "State" where appropriate, and using the word "the" instead of "this" before the word "State" where appropriate.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2309-86, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2309-86, S.D. 1, H.D. 2, C.D. 1.

Representatives Shito, Yoshimura, Manegdeg, Taniguchi and Anderson,
Managers on the part of the House.

Senators Kawasaki, Fernandes Salling, Hee and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 10-86 on S.B. No. 383

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

Presently, the Department of Education's regular summer school program involves approximately 16,000 students annually at more than forty school sites. The program is voluntary and requires the payment of tuition to cover costs incurred. The tuition has been rising steadily in recent years due to salary increases of summer school teachers and directors and increases in costs of supplies and services.

Although tuition waivers are granted for students meeting financial need criteria, a large majority of summer school students do not qualify for waivers or find it difficult to pay the increasing tuition. The assessments for central services and administrative expenses may necessitate an increase in tuition rate.

The bill would assist the Department in maintaining the tuition at its current level.

Your Committee has amended the bill by changing the effective date from July 1, 1986 to upon approval. It is the intent of your Committee that this bill apply to the summer session of 1986, even though the bill may take effect after the commencement of the 1986 summer session.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 383, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 383, S.D. 1, H.D. 1, C.D. 1.

Representatives Lindsey, Souki, D. Ige, Lardizabal, Levin, Oshiro, Tajiri, Anderson and Pfeil,
Managers on the part of the House.

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

Conf. Com. Rep. 11-86 on H.B. No. 2069-86

The purpose of this bill is to expand the scope of persons required to report elderly abuse or neglect to include the staff of skilled nursing facilities, intermediate care facilities, adult residential care homes, and adult day care centers.

This bill further provides that "financial exploitation" be included within the definition of elderly abuse or neglect.

Since elderly abuse and child abuse are similar, this bill patterns elderly abuse reporting on current child abuse reporting procedures. This bill accordingly repeals language in Section 394-C, Hawaii Revised Statutes, and substitutes provisions requiring professionals of health-related occupations, employees of public and private agencies, employees of adult residential care homes and adult day care centers, medical examiners and coroners to report directly to the Department of Social Services and Housing, thereby encouraging timely reporting through the elimination of the current two-tier reporting system in hospitals and medical facilities.

Your Committee bracketed out the paragraph on page 4, lines 15 to 18, which was inadvertently left in the Senate version, to eliminate language that duplicates provisions found on page 3, lines 20 to 22.

Your Committee considered whether the penalty for failure to report incidences of elderly abuse should be a civil fine of \$500 or a petty misdemeanor, as with failure to report incidences of child abuse. Your Committee believes that the civil fine is sufficient to ensure compliance with the elderly reporting requirements while removing the stigma of criminalization. Your Committee further amended the bill to provide that the fine apply to failure to report both orally and in writing.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2069-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2069-86, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 12-86 on H.B. No. 2166-86

The purpose of this bill is to provide exclusive vending machine concession rights to blind or visually handicapped persons at public schools.

In 1973, the Board of Education authorized the school vending machine program to be operated by blind or visually handicapped persons pursuant to Section 102-14, Hawaii Revised Statutes, which gave preference to blind or visually handicapped persons to operate vending machines and stands in government buildings. Section 102-14 was amended in 1981 to provide blind or visually handicapped persons protection from outside competition, and to allow exceptions to that protection at certain state facilities including Department of Education (DOE) facilities. Although unintentional, Section 102-14, as amended, had the unexpected effect of raising doubts as to the preference provided to blind or visually handicapped persons operating vending machines at DOE facilities.

Your Committee has amended the bill, as received, to clarify that the exceptions to Section 102-2(b) apply only to vending machines located at public schools operated by blind or visually handicapped persons in accordance with the provisions in Section One of the bill. The bill was also amended to correct certain technical, nonsubstantive errors for the purpose of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2166-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2166-86, H.D. 1, S.D. 1, C.D. 1.

Representatives Grauly, Lindsey, Souki, Cachola, D. Ige, Leong, Manegdeg, Kamali'i and Pfeil,
Managers on the part of the House.

Senators Toguchi, Fernandes Salling and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 13-86 on H.B. No. 1680-86

The purpose of this bill is to provide the Family Court with discretionary power to make parents liable for the support of children of their unmarried minor children.

This bill is prompted by a distressingly large number of births to unmarried minor parents who have neither the ability nor the inclination to assume the full responsibility of parenthood. Your Committee believes that minor parents and parents of minor parents should support these children, not the taxpayers of the State.

Your Committee agrees that a judgment or order for support should be made against the parent or parents of the minor, only to the extent that the minor parent is unable to provide full support for the child.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1680-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1680-86, H.D. 1, S.D. 1, C.D. 1.

Representatives Grauly, Metcalf, Hirono, D. Ige, Leong, Menor, Tungpalan, Jones and Liu,
Managers on the part of the House.

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

Conf. Com. Rep. 14-86 on H.B. No. 2202-86

The purpose of this bill is to provide the Board of Land and Natural Resources with the discretion to convene parties involved in a contested geothermal resource subzone dispute prior to the scheduled contested case hearing for the purpose of possible settlement through mediation by an appointed special master or designee, neither of whom shall be a member of the Board or its staff. This bill further provides that the settlement conference shall not extend beyond thirty days after the parties are determined, except upon mutual agreement of all parties.

Your Committee finds that mediation and arbitration offer practical alternatives to the settlement of disputes through formal judicial procedures. Early public input by all parties concerned in a geothermal resource dispute will allow for the timely resolution of these conflicts. Following discussion on this bill, your Committee has decided that this bill should be amended to provide that the Board of Land and Natural Resources "shall" instead of "may" require parties to participate in a settlement conference for the purpose of mediation. Your Committee finds that this direction to the Board will avoid disputes over possible questions as to whether or not a settlement conference shall be held. In addition, your Committee finds that in order to achieve fair and representative solutions to geothermal resource subzone disputes, the Board should have the authority to require all parties to such disputes to participate.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2202-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2202-86, H.D. 1, S.D. 1, C.D. 1.

Representatives Andrews, Say, Metcalf, Tajiri, Tam and Pfeil,
Managers on the part of the House.

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

Conf. Com. Rep. 15-86 on S.B. No. 1595-86

The purpose of this bill is to amend the definition of "geothermal development activities" to include direct heat application, or non-electric application of geothermal resources as an activity that may be permitted in a geothermal resource subzone.

Presently the definition of "geothermal development activities" includes the exploration, development, or production of electrical energy from geothermal development. This may be construed to exclude non-electrical applications of geothermal energy as an authorized use of this source of energy.

Your Committee believes that the expansion of this definition to include direct heat applications of geothermal resources would provide additional incentives to geothermal developers, enhance the viability of existing industries and lead to the establishment of new ventures.

Your Committee upon further consideration has amended S.B. No. 1595-86, H.D. 1, by amending every reference to "direct heat applications of geothermal resources" to read as "direct use applications of geothermal resources. Your Committee believes that limiting the definition of "geothermal development activities" to direct heat applications only is too restrictive, and does not allow for other possible direct use applications of geothermal resources.

Your Committee also amended the bill on page 4, line 19, by bracketing the word "users" and underscoring "uses" in order to correct a typographical error in the statute according to correct Ramseyer format.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1595-86, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1595-86, H.D. 1, C.D. 1.

Representatives Andrews, Say, Metcalf, Tajiri, Tam and Pfeil,
Managers on the part of the House.

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

Conf. Com. Rep. 16-86 on H.B. No. 2348-86

The purpose of this bill is to clarify current provisions relating to enforcement of Department of Transportation motor carrier safety rules and the inspection powers of the Director or designated delegates.

Presently the Director of Transportation may delegate the enforcement of any part of the rules adopted by the Department of Transportation to the executive officers of each county and any other State agency having responsibilities relating to the operation of motor vehicles.

Your Committee has amended the bill by adding the phrase "of transportation" to the word Director on page 1, line 9.

Your Committee has further amended the bill by allowing the Director, persons appointed by the Director, and the county executive officers to whom powers of enforcement are delegated, to:

- (1) inspect lands, building, freight and equipment of motor carriers,

(2) stop and inspect freight and equipment of motor carriers and the military on any public highway,

(3) inspect shipping papers, hazardous waste manifests and other documents of motor carriers and persons subject to this part.

Your Committee has also made technical and non-substantive changes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2348-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2348-86, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 17-86 on H.B. No. 2845-86

The purpose of this bill is to amend Article 8 of Chapter 490, Hawaii Revised Statutes, to incorporate changes adopted in 1977 by the National Conference of Commissioners on Uniform State Laws.

Your Committee finds that these amendments were promulgated by the Uniform Laws Commission to modernize the procedures for dealing with stock certificates and bonds which fall within the definition of "securities" under Article 8 of the Uniform Commercial Code. Accordingly, this bill recognizes a transaction based upon an uncertificated security, namely one not represented by a specific piece of paper, and provides the mechanism for trading in such certificates.

Your Committee also finds that the amendments presently contemplated by the Legislature include the same features as the original Article 8, with the important exception of the certificate requirements, and have been carefully integrated into the older Article 8. They parallel the legal framework that the original Article 8 established for certificates and give priority in law to neither system of transfer. The practical advantages of the uncertificated system are clear. They allow issuers to take advantage of the efficiency and speed of computer technology that can eliminate the sea of paper that afflicts the securities market.

Your Committee further finds that it is appropriate to request the reviser of statutes to add the commentary from the Comments to Official Text, Uniform Commercial Code.

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

1. A new Section 1 has been added to amend Section 490:1-201, Hawaii Revised Statutes. This amendment would amend the definitions of subsections (5), (14) and (20);

2. A new Section 2 has been added to amend Section 490:5-114, Hawaii Revised Statutes. This amendment would allow an issuer acting in good faith to honor a draft or demand for payment despite notification from the customer of fraud, forgery or other defect not apparent on the face of the documents;

3. A new Section 4 has been added to amend Article 9 of Chapter 490, Hawaii Revised Statutes, as follows:

a. Subsection 490:9-103 (3)(a) has been amended to clarify that this subsection applies to general intangibles (other than uncertificated securities);

b. A new subsection 490:9-103 (6) has been added which states that the jurisdiction of organization of the issuer will govern the perfection and the effect of perfection or non-perfection of a security interest in uncertificated securities;

c. Subsection 490:9-105 (j) has been amended by amending "instrument" to mean a negotiable instrument (defined in section 490:3-104), or a certificated security (defined in section 490:8-102);

d. Subsection 490:9-203 (1) has been amended by adding "section 490:8-321 on security interest in securities" as an additional provision;

e. Subsection 490:9-302 (1)(f) has been amended by adding "securities (section 490:8-321)" as an exception to the requirement of filing a financing statement to perfect a security interest;

f. Sections 490:9-304 and 490:9-305 have been amended to clarify that instruments for purposes of this article are "instruments (other than certificated securities)";

g. Section 490:9-309 has been amended to delete "section 490:8-301" and to insert "section 490:8-302"; and

h. Subsection 490:9-312 (7) has been amended by adding "section 490:8-321 on securities" as a condition under which future advances of a security interest is made.

Your Committee has also made nonsubstantive amendments to correct gender references.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2845-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2845-86, H.D. 2, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 18-86 on H.B. No. 2495-86

The purpose of this bill is to amend Chapter 239, Hawaii Revised Statutes, to specifically authorize the Public Utilities Commission to offer lifeline telephone service rates to eligible residential customers. Further, this bill would prescribe criteria for eligibility for lifeline telephone service and provide a means for funding lifeline telephone service by allowing telephone public utilities a tax credit, equal to their respective lifeline service rate subsidy, to be applied against the company's public service company tax liability.

Your Committee finds that having telephone service is essential to many persons with low and limited incomes as they are significantly dependent on the telephone to maintain communication with public agencies and providers of medical care, as well as to retain necessary social contacts in the community. Accordingly, your Committee finds the concept of lifeline telephone service to be highly commendable and that it should be made available to persons with low and limited incomes in the face of rising telephone service costs.

Your Committee finds, however, that lifeline telephone service should not be extended to all low and limited income persons, but, rather, should be limited to only the elderly and the handicapped with low or limited income.

Your Committee, upon further consideration, has amended the bill by amending page 2, lines 16-18 by deleting the language, "service for persons with low or limited income including but not limited to elderly and handicapped individuals", and by inserting the language, "users identified as the elderly with limited income and the handicapped with limited income".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2495-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2495-86, H.D. 2, S.D. 1, C.D. 1.

Representatives Shito, Kiyabu, Bunda, Crozier, Oshiro, Souki and Anderson,
Managers on the part of the House.

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

Conf. Com. Rep. 19-86 on H.B. No. 2725-86

The purpose of this bill is to provide immunity from civil liability for individuals performing duties and responsibilities pursuant to Section 350-2 and Chapter 587, Hawaii Revised Statutes, which relate to child abuse and the Child Protective Act.

Your Committee takes cognizance of the morale and recruitment problems created when CPS workers and others who assist in protecting children from abuse and neglect are left unprotected from liability. The assessment of risk to a child is not a science and CPS workers and others have to make reasonable, educated assumptions and judgments based upon their professional expertise and training. Your Committee believes that a measure of protection from civil liability is necessary if child protective workers are to make the difficult decision necessary in this area.

Your Committee wishes to point out that any individual assuming a duty or responsibility under Section 350-2 and Chapter 587 falls within the protection afforded by this bill. The guardian ad litem and foster care certification workers assisting CPS workers in the placement of children, when appointed and acting pursuant to Section 350-2 and Chapter 587, are specifically covered by this bill.

While it is the intent of your Committee to provide immunity for child protective workers, your Committee wishes to emphasize that this bill should in no way be construed to limit the liability of the Department of Social Services and Housing, any other State agency, or any private organization for the conduct of individuals provided immunity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2725-86, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2725-86, H.D. 1, S.D. 2, C.D. 1.

Representatives Graulty, Metcalf, Apo, Cachola, D. Ige, Kihano, Menor, Liu and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. 20-86 on H.B. No. 393

The purpose of this bill is to amend the criteria for the allotment of moneys and instructional resource augmentation positions in the school priority fund. Allotment of moneys are authorized for grades kindergarten through twelve, instead of separately for elementary schools and secondary schools. Allotment of positions are authorized to school districts based on enrollment in schools with grades kindergarten through eight, instead of only for elementary schools.

This bill provides an equitable criterion for the distribution of moneys in the school priority fund and allows schools with combined intermediate and elementary grades to benefit from instructional resource augmentation positions.

Your Committee upon further consideration has made an amendment to H.B. No. 393, H.D. 1, S.D. 1 to read as follows:

Section 1.

"(3) "School priority fund" includes money which may be appropriated and allotted for grades kindergarten through twelve and appropriated instructional resource augmentation positions which shall be allotted by the superintendent to districts for schools with grades kindergarten through six and grades kindergarten through eight based on enrollment in grades kindergarten through six."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 393, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 393, H.D. 1, S.D. 1, C.D. 1.

Representatives Kiyabu, Lindsey, D. Ige, Lardizabal, Nakata, Say, Takamine, Yoshimura, Kamali'i and Pfeil,
Managers on the part of the House.

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

Conf. Com. Rep. 21-86 on H.B. No. 1998-86

The purpose of this bill is to require specific types of materials or loads being carried on any vehicle on a highway to be covered with some suitable material.

The original intent of this bill was to prevent the littering of the State's highways by vehicles carrying certain types of materials or loads. This bill would hopefully alleviate this statewide problem.

The effect of H.B. No. 1998-86, H.D. 1, S.D. 1, is to disallow the carrying of any loads which extend beyond the length of the vehicle, to delete the agricultural products exemption, to apply the covering or securing requirement to all types of loads, and also to provide for specific penalties for violations of this section.

Your Committee finds that the carrying of certain materials, such as rocks or boulders, pose a definite safety risk to others who utilize the highway. Your Committee has therefore deleted portions of the proposed language on page 2, lines 13 through 21 and added a new subsection which deals with the carrying of "rocks, boulders, or other materials of a nature capable of causing bodily injury or death."

Your Committee also finds that a number of businesses regularly carry materials which extend beyond the length of the vehicle and to disallow the carrying of these materials altogether would be an economic hardship.

Your Committee has further considered the economic implications of the proposed penalty provisions upon transportation-related operations and agrees that some type of penalty is necessary to act as a deterrent.

Your Committee also had concerns about situations where the violation is due to the fault or negligence of the driver, or in other cases, caused solely by the owner. Your Committee feels that there should be some discretion on the part of the court in imposing a fine on either the driver, the owner or both, depending on the circumstances, as well as the suspension of either the vehicle registration or the license of the driver.

Your Committee has amended the bill on page 1, lines 12 through 16, by retaining the exemption for materials extending beyond the length of the vehicle, provided that such materials are securely fastened by some means.

Your Committee has also amended the bill by retaining the agricultural produce exemption on page 2, lines 4 through 8 of the bill.

Your Committee has amended the bill on page 3, lines 1 through 15, by totally revising the form of the penalty sections to allow for a discretionary suspension of the vehicle registration or the license of the driver, or both, five working days upon the conviction of the first offense, and added the phrase "or suspension of the license of the driver, or both," in the subsections dealing with subsequent violations. Language has been inserted to indicate that the subsequent violations are meant to specifically cover vehicles which have been previously cited under the section. Your Committee has added a new provision which would allow the court to apportion the fine between the driver and the owner according to the court's determination of the degree of fault, and also added a new provision to clarify how truck-trailer and tractor-semitrailer combinations will be treated.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1998-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1998-86, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 22-86 on H.B. No. 2596-86

The purpose of this bill is to place mopeds and motor scooters under the same muffler exhaust regulations as motorcycles and to repeal sections 291-22 and 291-23, Hawaii Revised Statutes.

Presently the law does not provide for the regulation of moped exhaust systems.

Your Committee has found a problem with the proposed inclusion of motor scooters in this bill. Based on information provided by the House Majority Attorney, inclusion of motor scooters would go beyond the scope of the title. Your Committee has amended this bill by deleting the words "motor scooters" from page 1, lines 3, 4, 9-10, 11, 13 and 16.

Your Committee has further amended the bill by leaving intact Sections 291-22 and 291-23, Hawaii Revised Statutes, concerning muffler exhaust regulations and penalties for motor scooters.

Your Committee has also made technical and non-substantive changes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2596-86, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2596-86, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 23-86 on H.B. No. 105

The purpose of this bill is to give the Family Court the authority to order the name change of a minor in instances where one parent cannot be located, if it is in the best interest of the child and there is clear proof that all reasonable efforts have been made to locate the absent parent. The bill also permits the acceptance in Hawaii of valid name changes ordered by courts in other states, District of Columbia, Puerto Rico, or other territories or possessions of the United States.

Under this bill, if a name change is in the best interest of the child, the efforts of the parent initiating the name change cannot be hindered by the unavailability of the absent parent.

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

1. Added "legitimate or legitimated" on page 2, lines 4 to clarify that this paragraph applies only to legitimate children.
2. Deleted the word "clear" on page 2, line 5 since the standard of proof to be applied was not certain. Your Committee expects that the Family Court will demand the same exhaustive efforts that it now uses to find absent parents who owe child support payments or who must be contacted for other reasons.
3. Delete reference to the registrar of births for petitions accompanied by a prosecutor's affidavit.
4. Require that change of names ordered by the Lieutenant Governor be recorded in the Bureau of Conveyances within sixty days after the signing of the order and deletes requirement that name change orders of persons born in this State be reported to the state registrar.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 105, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final

Reading in the form attached hereto as H.B. No. 105, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 24-86 on H.B. No. 2221-86

The purpose of this bill is to amend the Child Protective Act, chapter 587, Hawaii Revised Statutes: (1) to facilitate permanency planning by enabling the department of social services and housing (DSSH) to initiate termination of parental rights and adoption proceedings at any point during the period of the service plan; (2) to provide for the release of certain records; and (3) to make certain technical amendments.

The bill seeks to provide for timely permanent planning by incorporating in the Child Protective Act certain provisions of the termination of parental rights statute (chapter 571, part VI, Hawaii Revised Statutes), the adoption statute (chapter 578, Hawaii Revised Statutes), and the guardianship statute (chapter 560, part 4, Hawaii Revised Statutes). This will allow the Department of Social Services and Housing (DSSH) to initiate termination of parental rights and adoption proceedings at any point during the period of the service plan.

Under the bill, DSSH will have the authority to conduct criminal history record checks of an alleged perpetrator to determine the harm or potential harm to a child. DSSH will also be able to disclose without court order such information that is in the best interest of the child.

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

1. Add a new section that provides for the admission into evidence of a recording of a child's statement. Your Committee believes this procedure will help reduce the trauma to the child. Your Committee also made certain other amendments to include the reference to the recorded statement.
2. Amended section 587-74 to clarify the criteria the court would use in determining whether adoption would be appropriate as part of the permanent plan.
3. Made technical non-substantive amendments and corrected certain typographical errors that do not affect the intent and purpose of this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2221-86, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2221-86, H.D. 2, S.D. 2, C.D. 1.

Representatives Kiyabu, Tom, Blair, Crozier, Hirono, Manegdeg,
Metcalf, Souki, Kamali'i and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. 25-86 on H.B. No. 1688-86

The purpose of this bill is to enable a person to express their decision relating to their own medical treatment.

This bill provides that a person who executes a declaration will be able to express his or her decision as to medical treatment in the event the person is terminally ill and is unable to make known his or her decision. The bill is also intended to absolve the doctor or health care provider of liability if they act in accordance with the patient's instructions.

Currently, thirty-five states and the District of Columbia have enacted legislation allowing for some type of "living will".

Your Committee finds that competent individuals have the fundamental right to control and to make decisions relating to their medical care. This right extends to decisions to have medical or surgical procedures administered, withheld, or withdrawn. Your Committee believes that prolonging life through artificial means for an individual with a terminal condition may only serve to provide a precarious and burdensome existence.

It is the intention of your Committee that physicians who act in accordance with the provisions of this bill should not be subject to liability. Thus, a physician should not be held accountable if a patient requests that "life-sustaining procedures" be withheld or withdrawn.

The bill will not permit the starving of a patient. Although the bill authorizes the withdrawal or withholding of medical procedures which will only prolong the dying process, nourishment, fluids, and medication will continue to be administered to the patient for the patient's comfort or relief.

Furthermore, your Committee emphatically states that this bill does not condone "euthanasia" or "mercy killing". Your Committee directs your attention to Section -13 of the bill which provides that nothing in this chapter shall be construed to condone, authorize, or approve mercy killing or euthanasia.

After discussion, your Committee made the following amendments.

1. Purpose clause. Your Committee amended the bill by reinserting Section -1 of the House draft. Your Committee believes the purpose section of the bill should establish the general intent of the bill and not discuss specific provisions which are contained in other sections of the bill.

2. Terminal Condition. A concern was raised that the definition of "terminal condition" created confusion because it would not be clear when a terminal condition reaches the final stage or when death was imminent. This would place an additional burden on the physician. Your Committee therefore amended the bill by using the definition of terminal condition contained in the House draft.

3. Statement of Physician Accompanying Declaration. Your Committee was very concerned that an effective living will declaration was contingent upon a physician's statement of the issues and risks. A living will is a very personal document similar to an individual's last will and testament and an individual has personal reasons for making the declaration. Therefore, your Committee did not believe that validity of the declaration should be contingent upon a physician's statement. In addition, the statement would place an additional burden on the physician and may invalidate living wills that already have been drafted and executed. Your Committee believes that delivery of a notarized declaration to the physician to be placed with the patient's records is sufficient and therefore, the bill was amended accordingly.

4. Certification of Incompetency and Terminal Condition. Your Committee agreed to combine the certification of incompetency and terminal condition. This would streamline procedures since the physician could certify the patient's incompetency and terminal condition at the same time.

5. Deletion of the term "imminent" and the phrase "within a relatively short time" from the physician's certification. Your Committee believed the terms were too vague and would create an additional burden for the physician. Therefore, said terms were deleted from the physician's certification.

6. Penalty for failure to certify terminal condition or failure to transfer a patient. Your Committee believed the penalty was too severe for a physician who fails to certify a terminal condition or fails to transfer a patient. Your Committee did not believe that conduct would rise to levels which could be considered criminal and therefore, amended the bill to provide that it constitute professional misconduct.

7. Procedure in Absence of Declaration. Your Committee amended the bill to clarify that ordinary standards of current medical practices will be followed in the absence of declaration.

Your Committee also made certain technical, non-substantive amendments.

Your Committee on Conference is in accord with the intent and purpose of H.B.

No. 1688-86, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1688-86, H.D. 1, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. 26-86 on S.B. No. 1762-86

The purpose of this bill is to remove restrictions in the present law which have hampered the development of correctional industries by: (1) deleting the \$350,000 gross annual production value limit on correctional industries; (2) deleting the public hearing requirement and giving the department of social services and housing discretionary authority to hold hearings when necessary in the public interest; (3) permitting the use of funds from the correctional industries account for the leasing of equipment and machinery, the leasing and renovation of buildings, personnel salaries, and for expenses incurred in studying and evaluating proposed or existing correctional industrial enterprises; and (4) increasing the expenditure ceiling of the correctional industries account fund from \$100,000 to \$500,000.

Your Committee upon further consideration has only made technical changes for purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1762-86, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1762-86, S.D. 1, H.D. 2, C.D. 1.

Representatives Menor, Souki, Blair, Crozier, Oshiro, Takamine,
Anderson and Jones,
Managers on the part of the House.

Senators Yamasaki, Chang and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 27-86 on S.B. No. 1550-86

The purpose of this bill is to protect officers and board members of nonprofit corporations from civil liabilities that may result from their work on behalf of the corporations. The immunity extends to all officers and board members who serve without payment but does not cover wanton acts or gross negligence.

Your Committee finds that it is increasingly difficult for many nonprofit corporations to obtain sufficient insurance coverage for their boards and officers. Programs beneficial to the public are disabled when the unavailability of insurance curtails the corporations' activities and discourages able individuals from donating their services to nonprofit organizations. This bill may ease the situation and assure that the social contributions of nonprofit corporations are not impeded.

Your Committee has amended the language of Section 2 of the bill so that it conforms to the wording of Section 1, without changing the purpose or effect of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1550-86, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1550-86, S.D. 2, H.D. 1, C.D. 1.

Representatives Shito, Bunda, Hirono, Taniguchi and Jones,
Managers on the part of the House.

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

Conf. Com. Rep. 28-86 on H.B. No. 1663-86 (Majority)

The purpose of this bill is to establish a child care pilot project at the University of Hawaii.

Your Committee agrees that the establishment of child care centers by the University will greatly improve access to the University system for students with young children and that access to education is an important societal goal for Hawaii.

This bill establishes a child care center revolving fund for the operation, construction and/or renovation of child care centers throughout the University system. While the University and Board of Regents are responsible for implementing the pilot project, your Committee has included language in the bill to ensure that the project will be self-supporting.

Your Committee wishes to clarify that it does not consider costs of instructional, research and related services provided through other state, federal or private funding sources as part of the costs for the pilot project.

Your Committee has also included language requiring the University to provide the Legislature with an evaluation report on the pilot project twenty days prior to the convening of the 1988 Regular Session.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1663-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1663-86, H.D. 2, S.D. 1, C.D. 1.

Representatives Kiyabu, Levin, Graulty, Hirono, D. Ige, Lardizabal, Leong, Nakasato, Onouye, Shon, Souki, Tajiri, Isbell, Liu and Pfeil,
Managers on the part of the House.

Senators Yamasaki, Abercrombie, Holt and A. Kobayashi,
Managers on the part of the Senate.
(Senator Abercrombie did not concur.)

Conf. Com. Rep. 29-86 on H.B. No. 2282-86

The purpose of this bill is to reduce the total membership of the Pesticides Advisory Committee from sixteen members to eleven members and to diversify the range of interests represented on the Committee.

Your Committee finds that the current membership structure of the Pesticides Advisory Committee is cumbersome and encourages inefficiency. Additionally, your Committee finds that the present size of the Advisory Committee heavily favors the interests of pesticide users. By reducing the Advisory Committee's overall membership and by diversifying its interests, your Committee finds that the Advisory Committee will be better able to fulfill its duties as an advisory body to the Department of Agriculture and thereby assure full and fair pesticide policy formulation.

Upon further consideration, your Committee has amended the bill by deleting the following phrase from page two, lines 1-4 of the Senate draft version of the bill:

"provided that the member from an environmental organization, the member of a citizen group, and the public member shall be appointed without regard to any list of recommended persons."

Your Committee finds that if this phrase is not removed, the language could restrict the Governor's flexibility in appointing individuals to represent the environmental organization, the citizen group, or the public at-large. In deleting this language, it is your Committee's conviction that those individuals appointed to represent the public at-large on this Advisory Committee do indeed represent the views of the general public and not the views of any special interests.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2282-86, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2282-86, S.D. 1, C.D. 1.

Representatives Andrews, Crozier, Hagino, Metcalf and Kamali'i,
Managers on the part of the House.

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

Conf. Com. Rep. 30-86 on H.B. No. 2468-86

The purpose of this bill is to provide native Hawaiian individuals and organizations the right to bring suit in State courts to resolve controversies relating to the administration of the Hawaiian Homes Commission Act, 1920, as amended, and the Admission Act.

Your Committee recognizes and supports the rights of native Hawaiians and native Hawaiian organizations to bring suit for the enforcement of provisions which directly affect their status as native Hawaiians and the rights and benefits due to them.

Your Committee is also aware of a recent federal court decision affirming the reasonableness of the classification of Hawaiians as defined in Section 10-2. Moreover, your Committee recognizes the concerns expressed in prior testimony from representatives of native Hawaiians and their organizations that the rights and benefits afforded them should not be diminished by rights conferred on Hawaiians.

However, your Committee has amended this bill in the following manner:

(1) To delete, on line 3, page 2, the reference to Section 4 of the Hawaii State Constitution; and

(2) To insert, on line 14, page 5, a reference to Section 6 of the Hawaii State Constitution.

These two changes reflect an accurate citation of those sections of the State Constitution which refer to the Hawaiian Homes trust and distinguish it from the trust established for the Office of Hawaiian Affairs.

A third amendment was made in the following manner:

(3) To insert, on line 4, page 5, the phrase "unless the exhaustion of administrative remedies would be futile", following the reference to the Hawaiian Homes Commission Act, 1920, as amended.

An exhaustion of administrative remedies is not a judicial standard when such processes would deny or fail to address the issue of controversy.

Technical, non-substantive amendments were made for the purpose of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2468-86, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2468-86, H.D. 2, S.D. 2, C.D. 1.

Representatives Say, Tom, Kiyabu, Apo, Crozier, Souki, Tajiri, Jones
and Kamali'i,
Managers on the part of the House.

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

Conf. Com. Rep. 31-86 on H.B. No. 2117-86

The purpose of this bill was to clarify and redefine certain terms concerning fine prints, to require that certain informational details be disclosed to purchasers by sellers of fine prints, and to set penalties for violations of these provisions.

Your Committee finds that Chapter 481F, Hawaii Revised Statutes (HRS), present-

ly requires sellers to disclose informational details which may be inadequate for a purchaser attempting to judge the degree of uniqueness or scarcity of a fine print. This bill would strengthen the existing fine prints law by requiring that consumers are provided more meaningful details with which to make an informed decision regarding the purchase of fine prints.

Your Committee, upon consideration, has amended the bill by incorporating sections of the present Chapter 481F, HRS, and California law which the Committee believes would best serve the purpose of protecting the consuming public.

Specifically, your Committee has amended the bill by:

- (1) Conforming the disclosure requirements for all print multiples regardless of when the prints were produced;
- (2) Providing for more detailed disclosure of the artist's participation in creating the prints;
- (3) Eliminating the exemption for prints offered for sale or sold at wholesale or retail for \$250.00 or less;
- (4) Eliminating the provision exempting charitable organizations from disclosure requirements imposed on sellers of print multiples;
- (5) Narrowing the coverage of the bill to cover only print multiples which are prints produced by means of engraving, etching, woodcutting, lithography, serigraphy, or other similar processes or any combination thereof; and
- (6) Providing for an effective date of July 1, 1986.

Your Committee intends to require the disclosure of informational details in written instruments which solicit a direct sale of print multiples. This requirement shall apply to advertisements soliciting the sale of specific prints at stated prices.

Your Committee believes that this bill provides for strong remedies against sellers who fail to disclose or falsely disclose informational details required by Chapter 481F, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2117-86, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2117-86, S.D. 1, C.D. 1.

Representatives Levin, Shito, Bunda, Hagino, D. Ige, Onouye,
Tungpalan, Hemmings and Jones,
Managers on the part of the House.

Senators Cobb, Abercrombie, Chang, B. Kobayashi, Matsuura, McMurdo
and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 32-86 on H.B. No. 2608-86

The purpose of this bill is to provide tuition waivers for certain Vietnam era veterans who are enrolled in programs offered on any campus of the University of Hawaii system.

Your Committee finds that since the Vietnam era ended over ten years ago, a great majority of the veterans eligible for the proposed tuition waivers are thirty years old or older. Since at this stage in life many of these veterans have jobs and families, they may not be able to attend school on a full-time basis, and if they are to meet their individual educational goals many need some form of financial assistance. Therefore, your Committee finds that tuition waivers should be provided to eligible Vietnam era veterans.

While it is your Committee's desire to provide some relief for educational expenses for more than four years, the length of time typically required for a full-time student to earn an undergraduate degree, your Committee acknowledges the fact that the period of eligibility should not be so long as to invite abuse. Accordingly, your Committee amended page 2, line 9 of the bill to increase from

four to five the number of regular academic years which an individual would be eligible for tuition waivers.

Another major issue discussed was the "sunset" date of the proposed program. Since the intent of the bill is to allow an individual a maximum of five years in which to complete degree requirements, an individual starting the program at the inception of the program should be assured of five years of tuition waivers before a decision is made either to allow the program to "sunset" or to extend the "sunset" date. In this regard, the bill was amended to extend the repeal date of the Act on page 3, line 18 from December 31, 1989 to June 30, 1991. For consistency, the date for the discontinuance of this program's tuition waivers on page 2, line 13 was changed from September 1989 to September 1990.

Your Committee finds that although certain veterans served in Southeast Asia, their military records may not delimit the specific geographic areas of service such as Vietnam, Cambodia, or Laos. Examples of these veterans are airplane pilots who flew missions over Vietnam, but who were based in Thailand, and Navy personnel who were assigned to ships which served in Southeast Asian waters. Your Committee has therefore amended the bill on page 1, line 8 to expand the eligibility criteria by deleting the words "Vietnam, Cambodia, or Laos", and replacing them with the words "the Southeast Asia Theater of Conflict".

As received, the bill would have allowed the Board of Regents (BOR) to request reports from the Veterans Administration (VA), and to terminate the program based on any VA report or upon failure of the VA to submit a report. The Committee finds that the VA, upon certifying a veteran for a program, does very little, if any, follow-up activity. Data from the VA on the impact of the program on veterans would thus be insufficient to determine whether or not the program should be terminated. Yet the BOR should be allowed to request any available reports from the VA. Accordingly, your Committee retained the provision allowing the BOR to request reports from the VA, but amended page 3, line 3 through 14 by deleting the provisions which allow the BOR to terminate the program based on any VA report or failure to report, and which require the BOR to notify the Legislature of such termination.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2608-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2608-86, H.D. 2, S.D. 1, C.D. 1.

Representatives Souki, Levin, Honda, Kihano, Manegdeg, Nakasato, Oshiro, Shon, Anderson and Cavasso,
Managers on the part of the House.

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

Conf. Com. Rep. 33-86 on H.B. No. 2246-86

The purpose of this bill is to define, specify and clarify the duties and responsibilities of the Department of Social Services and Housing and the Medicaid Fraud Control Unit in the area of medical assistance provider fraud and abuse, and to define, specify and clarify the rights of providers in this area.

This bill proposes to address the concerns regarding the handling of suspected Medicaid fraud cases by differentiating between Medicaid fraud and Medicaid abuse, with fraud being intentional deception for the purpose of gain.

Further, as decided by the U.S. District Court in Hawaii Psychiatric Society v. Ariyoshi, use of administrative inspection warrants to search the offices and records of Medicaid providers is violative of the right to privacy and the Fourth Amendment of the United States Constitution (and Article I, Section 7 of the Hawaii Constitution). The bill therefore requires administrative inspection warrants to comply with the probable cause standards under the Fourth Amendment and forbids the use of attorney general subpoenas to obtain patient medical records. Your Committee believes that should there be need for the Department or Unit to delve into these patient records, the Unit or the Department should obtain a search warrant from the court, with the court determining whether sufficient probable cause was established.

Your Committee made the following further amendments to the bill:

- (1) Added language on page 2, lines 13 through 15, as follows:

"The department may request and receive assistance from the unit during the conduct of a preliminary investigation";

- (2) Deleted the requirement for interviews to be transcribed on page 5, line 14, and added language requiring originals of recordings to be retained until the investigation was terminated and all appeals exhausted; and

- (3) Clarified on page 7, line 12, that the twenty-day prior notice requirement was for twenty working days, as opposed to calendar days.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2246-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2246-86, H.D. 2, S.D. 1, C.D. 1.

Representatives Grauly, Kiyabu, Cachola, D. Ige, Leong and Liu,
Managers on the part of the House.

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

Conf. Com. Rep. 34-86 on H.B. No. 1665-86

The purpose of this bill is to increase the percentage of indirect overhead funds generated by the University of Hawaii (University) which is deposited into the Research and Training Revolving Fund (Fund). An increase in the amount deposited in this Fund would enhance the ability of the University to attract additional moneys for innovative projects, and permit the University to invest its resources in new program areas which have the potential to develop into major research projects.

Your Committee is in agreement that fifty percent of the total amount of indirect overhead funds generated by the University is an appropriate amount to be deposited in the Fund. Accordingly, with the exception of the proposed insertion of the new word "fifty" which is underscored to delimit the exact percentage of funds eligible for deposit, the amendments to lines 5 and 6 on page 1 of the bill previously proposed have been deleted to reflect the Committee's aforementioned intent.

Another major issue considered was the requirement that the Governor and Director of Finance approve University expenditures from the Fund. Your Committee believes that this requirement is unnecessary and undesirable since it may result in delays which prevent the timely and effective expenditure of funds. Therefore, the phrase "upon approval of the governor or the director of finance, if so delegated" on page 1, lines 9-10 modifying fund authorization was deleted. For purposes of consistency, a similar amendment was made to Section 304-8.1(c) of the Hawaii Revised Statutes.

Upon further consideration, your Committee finds that since it is the intent of this bill to increase the amount of available moneys in the Fund, and one of the proposed amendments agreed upon deletes the provision mandating the transferral of moneys unencumbered at the end of the fiscal year to the general fund, the effective date shall also be changed for purposes of consistency. In short, since the effective date of the bill, as received, is July 1, 1986, which is one day after the end of the 1985-86 fiscal year, and after current unencumbered funds are automatically transferred, the bill was amended to take effect upon approval.

Nonsubstantive amendments were also made to the bill for stylistic purposes, and conformance to accepted Ramseyer drafting techniques.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1665-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1665-86, H.D. 2, S.D. 1, C.D. 1.

Representatives Kiyabu, Levin, Cachola, Crozier, Onouye, Say, Shon, Tajiri, Yoshimura, Anderson and Hemmings,
Managers on the part of the House.

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

Conf. Com. Rep. 35-86 on H.B. No. 381

The purpose of this bill is to increase the compensation paid to jurors from \$20 to \$30 for each day of actual court attendance.

Jury duty is a civic responsibility of all the citizens of this state. Many citizens do not wish to serve as jurors because of the responsibilities placed on them as well as the inconvenience it may cause to their daily schedules. However, the juror plays an important role in the operation of our system of justice. Your Committee believes compensation of jurors should reflect more equitably the value of the juror's service.

Your Committee amended the bill to take effect on July 1, 1986 since no funds were appropriated in the biennium budget to cover the remainder of the current fiscal year if the bill took effect upon approval. Your Committee further amended the bill to include an appropriation of \$619,500 for fiscal year 1986-1987 to implement the provisions of this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 381, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 381, H.D. 1, S.D. 1, C.D. 1.

Representatives Souki, Tom, Andrews, Manegdeg, Menor, Metcalf, Oshiro, Takamine, Anderson and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. No. 36-86 on H.B. No. 2373-86

The purpose of this bill is to prohibit an accused from using self-induced intoxication as a defense to any offense except under limited circumstances.

Under this bill, a person who willingly becomes intoxicated and then commits a crime will not be able to claim self-induced intoxication as a defense. Evidence of self-induced intoxication will not be admissible to negative the offender's state of mind but still will be admissible for the limited purpose of proving or negating conduct or proving state of mind.

Your Committee believes that when a person chooses to drink, that person should remain ultimately responsible for his or her actions. Your Committee further believes that criminal acts committed while a person is voluntarily intoxicated should not be excused by the application of a defense which would negate the offender's state of mind.

Your Committee, upon consideration, has amended the bill to delete the phrase, "which is pathological or not self-induced" from page 2, lines 2 and 3 for purpose of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2373-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2373-86, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 37-86 on H.B. No. 326

The purpose of this bill is to include intentional, knowing, or reckless poisoning as an act of cruelty to an animal prohibited by section 711-1109, Hawaii Revised Statutes.

Currently, poisoning of animals is not expressly included in the litany of prohibited acts of cruelty against animals. The bill amends section 711-1109, Hawaii Revised Statutes, to include needless poisoning as a class C felony. Since extermination of certain undesirable animals is a commonly condoned activity, persons who seek to control pests such as insects and vermin are not subject to criminal penalties.

Your Committee has amended the bill by removing the broad category of rodents from the group of animals excluded from protection under subsection (d). The term "rodents" defines a class of small animals which are distinguished by the shape of their teeth and were improperly identified in the bill as a group of animals commonly subject to extermination.

A concern was raised that the present definition of animal could be interpreted to include people who participate in sporting events. The definition of animal under section 711-1100(5) has been amended to exclude human beings.

Nonsubstantive changes have been made for clarification and to conform section 711-1109(2), Hawaii Revised Statutes, to the changes made in subsection (1).

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 326, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 326, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 38-86 on H.B. No. 1691-86

The purpose of this bill is to insure the permanency and continued funding of the victim-witness assistance program through the establishment of a statewide program as part of the Department of the Attorney General.

Presently, each County has a victim-witness assistance program which is attached to the County Prosecutor's Office. Each victim-witness assistance program is funded through a combination of State and County funds. State funds have been appropriated annually for the past three years as part of the Attorney General's budget. Each County provides additional funds; however, except for the City and County of Honolulu, those funds are substantially less than the sum appropriated by the State. This commitment and support by the State has been instrumental for the counties to provide the essential services to victims.

Your Committee amended the bill to provide that each County appropriate funds at a minimum of twenty-five per cent (25%) of the amount appropriated by the State. Your Committee believes that if the program is beneficial, the counties should appropriate funds to meet the minimum requirement.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1691-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1691-86, H.D. 2, S.D. 1, C.D. 1.

Representatives Kiyabu, Tom, Apo, Hirono, Lardizabal, Metcalf, Souki,
Tajiri, Anderson and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. 39-86 on H.B. No. 26

The purpose of this bill is to raise the minimum drinking age to twenty-one.

Drunk driving, once given scant attention, is now a prominent issue. Records of deaths and injuries resulting from drunk driving have spurred consideration of various proposals addressing this problem. A nationwide drinking age of twenty-one has been suggested as one solution to drunk driving. Proponents assert that those aged eighteen to twenty have a disproportionately high per capita rate of alcohol-related accidents than those in other age categories; thus, it is argued, raising the drinking age should result in a significant decrease in alcohol-related traffic fatalities and injuries.

The federal government is supporting a national drinking age through Public Law 98-363, which penalizes states without a drinking age requirement of twenty-one. Thus, if a state does not have such a requirement by October 1, 1986, five percent of its federal highway funds will be withheld for fiscal year 1987. If a state does not have the requirement by October 1, 1987, ten percent of its highway funds will be withheld in fiscal year 1988. For the State of Hawaii, this would amount to \$6,285,000 in fiscal year 1987 and \$12,570,000 in fiscal year 1988 - a total of \$18,855,000.

Accordingly, your Committee finds that it cannot postpone this matter further and is compelled to act to avoid the loss of federal highway funds. These funds are sorely needed for the construction of necessary state highway projects; moreover, last year the Legislature was forced to increase the fuel and weight taxes and the vehicle registration fee significantly to keep the highway fund solvent.

Your Committee was not convinced, however, that it would be appropriate to require insurers of motor vehicles to provide a ten percent reduction off premium charges each insurer assesses for each new and renewal policy. This conclusion was based upon the Committee's finding that there was insufficient data to support the assumption that there would be a ten percent payout reduction of insurance benefits.

Your Committee, upon further consideration, has amended the bill by revising the purpose section to incorporate the purpose as stated in House Draft 1 and adding a paragraph to explain why your Committee finds it appropriate to pass on a projected savings to the consumer in the form of premium reductions on insurance policies. Your Committee has also amended the bill by substituting the language in subsection 294-13(n) with the following:

"(n) Notwithstanding subsection (j), and in addition to all other premium reductions required under this section, commencing on October 1, 1986, and ending on September 30, 1989, all insurers of any motor vehicle shall provide a 1.5 per cent reduction for bodily injury liability, property damage liability, no-fault benefits, uninsured motorist, and underinsured motorist coverages, and a 0.75 per cent reduction for collision coverage off premium charges each insurer assesses for each new and renewal policy, based on the anticipated effects of section 281-78. Commencing on October 1, 1989, and ending on September 30, 1990, at the discretion of and as determined by the commissioner, based on the difference between the actual and anticipated effects of section 281-78, all insurers of any motor vehicle shall provide a refund or credit to each insured at the time of renewal of a no-fault policy."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 26, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 26, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 40-86 on H.B. No. 1388

The purpose of this bill is to amend Chapter 271, Hawaii Revised Statutes, by adding a new section which would give a motor carrier a lien on freight in its

possession for the total amount owed the carrier by the shipper for freightage, charges for services, and advances due on freight previously delivered upon the promise of the shipper to pay freightage, charges and advances, as provided in this section.

Your Committee finds that common carriers require an expeditious method of obtaining payment from shippers, since they cannot select their customers to reduce the risk of nonpayment. The bill also protects shippers' interests by affording them notice that a lien may be imposed on future shipments unless past charges are paid. An adequate opportunity to contest the carrier's claim is also provided before any freight can be sold.

Your Committee, upon further consideration, has amended subsection (b) as follows:

(b) The lien provided by this section shall not arise:

(1) Unless the carrier has given the shipper and consignee 10 days notice in writing, that failure to pay billed charges may result in a lien on future shipments; or

(2) As to any freight which consists of perishable goods; or

(3) As to any freight, the freight charges for which have been prepaid by the consignee or the intended recipient; or

(4) As to any freight, if the applicable charges were paid to a third party legally obligated to remit the payment to the carrier but the amount due has not been received by the carrier; or

(5) As to any property legally owned by anyone other than the debtor, or as to which the current identity of the owner is unknown.

Your Committee has further amended the bill by adding a new subsection (g) and has changed the effective date to July 1, 1987.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1388, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1388, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 41-86 on H.B. No. 1740-86

The purpose of this bill is to improve the process of searching real property titles by requiring the addition of the tax map key on deeds or other instruments recorded in the Bureau of Conveyances.

Under this bill, all deeds or instruments of real property will include the corresponding tax map keys in order to be recorded at the Bureau of Conveyances. Additional information would be required with respect to condominium units. The bill also mandates that the registrar adopt rules relating to full disclosure of the tax map key numbers and that the Department of Taxation shall verify that the property has the subdivision approval of the respective county.

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

1. Amended section 502- (a) to provide that the registrar of conveyances need not verify the tax map key numbers.

2. Delete the provision that requires the Department of Taxation to verify the subdivision of real property. The problem this section sought to address will be addressed administratively by the Department of Land and Natural Resources. In response to the concern presented by the Hawaii Association of Realtors, the Bureau of Conveyances indicated procedures will be changed to include a check

for subdivision approval. This change should prevent the problem of property owners discovering that they cannot build because their property was illegally subdivided.

3. The Committee further amended the bill by changing the effective date from July 1, 1987 to January 1, 1987.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1740-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1740-86, H.D. 2, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 42-86 on H.B. No. 1666-86

The purpose of this bill is to establish at the University of Hawaii a Teacher Incentive Program (Program) providing tuition waivers to students who agree to pursue a curriculum which would allow them to teach in Hawaii's public schools. This bill is in response to the information received indicating a need for up to 4,000 public school teachers by the year 1991 projected by the Department of Education.

In support of this bill's goal and objectives, the measure directs the Board of Regents (BOR) to adopt rules in a number of different areas in furtherance of the Program's establishment. Of the nine separate items listed, item 6 on page 2, line 4 of the bill relating to the payback by those who do not fulfill their respective teaching obligations was amended.

As received, this item would have specified that these individuals would make reimbursement by way of payment of an amount equivalent to the tuition waived. Your Committee agrees with the concept of a payback to preserve the integrity of the Program. In addition, your Committee believes that the BOR should be given the latitude to adopt rules providing for appropriate interest payments and penalties. Accordingly, the bill was amended by inserting the phrase "not less than" between the words "pay" and "the tuition" on page 2, line 5.

In view of the impending teacher shortage, your Committee believes that the Program should be implemented as soon as practicably possible to ensure the training of qualified teacher candidates. Hence, on page 2, line 18 the effective date of the bill has been amended by the deletion of the "January 1, 1987" date, and the substitution of the phrase "upon approval." While it is not the intent of your Committee to mandate the immediate implementation of the Program, it is believed that if the Program can be implemented before the beginning of the new year, the BOR should be given the flexibility to do so.

With regard to the issue of the Program's "sunset", your Committee feels that it would be inappropriate for the Program to end in the middle of an academic year. Therefore to accommodate the academic schedule, an amendment has been made to delete the January 1, 1992 repeal date on page 2, line 19 and substitute a June 30, 1992 repeal date.

Upon further consideration, your Committee deleted subsection (c) of the bill, and inserted the phrase, "In addition to any other tuition waivers provided in this chapter," after the title of the section on page 1 line 5 of the bill. This nonsubstantive stylistic change clarifies the fact that this is a new financial assistance program for eligible recipients.

Other nonsubstantive amendments for purposes of style and clarity were made.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1666-86, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1666-86, H.D. 2, S.D. 2, C.D. 1.

Representatives Kiyabu, Levin, Cachola, Crozier, Leong, Lindsey, Onouye, Shon, Isbell and Pfeil,
Managers on the part of the House.

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

Conf. Com. Rep. 43-86 on H.B. No. 1998-86

The purpose of this bill is to require specific types of materials or loads being carried on any vehicle on a highway to be covered with some suitable material.

The original intent of this bill was to prevent the littering of the State's highways by vehicles carrying certain types of materials or loads. This bill would hopefully alleviate this statewide problem.

The effect of H.B. No. 1998-86, H.D. 1, S.D. 1, C.D. 1, is to retain the provision allowing the carrying of any loads which extend beyond the length of the vehicle, to retain the agricultural products exemption, to apply the covering or securing requirement to certain types of loads, and also to provide for specific penalties for violations of this section.

Your Committee, upon further discussion, is concerned that the application of the requirement that all types of loads must be covered or secured may have an adverse economic impact on the trucking industry and may also pose a potential danger to the individual driver's safety when complying with this requirement.

Your Committee has, therefore, amended the bill by deleting the language on page 2, line 14 starting with the word "gravel", and ending with the word "vehicle" on page 3, line 2.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1998-86, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1998-86, H.D. 1, S.D. 1, C.D. 2.

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

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

Conf. Com. Rep. 44-86 on H.B. No. 122

The purpose of this bill is to amend section 28-2.5, Hawaii Revised Statutes, to clarify the subpoena powers of the Department of the Attorney General.

Under this bill, the distinction between the Department's prosecutorial and investigatory functions will better be maintained. The bill also provides that persons under investigation and opposing parties will be assured fairness by preventing the inappropriate use of investigating subpoenas.

Your Committee amended the bill by deleting the provision that would require the Department to establish guidelines for determining whether or not an investigation will result in an adjudication proceeding.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 122, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 122, H.D. 1, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. 45-86 on S.B. No. 592

The purpose of this bill is to make profits from the sale of information by a criminal relating to the commission of a crime available to the victim as compensation for the harm suffered as a result of the crime.

Currently, a person convicted of a criminal offense is free to exploit the crime by selling information relating to the crime. The bill requires that, upon conviction, the person contracting for the sale of information relating to a crime deposit moneys payable under the contract with the Criminal Injuries Compensation Commission. Your Committee has amended the bill to require that the moneys be deposited in federally-insured interest-bearing accounts.

Fifty percent of the moneys payable under the contract shall be deposited in a collection account, used to pay the costs of prosecuting an appeal. If the expense of seeking judicial relief exhausts the funds in the collection account, the convicted person may obtain a court order compelling an amount greater than fifty percent be deposited in the collection account.

The other fifty percent of the funds payable under contract shall be deposited into a special account. Those moneys, along with any interest accrued, are available to reimburse the Criminal Injuries Compensation Commission for payments made to the convicted person's victims or to satisfy a judgment won by the victim against the convicted person.

If the conviction is overturned or reversed, or ten years have elapsed since the last judgment obtained by the victim and the applicable statute of limitations has expired, the remaining moneys held in the collection and special accounts shall be disbursed to the offender.

Your Committee on Conference 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 Final Reading and in the form attached hereto as S.B. No. 592, S.D. 1, H.D. 1, C.D. 1.

Representatives Tom, Souki, Leong, Menor, Metcalf, Takamine, Isbell and Jones,
Managers on the part of the House.

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

Conf. Com. Rep. 46-86 on S.B. No. 1933-86

The purpose of this bill is to allow any small business to recover attorney's fees from the State when a court finds that a State agency has sued the small business without sufficient reason. The State agency is allowed attorney's fees if a court concludes that a small business's lawsuit against the State was frivolous and wholly without merit. Fees are to be reimbursed at a specified rate up to a statutory maximum.

Your Committee upon further consideration has amended the bill to clarify the standards controlling awards of attorney's fees to small businesses. The bill now draws upon the language of a similar federal statute, (28 U.S.C. 2412), and provides that attorney's fees shall be awarded if the agency's action was not substantially justified, and if there are no special circumstances that would make the award unjust. A technical amendment was also made to the language pertaining to the appropriations that the bill will necessitate.

Your Committee finds that small businesses are unusually vulnerable to the risks and costs of lawsuits initiated by State agencies. Small businesses are subject to regulations not applicable to individuals, and are ordinarily not eligible for publically funded legal assistance when disputes arise concerning the interpretation of relevant rules and decisions. Judicial clarification of the propriety of an agency's regulatory conduct benefits the entire community although the costs may fall on a single business. Allowing attorney's fees to be awarded against State agencies will assure that small businesses are not unfairly burdened by the costs of defending against baseless actions.

Your Committee on Conference is in accord with the intent and purpose of S.B.

No. 1933-86, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading and in the form attached hereto as S.B. No. 1933-86, S.D. 1, H.D. 2, C.D. 1.

Representatives Tom, Souki, Blair, Crozier, Lardizabal, Metcalf, Tajiri, Tungpalan, Anderson and Medeiros,
Managers on the part of the House.

Senators Yamasaki, Chang and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 47-86 on S.B. No. 303

The purpose of this bill is to amend the laws governing the qualification of political parties in Hawaii. Currently, to qualify and remain qualified as a political party, an organization must first petition to appear on the ballot and then either achieve certain election results to remain qualified or requalify by petition. The bill, as amended, allows parties that qualify by petition in three successive elections to remain qualified for the following 10 years without earning specified percentages of the vote in elections, as long as the parties continue to field candidates for public office.

Your Committee has amended the bill to change the location of the provision requiring a party that has qualified by petition for a period of ten years to continue fielding candidates. Another technical amendment to subsection (a) adds "section 11-64" to a sentence referring to the statutory provisions governing qualification. Your Committee made other technical amendments that do not change the purpose or effect of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 303, S.D. 1, H.D. 1, and recommends that it pass Final Reading and in the form attached hereto as S.B. No. 303, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 48-86 on S.B. No. 2290-86

The purpose of this bill is to assure that the Office of the Public Guardian receives and responds appropriately to petitions for public guardianship. The bill permits persons who support and care for eligible individuals to petition the Family Court for appointment of the Public Guardian. Those who care for incapacitated individuals are in an excellent position to recognize needs for public guardianship and to alert the Office of the Public Guardian to individuals who require its services. Further, the desire to protect themselves from the risk of legal liability will encourage responsible caretakers to consult or involve the public guardian when necessary for the protection of the individuals in their care.

Your Conference Committee upon further consideration has amended the bill by deleting a sentence that gave priority to needs for long term guardianship and to the needs of the elderly.

Testimony supporting the bill indicated that the Office of the Public Guardian now provides only short term guardianship, and that the needs of many elderly individuals for permanent guardianship are unmet. However, the Public Guardian's priorities seem to be determined more by financial constraints than by policy decisions. Your Committee accordingly declined to establish statutory guidelines for the Office, but does expect that a balanced public guardianship program will result when increased funding becomes available.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2290-86, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading and in the form attached hereto as S.B. No. 2290-86, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 49-86 on S.B. No. 909 (Majority)

The purpose of this bill is to amend section 296-46.1, Hawaii Revised Statutes, to exclude from any school bus contract an age limitation provision for buses manufactured in accordance with Federal Motor Vehicle Safety Standards issued in 1977 by the Secretary of Transportation, to require the contract to include provisions requiring periodic refurbishment of buses over ten years old, and to require serviceability of a vehicle to be determined by chapter 286, Hawaii Revised Statutes.

Your Committee upon further consideration has provided that school buses may be contracted out to the State regardless of age as long as they meet the standards of serviceability set forth in chapter 286, Hawaii Revised Statutes. Reference to manufacturer in accordance with Federal Motor Vehicle Safety Standards issued in 1977 by the Secretary of Transportation has been deleted.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 909, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 909, S.D. 1, H.D. 1, C.D. 1.

Representatives Lindsey, Taniguchi, D. Ige, Levin and Hemmings,
Managers on the part of the House.
(Representative Levin did not concur.)

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

Conf. Com. Rep. 50-86 on H.B. No. 1857-86

The purpose of this bill is to assure that all persons in the State of Hawaii are free of unfair discrimination in their use of public accommodations.

Hawaii is well known for its cultural diversity and the uniqueness of its people. In keeping with the Aloha Spirit, this bill clearly proclaims the State's policy of prohibiting all unfair discrimination in public accommodations. The bill also will provide the Legislature with needed information about the extent and focus of any unfair discriminatory practices which may serve as a basis for future legislative action.

Your Committee upon further consideration has made the following amendments to H.B. No. 1857-86, H.D. 2, S.D. 1:

(1) Deletes a private club licensed under chapter 281 doing business under a class 6 license, as defined in section 281-31 from the definition of "place of public accommodation".

(2) Deleted the requirement of having the Office of Consumer Protection, Department of Commerce and Consumer Affairs investigate all complaints of discriminatory treatment in public accommodations.

(3) Added a section which would require the Department of Labor and Industrial Relations to receive complaints of unfair discriminatory treatment in public accommodations, and to provide procedures for reporting of complaints.

(4) Amended the bill to conform subsections (1) and (3) of section 5 to the complaint procedures available in other sections of the bill.

(5) Added a section that states that nothing in this chapter shall be construed to limit any cause of action based upon any unfair discriminatory practice.

Your Committee has also made certain nonsubstantive changes to the bill for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1857-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1857-86, H.D. 2, S.D. 1, C.D. 1.

Representatives Tungpalan, Souki, Metcalf, Iardizabal, Leong, Takamine, Anderson and Jones,
Managers on the part of the House.

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

Conf. Com. Rep. 51-86 on H.B. No. 100

The purpose of this bill is to update the Hawaii Penal Code by incorporating certain recommendations of the Committee on Penal Code Revision and Reform of the Judicial Council of Hawaii.

It has been approximately twelve years since the penal code was enacted; during which time piecemeal amendments have been made to the code. The Committee on Penal Code Revision was appointed in 1983 to address the community's concern that the Hawaii Penal Code, adopted in 1973, required some adjustment in order to respond to current patterns of crime. The committee was composed of representatives from the three major sectors of the criminal justice system: enforcement, judiciary, and corrections. The committee's recommendations were published in a report entitled, "A Comprehensive Review and Reformation of the Hawaii Penal Code". All the recommendations were not unanimously agreed to by all members and there was strong disagreement on certain recommendations. However, the report did attempt to synthesize the diverse perspectives of the committee into specific proposals.

This bill proposes comprehensive amendments that would refine the penal code rather than propose widesweeping reform.

The bill focuses on crimes against the person and against property as the most compelling areas for revision, since it is in these areas that the impact of crime is most felt. The penalties for substantive crimes were restructured to more precisely define various crimes in order to provide sentencing which justly penalizes the crime committed.

The offense of murder in the first degree is expanded to include the killing of more than one person in separate incidents. Your Committee intends that persons convicted of serial killings be subject to life imprisonment without parole.

The definition of bodily injury has been expanded to include an intermediate level of substantial bodily injury. There are currently two definitions of bodily injury -- "bodily injury" which means any physical pain, illness or impairment, and "serious bodily injury" which includes a substantial risk of death, or serious or permanent disfigurement, or loss of body organ. "Substantial bodily injury" has been added to account for injuries which are far more serious than mere bodily injury but do not approximate a risk of death or permanent loss or disfigurement. Your Committee amended the bill by changing grave bodily injury back to serious bodily injury. Your Committee did not believe it was necessary to change the terminology.

The definitions of "recklessly" and "negligently" contained in section 702-206(3) and section 702-206(4) were amended in 1985. Although the 1985 supplemental commentary indicates that the changes were made to correct grammatical inaccuracies, the 1985 amendments substantively change the definitions from requiring a conscious disregard of a risk that the actor engages in a type of conduct to a conscious disregard of a risk created by the actor's conduct. Your Committee has amended the section to its original meaning with changes to correct the grammatical awkwardness.

In chapter 704, responsibility and fitness, the numerous references to "certified clinical psychologists" were amended to read "licensed psychologists". Chapter 465 requires licensure, not certification of psychologists and the term "clinical" does not accurately describe persons qualified to make determinations of fitness. Additionally, an exception to licensure is provided since, under section 465-3(3), Hawaii Revised Statutes, psychologists who are employed under government certifi-

cation or civil service regulations are exempt from the requirement of licensure.

Section 704-406, Hawaii Revised Statutes, requires that upon a finding that a defendant lacks fitness to proceed, the defendant be committed to the custody of the director of health "for as long as unfitness shall endure." The Hawaii supreme court held in *State v. Raitz*, 63 Hawaii 64 (1980), that when it appears a defendant is unlikely to become fit to proceed, due process requires that: (1) following commitment, there be a timely determination of the likelihood of the defendant regaining fitness, and (2) if the court determines the defendant will probably remain unfit, the defendant be released or civilly committed. The amendments to section 704-406, Hawaii Revised Statutes, implement the holding in the Raitz case.

The crimes of rape and sodomy have been eliminated as well as the "voluntary social companion" distinction between first and second degree rape and sodomy offenses. All of the sexual offenses have been incorporated into five degrees of sexual assault. The creation of the intermediate level of bodily injury allows for a graduated, five-level sexual assault scheme running from class A to a petty misdemeanor which provides punishment which reflects the seriousness of the offense committed. The prosecutor's office of the respective counties raised concern that if the present rape and sodomy offenses are deleted and degrees of sexual assault are used, they may lose the ability to multiple count a defendant where the victim is both raped and sodomized. However, your Committee amended the definition of "sexual penetration" to make it clear that even though rape and sodomy are renamed sexual assault offenses, the prosecutors can still multiple charge a defendant for each act of penetration.

A new chapter is added to the penal code by incorporating the provisions of Chapter 851, relating to credit card offenses. The offenses provided in Chapter 851 are essentially types of theft, fraud or forgery which can be classified as property crimes and thus properly belong within the penal code.

Your Committee recognizes that the prolific use of credit in consumer purchasing also marks an increase of criminal abuse of credit cards involving fraud, theft and forgery. Your Committee consequently believes that the penalties in this area need strengthening.

The amendments to section 706, disposition of convicted defendants, demonstrate a shift from the present approach of sentencing which emphasizes rehabilitation toward achieving the goal of just punishment. The corresponding deletion of section 706-620, Hawaii Revised Statutes, which requires the court to withhold imprisonment unless circumstances mandate otherwise, and the addition of a new section, section 707-606, outlining sections to be considered when imposing sentence, including the need to afford deterrence and to provide just punishment, establish a different view of both incarceration and probation.

The repeat offender statutes, section 706-606.5, Hawaii Revised Statutes, has been amended by incorporating the changes recommended by the Honolulu Prosecuting Attorney Association. The changes are intended to provide sentencing of repeat offenders which is commensurate to the severity of the crime committed. Thus, a class A offender with a prior conviction is sentenced to a mandatory minimum term of six years, eight months, a class B offender receives half that amount, and a class C offender receives one year and eight months. The period of time during which a person is considered to have a prior felony conviction is made commensurate to the seriousness of the prior felony offense. The current definition of a prior felony conviction is now included in section 706-606.5(3)(a) which states, "A prior felony conviction is a conviction for a felony offense which was committed after a previous felony offense."

Your Committee amended the bill to provide that only certain enumerated class C felonies be subject to the repeat offender statute. Your Committee believed that the legislature should retain some latitude in the C felony area as to which of those crimes should be in the repeat offender category.

Under section 706-610, any felony defined outside of the penal code is designated as a class C felony. The section has been amended to allow provisions enacted subsequent to 1973 to specifically designate crimes as class A or B felonies.

The maximum levels of fines authorized under section 706-640, Hawaii Revised Statutes, have been raised in order to allow the court discretion to impose severe

finances as penalties, particularly where the criminal activity results in great financial gain to the offender.

In the area of theft offenses, the dollar amount for theft in the first degree was increased and the offense was raised to a class B felony. There was some reluctance on the part of the Committee to rely solely on the consumer price index to determine dollar threshold amounts and therefore, the theft offense limits were reduced from the proposed values based on the consumer price index.

Currently, under the offense of custodial interference in the second degree, a person who knowingly takes or entices a person less than eighteen years old from that person's lawful custodian is guilty of a misdemeanor. A new offense has been added to custodial interference in the first degree, section 707-726, Hawaii Revised Statutes, which makes the knowing taking or enticing of a person less than eleven years old from that person's lawful custodian, accompanied by the knowledge that the actor had no right to do so, a class C felony.

Under a new section of endangering a minor in the first degree; a person who is entrusted with the care or custody of a minor, without violating a duty of care or directly causing harm to the minor, shall be criminally responsible for intentionally failing to prevent the infliction by another person of serious or substantial bodily injury on the minor. However, the section provides a defense for failing to act where the person reasonably fears they would incur serious or substantial bodily injury by acting to prevent the abusive behavior. Section 709-904, Hawaii Revised Statutes, provides misdemeanor penalties for persons who recklessly permit a minor to incur serious or substantial bodily injury by another. The same defense of reasonably fearing personal harm commensurate to that inflicted on the minor is available to such persons.

A new section entitled "Compensation by an adult of minors for crimes" provides for enhanced sentences where an adult offers to pay a juvenile to commit a crime. Juveniles are frequently used by adults in the commission of crimes because juveniles are generally given lesser punishment for the same crime committed by an adult. The new offense provides that the penalty assessed for the offender shall be more severe than that assessed for the commission of the crime in order to deter adults from inducing juveniles to participate in criminal activity.

Your Committee amended the commercial promotion of marijuana to one degree. There was concern that a person who grows one plant on another person's land or on government land would be guilty of a class B felony. Since the concern was the commercial grower, your Committee amended the bill by adding the amount of twenty-five plants for cultivation on another person's land or on government land.

The proposed amendments relating to the insanity defense were deleted from the bill. While there was some support for restructuring the insanity defense and eliminating physical disease as an exculpatory condition, your Committee recommended that further investigation be made before the law is amended.

The offense of ignorance or mistake of law was deleted from the bill. Your Committee was concerned that this defense may create a problem for the prosecution since a defendant may claim that he or she was not aware that his or her conduct was a crime. The supplemental commentary points out that the Legislature had considered the mistake of law defense but deleted the defense, "thereby avoiding a major dilemma with respect to the enforcement of the Code. The defenses of ignorance of the law afforded by §§702-218 and -220 would have been available, to a degree, under any given set of circumstances and as such, would have constituted a major encumbrance to enforcement of the substance and spirit of the Code." Conference Committee Report No. 2.

Your Committee amended the bill to retain the present crime of manslaughter. Under the two degrees proposed, manslaughter in the first degree would be a separate crime but a defense to murder. Your Committee was reluctant to make a certain type of manslaughter a class A felony.

Your Committee amended the bill to take effect on January 1, 1987. The amendments to the penal code contained in this bill will become effective on January 1, 1987. The delayed date of effectiveness is intended to afford various criminal justice agencies and organizations, including the department of social services, the judiciary, and public and private practitioners of criminal law, an opportunity to determine how the amendments will affect their areas of concern and responsibility and to allow those parties to make provisions for the changes.

Your Committee also recommended that a commentary be prepared to discuss in further detail the amendments to the penal code proposed in this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 100, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 100, H.D. 1, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. 52-86 on S.B. No. 1831-86

The purpose of this bill is to establish procedures for providing appropriate care and treatment to certain mentally ill individuals who cannot recognize their condition and appreciate the need for treatment. The bill applies only to individuals who suffer a disabling mental illnesses, and require medical treatment.

The law does not currently respond to the needs of many mentally ill individuals, including schizophrenics, whose distinctive illness can be largely controlled with medication, but whose condition is susceptible to rather sudden deterioration that, without medical intervention, is virtually certain to produce a severe or extreme disability in a short time. Your Committee realizes that it is essential to respect the personal freedom of such individuals, and to guard against measures that are shaped more by social convenience than by the needs of the mentally ill.

Your Committee upon further consideration has amended S.B. No. 1831-86, S.D. 2, H.D. 1 by revising the definition of "obviously ill" to assure that it is legally sufficient to sustain involuntary hospitalization for treatment. The definition now focuses on individuals who cannot appreciate the serious and highly probable risks to their health and safety that will follow from refusing treatment, and also cannot comprehend the advantages of accepting medication.

Too often, mentally ill individuals are ignored until their conduct can be described as criminal, and their condition requires lengthy hospitalization. The police, called upon to control the mentally ill individual, may easily recognize that the misconduct reflects illness rather than criminal intent. Under the Act proposed by the bill, mental health workers will be summoned and the degrading process of criminalization can be avoided. Other equally but not necessarily obviously ill individuals may have to undergo an unfortunate process of further deterioration before they can be hospitalized for treatment.

Your Committee finds that the bill as amended meets an important need, and reflects the best current information about the mental conditions to which it could be applied.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1831-86, S.D. 2, H.D. 1, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1831-86, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 53-86 on S.B. No. 2266-86

The purpose of this bill is to amend section 291-7, Hawaii Revised Statutes, relating to driving under the influence of drugs, and to include consent to urinalysis and testing for drugs as part of the implied consent law.

While recognition of the high levels of alcohol-related driving injuries and deaths has led to refinement of the driving under the influence of alcohol laws in recent years, section 291-7, driving under the influence of drugs, has not been amended since 1955. Section 291-7 provides for a maximum one thousand dollar fine or one year of imprisonment, or both. The penalties for driving under the

influence of alcohol have been strengthened and specifically tailored to address the problem of driving while intoxicated. Since these penalties provide punishment and deterrence appropriate for penalizing driving under the influence of drugs as well as alcohol, the penalties under section 291-7 have been made commensurate with those under section 291-4.

Section 291-7 has also been amended to specify drugs as any controlled substance defined under the Uniform Controlled Substance Act, chapter 239, Hawaii Revised Statutes.

While it is recognized that the prosecution of driving under the influence of drugs would be aided by the inclusion of testing for blood drug content under the implied consent law, concerns have been raised regarding the availability of the facilities required to conduct such test. Testing for drug content in a person's blood is a more complex and expensive process than testing for the presence of alcohol. The city and county department of health currently does not have the facilities to perform tests for blood drug content. All such processing is done on a contract basis with private companies. The neighbor islands are even less equipped to implement chemical testing for drugs. Thus, it appears that without the proper mechanisms for testing blood drug content the inclusion of such testing in the implied consent law may be premature. The bill has been amended by deleting such provisions.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2266-86, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2266-86, S.D. 2, H.D. 1, C.D. 1.

Representatives Tom, Blair, Metcalf, Tungpalan and Medeiros,
Managers on the part of the House.

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

Conf. Com. Rep. 54-86 on H.B. No. 2561-86

The purpose of this bill is to amend and clarify the State election laws.

The bill amends section 11-118, to authorize the chief election officer or county clerk in county elections to waive requirements in special circumstances where a vacancy occurs and the filing deadline is less than fifty days prior to a primary or special primary election or less than forty days prior to a special, general, or a special general election.

The bill also amends section 11-151, HRS, to provide that if a contest or question requires a majority of votes, blank, spoiled, or invalid ballots shall not be tallied as votes cast except that said ballots shall be counted as votes cast in ratification of a constitutional amendment.

Section 11-155, HRS, is also amended to clarify when the results of an election are effective and to provide for the issuance of a "certificate of results" when a question is voted upon.

The bill further amends section 11-156, HRS, to provide the form for a "certificate of results", in addition to the present "certificate of election", where a question is presented to the voters.

Finally, section 15-4, HRS, is amended to have requests for absentee ballots mailed by the person directly to the clerk and that the person's social security number and date of birth be included in the request.

Your Committee finds that the amendments in this bill will aid in the clarification of potential problems encountered in special elections.

Your Committee amended the bill to clarify that blank, spoiled, or invalid ballots should not be tallied in determining whether a contest or question received a majority of votes for passage.

Your Committee further amended the bill by amending section 17-2, Hawaii Revised Statutes, to delete a provision that requires the Governor to make an

appointment to fill a vacancy in the United States House of Representatives if the unexpired term is less than one hundred eighty days. Your Committee finds that the attorney general has held this provision to be in conflict with article I, section 2, clause 4, of the United States Constitution.

Your Committee also made a technical, non-substantive amendment.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2561-86, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2561-86, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 55-86 on H.B. No. 2122-86

The purpose of this bill is to authorize the Hawaii Housing Authority to issue capital appreciation bonds under the Hula Mae Program.

A capital appreciation bond, which is similar in concept to a savings bond, is purchased at a discounted price and redeemed for its full face value at maturity. During the period between the bond's purchase and redemption, a capital appreciation bond accretes in value. The principal of accretion is important since capital appreciation bonds (1) are considered to bear no interest (they increase in principal value), and (2) have no regular payments of interest. These two technical deviations from the typical characteristics of bonds are addressed in the bill.

Your Committee finds that the benefits derived by authorizing the Hawaii Housing Authority to issue capital appreciation bonds will accrue to both consumer and investor.

The advantage or benefit of capital appreciation bonds to the eligible borrower is a savings in the mortgage rate of 0.20 to 0.25 per cent. The advantage or benefit of capital appreciation bonds to the Authority is lowered bond issuance costs.

Your Committee, upon further consideration, has amended the bill by deleting the appropriation to the Hawaii Housing Authority and renumbered the sections appropriately.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2122-86, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2122-86, H.D. 1, S.D. 2, C.D. 1.

Representatives Hashimoto, Kiyabu, Kihano, Leong and Liu,
Managers on the part of the House.

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

Conf. Com. Rep. 56-86 on H.B. No. 2595-86

The purpose of this bill is to amend the definition of gross income in the public service company law to provide that gross income from tourism related services is divided between the travel agent or packager and the provider of the services.

This amendment addresses the gross up methodology used by the Department of Taxation and involves the payment for services of a service provider through a third party agent. The agent of the service provider may purchase the service from the provider on a discounted basis because of volume or other business related reason. The agent in turn markets the service, adding a charge or fee for a profit for the agent. If the gross up methodology is used by the Department of Taxation, the provider in this case would be responsible for the public service company tax on the gross receipts of the advertised price of the tourism

related service even though the total advertised price of the service was not received by the provider.

Your Committee has amended this bill by:

(1) Removing the brackets around the words "the sale or transfer of materials or supplies," on lines 20 and 21 of page 2 of the bill.

(2) Inserting a new section that directs the Department of Taxation to submit to the Legislature ten days before the regular session of 1987, rules which have been adopted under chapter 91, Hawaii Revised Statutes, that clarify the operation of, and notify the public of the Department's interpretation of, section 239-2, Hawaii Revised Statutes, as amended by this bill.

(3) Renumbering the sections of the bill where applicable.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2595-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2595-86, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 57-86 on H.B. No. 2580-86

The purpose of this bill is to: (1) add provisions for an increase in the excise tax credit, (2) adjust corporate income tax rates, and (3) provide the following amendments to the general excise tax law: (a) phase in the exemption of purchases of capital goods and exempt prescription drugs and prosthetic devices, exempt exports including computer software and storage media, and exempt federal contract work, (b) expand the shipbuilding and ship repair exemption and revise the scientific work exemption, (c) phase in the reduction of the tax rate on real property sublessors to the wholesale level, and (d) repeal the exemption of manufacturers of pulp and paper.

Your Committee has amended this bill to retain only those provisions exempting prescription drugs and prosthetic devices from the general excise tax. This exemption has been modified to read as follows:

"Amounts received by a hospital, infirmary, medical clinic, health care facility, pharmacy, or a practitioner licensed to administer the drug to an individual for selling prescription drugs or prosthetic devices to an individual. This paragraph shall not apply to any amounts received for services provided in selling prescription drugs or prosthetic devices. As used in this section:

"Prescription drugs" are those drugs required to be prescribed by a practitioner licensed under law to administer the drug and which are dispensed and sold by a licensed pharmacist under section 328-16.

"Prosthetic device" means any artificial device or appliance used to replace a missing or surgically removed part of the human body prescribed by a licensed practitioner of medicine, osteopathy, or podiatry; provided that "prosthetic device" shall not mean any auditory, ophthalmic, dental, or ocular device or appliance."

Section 1 of this bill has also been retained; however, it has been modified to reflect the amendments discussed in the previous paragraph.

Your Committee has also amended this bill to provide for an effective date of July 1, 1986.

Your Committee on Conference is in accord with the intent and purpose of H.B.

No. 2580-86, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2580-86, H.D. 1, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. 58-86 on H.B. No. 1990-86

The purpose of this bill is to authorize an appropriation to provide for payment of judgments against the State, settlements, and other miscellaneous claims as provided by section 37-77, Hawaii Revised Statutes. As received, this bill lists forty-eight claims for payment and appropriates the sum of \$3,291,550.80 to satisfy them.

Your Committee has amended page 3 of this bill to delete the appropriation provided in the case of DANG, Kim-Ngoc, et al, Civil No. 7266(1), First Circuit, in the amount of \$16,500. As of this writing, court approval for the aforementioned case has not been received.

Your Committee has further amended this bill to include appropriations for nine additional cases recently settled or resolved by the Department of the Attorney General. Therefore, as amended, this bill lists fifty-seven claims for payment and appropriates the sum of \$5,188,520.82.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1990-86, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1990-86, H.D. 2, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. 59-86 on H.B. No. 1680-86

The purpose of this bill is to provide the Family Court with discretionary power to make parents liable for the support of children of their unmarried minor children.

This bill is prompted by a distressingly large number of births to unmarried minor parents who have neither the ability nor the inclination to assume the full responsibility of parenthood. Your Committee believes that minor parents and parents of minor parents should support these children, not the taxpayers of the State.

Your Committee agrees that a judgment or order for support should be made against the parent or parents of the minor, only to the extent that the minor parent is unable to provide full support for the child.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1680-86, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1680-86, H.D. 1, S.D. 1, C.D. 2.

Representatives Graulty, Metcalf, Hirono, D. Ige, Leong, Menor, Tungpalan, Jones and Liu,
Managers on the part of the House.

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

Conf. Com. Rep. 60-86 on H.B. No. 1764-86

The purpose of this bill is to provide for the taxation of the gross income from the business of selling interstate common carrier telecommunications services.

Historically, the Bell Telephone system was the sole provider of interstate common carrier telecommunication service. Recent federal regulatory and judicial rulings have caused a restructuring of the telecommunications industry and have opened this service to competition among a number of companies. At the present time, several common carrier providers of such service compete and constitute a new industry in this State. Although the Bell Telephone system did not pay a general excise tax on its revenues from long-distance telephone calls billed in the State, your Committee is informed that the Department of Taxation is proposing to impose the general excise tax on the gross income of the new providers of such service.

Your Committee believes that these new providers should be made to pay the general excise tax and that the method of apportioning the gross income made by the Department in determining the measure of tax should be the same for each provider of such service.

Your Committee recognizes that, without such a provision, each company may argue for a different apportionment formula making it difficult to administer the tax. Also, to the extent that different formulas are used, some companies may be disadvantaged as compared to other companies and customers will be confused by billings at different effective tax rates.

Since the general excise tax is a separately stated tax which is customarily passed on to consumers, the Committee concluded that it was appropriate to commence collecting the tax upon the effective date of the Act and not to seek taxes for the period prior to that date. Your Committee believes that the apportionment formula should be developed before the taxation of these companies occurs. Therefore, the bill is effective on July 1, 1986, if an apportionment formula is developed sixty days before that date. If no formula has been developed by that date, then the bill is effective on the first day of the third month after the month in which the Department has determined the formula.

Your Committee has amended this bill as follows:

(1) The application of the tax has been expanded to include those engaged in sales of "foreign" as well as interstate common carrier telecommunication services.

(2) The words "except for the exemption under section 237-23(a)(2)" have been added to line 17 on page 15 of the bill to alleviate the concern that the instant exemption may be broadly interpreted to negate the current exemption from the general excise tax for public utility companies and require such companies to pay both general excise and public service company taxes.

(3) The last sentence of the added language in the bill has been modified to clarify the intent that the "apportionment factor and formula" and not the "apportionment" of the gross income shall be the same for all persons providing such services in the State.

(4) Technical, nonsubstantive amendments have been made to the bill for purposes of style and clarity.

In summary, it is the intent of your Committee that the tax imposed by this bill be on a fairly apportioned percentage of the gross income of persons engaged in the business of selling interstate or foreign common carrier telecommunication services. In its apportionment of the gross income which is taxable, the Department of Taxation has been directed to: (1) tax that portion of the gross income received by any person from interstate or foreign common carrier telecommunication service which is originated or terminated in this State and is charged to a telephone number, customer, or account in this State; or (2) as applicable, and pursuant to section 237-21, Hawaii Revised Statutes, tax that portion of the gross income which is derived from activities within the State, to the extent that the apportionment is required by the Constitution or laws of the United States; or (3)

as applicable, and pursuant to sections 237-21, Hawaii Revised Statutes, if and to the extent that the apportionment cannot be accurately made by separate accounting methods, apportion to the State and include in the measure of this tax that proportion of the total gross income, so requiring apportionment, which the cost of doing business within the State, applicable to the gross income, bears to the cost of doing business both within and without the State, applicable to the gross income.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1764-86, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1764-86, H.D. 2, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. 61-86 on H.B. No. 2348-86

The purpose of this bill is to clarify current provisions relating to enforcement of Department of Transportation motor carrier safety rules and the inspection powers of the Director or designated delegates.

Your Committee, upon further consideration, finds that the Department of Transportation has some concerns that the phrase "and other documents" on page 2, line 6, is too broad a category and may possibly cause certain documents to be inspected unnecessarily. The Department of Transportation, with the concurrence of the Hawaii Transportation Association, felt the inspection of shipping papers and hazardous waste manifests would be sufficient to determine the compliance with Federal Safety Standards. The phrase "and other documents" has, therefore, been deleted.

Your Committee has also amended the bill by deleting on page 2, line 2, the phrase "enter upon" and inserting "(1) inspect".

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2348-86, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2348-86, H.D. 1, S.D. 1, C.D. 2.

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

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

Conf. Com. Rep. 62-86 on H.B. No. 2549-86

The purpose of this bill is to allow for the formation of workers' compensation self-insured groups in the State of Hawaii.

Under this bill, individuals insured with similar types of operations, are permitted to cooperatively provide insurance for their group. H.D. 2 amended this bill to establish annual standard premium at a minimum of \$500,000 and appropriated \$97,000 to implement the licensure and regulation of workers' compensation self-insurance. S.D. 2 deleted the \$500,000 minimum for standard annual premium and increased the amount to carry out the purpose of the bill to \$153,000.

Your Committee, upon further consideration, has deleted the appropriations of \$5,000,000 for fiscal year 1986-87, for the operation of the Hawaii Workers' Compensation State Fund.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2549-86, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2549-86, H.D. 2, S.D. 2, C.D. 1.

Representatives Tungpalan, Shito, Kiyabu, Bunda, Crozier, Oshiro, Souki, Takamine, Isbell and Jones,
Managers on the part of the House.

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

Conf. Com. Rep. 63-86 on H.B. No. 1857-86

The purpose of this bill is to assure that all persons in the State of Hawaii are free of unfair discrimination in their use of public accommodations.

Hawaii is well known for its cultural diversity and the uniqueness of its people. In keeping with the Aloha Spirit, this bill clearly proclaims the State's policy of prohibiting all unfair discrimination in public accommodations. The bill also will provide the Legislature with needed information about the extent and focus of any unfair discriminatory practices which may serve as a basis for future legislative action.

Your Committee upon further consideration has made the following amendments to H.B. No. 1857-86, H.D. 2, S.D. 1, C.D. 1:

- (1) Inserts the word "unfair" before the word "discriminatory" on page 4, line 4; and
- (2) Deletes the word "age" on page 4, line 8; and
- (3) Substitutes the word "or" for the word "and" on page 4, line 9.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1857-86, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1857-86, H.D. 2, S.D. 1, C.D. 2.

Representatives Tungpalan, Souki, Metcalf, Lardizabal, Leong, Takamine, Anderson and Jones,
Managers on the part of the House.

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

Conf. Com. Rep. 64-86 on H.B. No. 1741-86

The purpose of this supplemental appropriations bill of 1986 is to amend the General Appropriation Act of 1985, which appropriates funds for the 1985-87 fiscal biennium.

FINANCIAL AND BUDGETARY OVERVIEW

After several consecutive years of uncertainty, the State's fiscal health can be regarded as stable and improving. Among the vital signs are the latest revenue projections which indicate that the State's general fund tax revenues will be higher than the estimates which underlie the financial plan for the current fiscal year. According to the March 14, 1986 report of the Council on Revenues, the growth rate of general fund tax revenues can be revised upward to 6.3 percent, which in dollar terms means an increase of \$20 million from the previous, official estimate of 4.8 percent for fiscal year 1985-86.

The increase in the growth rate of general fund tax revenues is based on the actual performance of general fund tax revenues during the first eight months of this fiscal year. The Department of Taxation has reported that general fund tax collections ran \$64.8 million or over 7.5 percent ahead of collections for the corresponding period a year ago.

Additionally, falling interest rates in the credit markets will result in a lower debt service budget to the State. For 1986-87 the Department of Budget and Finance will reduce its interest expense estimates by \$9.2 million as a result of the interest savings obtained in the recent March 1 general obligation bond issue.

While the revenues and long term financing for the State's operating and capital investment costs should safely meet current expenditure levels, other issues remain unresolved. The threat to the State's fiscal health comes from the expenditure side of the ledger and because its origins are in policies of the federal government, it lies beyond the immediate control of the State. After round one of the deficit reduction provisions of the Gramm-Rudman-Hollings Act, round two which involves automatic across the board spending cuts, has been temporarily side-tracked by a constitutionality issue.

Even though its key provision is clouded by questions of constitutionality, the impact of Gramm-Rudman-Hollings as reflected in President Reagan's fiscal 1987 budget (now before Congress) will test Hawaii's capacity to fund federally supported programs.

Your Committee believes this challenge can be met through several revenue enhancement measures which are now under consideration by the Legislature.

In considering the supplemental appropriations bill and related measures, your Committee has reviewed all the conditions, internal and external, affecting government expenditure and has designed a budget which provides a substantive basis for the achievement of State program goals and objectives in the remainder of the fiscal biennium.

The remainder of this report highlights a number of the decisions made by your Committee.

ECONOMIC DEVELOPMENT

Tourism. Your Committee has reaffirmed its commitment to tourism promotion and marketing in 1986-87. These activities are designated for the Asian, Pacific, and Western United States, our primary visitor markets.

As revenue raising measures are being considered in this session, an additional \$2.0 million is being designated for tourism promotion by the Hawaii Visitors Bureau. For the counties, an additional \$12 million in grants-in-aid is included. This revenue-sharing is provided exclusively for the counties to strengthen activities related to tourism such as the beautification and security of park facilities, easy accessibility and safety of public beaches, and the creation and maintenance of an aesthetically pleasing environment.

Business Development. Almost eighty percent of Hawaii's economy now consists of small businesses. This year, your Committee has provided full funding for a Small Business Information Service (SBIS). The SBIS will provide entrepreneurs and small business owners pertinent information needed to establish a business, market feasibility data, and an assistance referral service. In addition, money was provided to establish a small business procurement assistance program to assist local businesses in competing for federal, State, and County contracts. These contracts will provide additional jobs and revenue to the economy.

Funds for the Hawaii Capital Loan Program were increased to meet the expanded capital needs of small businesses. Moneys have also been appropriated to automate the loan accounting system.

Industry Promotion. Your Committee recognized that the different geographic areas of Hawaii are subject to varied economic pressures. Funds have been provided to assist the County economic development organizations in their efforts to promote industrial activities consistent with their plans for economic development. To encourage the development of a promising and multi-faceted industry, your Committee provided additional funds to promote Hawaii as a prime location for filming. In the past the film industry has not only provided employment and brought in millions of dollars to the State, but has also been one of the most effective promoters of tourism through the presentation of Hawaii as an exciting and exotic location.

In addition money has been designated for plans and land acquisition for a film

studio facility.

High Technology. A key element of Hawaii's future economic design is the development of a viable high technology industry. Specifically, your Committee feels that Hawaii's location in the Pacific makes it a logical place for the development of a telecommunications center. Therefore, your Committee has requested a master plan to establish teleports in Hawaii.

Additional funds have also been provided for the Pacific International Center for High Technology Research, a major research and development organization for high technology.

Hawaii Products Promotion. Funds for promotion of Hawaii products including seafood, pineapple, papaya, and anthuriums were provided. These funds will further industry marketing efforts in domestic and international markets.

Alternate Energy. Increased energy self-sufficiency has been a continuous objective of the State. Additional funds for the management of the Natural Energy Laboratory of Hawaii (NELH) has been provided. The success of the geothermal laboratory in Puna and the operations of the NELH are vital to Hawaii's ability to meet its energy needs.

Funding for operations of the Hawaii Ocean Science and Technology Park will continue to support commercialization of Hawaii's ocean resources.

Hawaiian Ocean Awareness Center. The establishment of an Ocean Awareness Center is the culmination of many years of exploration and review of the subject. Your Committee supports the concept, but it believes that there is a better alternative to the construction of a major facility at Kewalo Basin which the State administration has proposed. The Kewalo site is small and narrowly circumscribed, its use as a tourist attraction would impact negatively on the adjacent Ala Moana Beach Park, and being closer to Waikiki, it would very likely cause the decline and demise of Sea Life Park. The alternative which your Committee proposes is a combined Hawaii Ocean Awareness Center--Sea Life Park facility which would provide a potential for exhibition and research far greater than what each facility could singly provide. Appropriate language has been included to direct the State administration to enter into negotiations with Sea Life Park officials to reach agreement on the financial, management, and operating arrangements for a combined facility.

EMPLOYMENT

Employee Development and Training. Despite the State's economic outlook, adequate funding for training programs has been maintained. Your Committee believes the development of our labor market is the key to meeting the employment challenges of the future. In addition, necessary funds were provided for certain employees requiring special technical skills and knowledge to obtain such training on the mainland.

In keeping with the State's approach of developing progressive and innovative undertakings to assure that the needy have equal employment access and opportunity, the office of community services was established within the Department of Labor and Industrial Relations. Your Committee funded the transfer of the Progressive Neighborhoods Program, Hawaii Office of Economic Opportunity, Refugee Resettlement Program, and State Immigration Service Center.

TRANSPORTATION

Overall support to improve the State's infrastructure is represented in the funding provided to transportation.

Airports. Your Committee provided funds for repair and maintenance projects at the major airports to continue compliance with FAA regulations and to ensure the safe inter-state and intra-state flow of people and goods.

Highways. The financial viability of the State highway fund has been restored affording the opportunity to maintain our highway system to support ground transportation of goods and services. However, your Committee remains aware of the tenuous nature of the highway fund and has reviewed operational

costs to insure that revenues collected are efficiently expanded.

Harbor Promotion. Promoting usage of harbor facilities was forwarded by providing funds for a marketing program.

Overall Support. General support services to enhance engineering, design, fiscal, and administrative services in the Department of Transportation have been provided to three major divisions through the funding of the distributive information processing and information resource management system.

ENVIRONMENTAL PROTECTION

Pesticides and Groundwater Contamination Monitoring. Your Committee has provided additional funds to monitor and analyze pesticide use and its impact on Hawaii's delicate ecological balance. This work is critical to ensure a safe and healthy environment for the people of our State.

HEALTH

Acquired Immune Deficiency Syndrome Services (AIDS). Concerned over the recent incidence of AIDS across the nation, your Committee has provided funds for added personnel, medical and educational supplies, and contracts for educational services. Educating the general public will help to dispel myths that lead to erroneous conclusions and discrimination. Because the cause and cure for this disease are not yet known, your Committee feels it is important to educate people of the necessary precautions to prevent and control the spread of the virus.

Deinstitutionalization of the Mentally Retarded and Developmentally Disabled. Your Committee has reemphasized its commitment to the deinstitutionalization of the mentally retarded and developmentally disabled. Expanded funding for group homes, day activity, and transitional living programs have been provided to accelerate the placement of individuals into such programs.

Additional funds to expand the intermediate care facility-MR program at Waimano Training School and Hospital have been provided. These funds will permit Waimano to obtain federal matching funds and accelerate community placements.

Your Committee is disturbed that operational costs at Waimano continue to increase. Your Committee has requested that the institution submit a report detailing its implementation plan for deinstitutionalization and the related projected cost reductions.

Sex Abuse and Child Abuse and Neglect (CAN). Your Committee has in the past recognized that Sex Abuse and Child Abuse and Neglect (CAN) cases are major areas of concern, and it has provided funds to allay the suffering of its victims. Unfortunately, incidence in both areas, instead of decreasing, is actually on the rise, and your Committee once again has provided funds and positions where necessary to meet the greater caseload.

Subsidies to Private Hospitals. Your Committee has provided funds for the Waianae Coast Comprehensive Health Center to expand its services to become a 24-hour, 365-day-a-year medical facility. Presently, Waianae residents are the only people on Oahu who are not within 30 minutes of a full service hospital. The upgrading of this facility will lead to increased accessibility to quality medical services.

In addition, your Committee has added extra funds to subsidize Molokai General Hospital so as to maintain the current level of acute care services on the island of Molokai.

SOCIAL SERVICES

Child Protective Service. In response to public awareness and concern over child abuse and neglect, your Committee provided additional funds for the child protective services computer tracking system to better identify and monitor child abuse and neglect cases. Moneys were appropriated for additional child abuse and neglect crisis intervention services.

Public Welfare. Your Committee recognizes the need for additional personnel to manage the caseload, reduce error rates, and comply with timely federal requirements for eligibility determination for the various payment programs. Therefore, funds are provided for income maintenance workers to address this immediate temporary need. Supplemental funding has been provided for an automated welfare information system to ensure that eligibility standards are upheld and to reduce determination errors to meet the required acceptable federal standards.

Your Committee continues to support preventive measures in health care. Therefore, funds were provided for early prevention and screening diagnostic treatment to identify as early as possible, children with handicapping conditions. This early identification program will contribute to reducing later treatment costs.

FORMAL EDUCATION

Lower Education

Your Committee has emphasized funding of an effective and stimulating educational environment in which learning and personal growth may be nurtured in a manner which will produce long term benefits for students and society.

Textbooks and Classroom Equipment. Funding for the expansion of basic statewide educational services through the purchase of equipment and textbooks for new classroom facilities has been provided by your Committee.

Other Regular Instruction. Your Committee recognizes the value of programs which enrich and broaden the basic instruction of our students. Funds have been provided for the Hawaiian studies, Pacific area concentration in education, and artists-in-the-schools programs. These programs explore relevant and fascinating subjects which will encourage students to learn and appreciate the cultures and arts of Hawaii and its neighboring societies.

Early Provisions for School Success. Your Committee recognizes the value of early assessment of developmental skills and the need for a developmental curriculum for students with fundamental learning deficiencies. Therefore, funds have been provided to continue the early provisions for school success program.

Special Education. Handicapped students have unique educational needs that must be met. Your Committee has provided funds for additional teachers, educational assistants, and additional transportation services to fulfill requirements of federal mandates, State statutes, and departmental policies.

Counseling. Funds have been provided to implement a pilot elementary counseling program for the early prevention of juvenile delinquency. Your Committee recognizes the importance of early intervention in situations which adversely affect a child's life. By servicing children who exhibit emotional and mental problems, lifelong benefits may be realized.

Public Libraries. Funds have been provided for public access catalogue equipment which will provide efficient and expedient processing of library materials. Funds have also been provided for added security and training to ensure swift and dependable security services.

Repair and Maintenance of School Facilities. Your Committee is fully committed to maintaining our school facilities. Recognizing the need for the State to ensure that existing facilities are safe and functional and that schools should be a source of pride for students, teachers, and the community, a total of \$31 million has been authorized for the purpose of repair, maintenance, and renovation of school facilities.

Higher Education

A commitment to the quality of higher education in Hawaii has guided your Committee's funding decisions in this area. As with its emphasis in lower education, additional funding support focuses on instruction, academic support, and student services which directly affect the student-teacher environment.

Computer Based Education System. Personnel and equipment have been provided for the expansion of the PLATO computer based education system at the

University. Your Committee believes that such a system would contribute significantly to achieving excellence in the University's mission to deliver quality higher education throughout the State.

Graduate Assistantship Program. Your Committee recognizes the importance of graduate assistants in undergraduate instruction. Funds have been provided to expand and maintain the quality of the graduate assistantship program at the University of Hawaii.

West Hawaii Programs. Increased demand for educational opportunities in West Hawaii has led your Committee to fund additional positions. These positions will further the development of a future campus in the University of Hawaii at Hilo system.

Student Information System. Your Committee recognizes the importance of computerization in achieving an efficient, cost-effective student registration system. Funds have been provided for additional software and equipment to implement the student information system which will greatly assist registration, enrollment, advising, and other related student services functions.

Integrated Educational Opportunities. Your Committee is committed to expanding student access to key learning centers and has funded an integrated library automation system which will enable UH-Hilo students to have access to library resources at all University campuses and will increase inter-library cooperation.

Funds have also been provided for the development and operation of the Maui Community College microwave system, which will extend educational opportunities to students in MCC's tri-island county through off-campus outreach programs. Your Committee is also aware of the system's future ability to interconnect with the \$4.2 million State-funded Instructional Television Fixed Service system to be constructed by the Hawaii Public Broadcasting Authority.

Asian/Pacific Focus. An emphasis has been placed on the Asian and Pacific areas. Your Committee has provided funds to establish a foreign language interpretation/translation center to enhance future job opportunities for students.

Facility Improvement Projects. Your Committee recognizes the need for instructional and educational facilities to further facilitate the reorganization of the University. Funding requests for needed improvements and renovations to old structures such as Bilger Hall, George Hall, and Castle Memorial Annex building have been accommodated. Also, to provide for greater accessibility and improved safety to the Mauna Kea observatory, funds for the first phase of the access road have been authorized.

For Kapiolani Community College, additional funds have been appropriated to continue the design and construction of the new Diamond Head campus. For Maui Community College, additional funding to expedite the construction of the nursing and learning skills laboratory has been provided.

CULTURE AND RECREATION

State Park Improvement. In an effort to improve the quality of leisure activity in the State, your Committee has appropriated funds to State parks to perform repair and maintenance projects to insure the safety and well being of park users. These projects will prevent potential liability suits and tort claims against the State as well as provide enriching recreational areas.

Film and Video Archives. Preservation of video and films depicting Hawaii's ethnic traditions is important to a full appreciation of the culture of our islands. Therefore, your Committee has established through a supplemental appropriation, a film and video archive under the direction of the Hawaii Public Broadcasting Authority.

Ethnic Celebrations. Funds for the celebration of the arrival of the Sakadas and the Chinese to Hawaii have been included in this year's budget. In addition, a grant to trace the Portuguese voyage and navigational practices has been funded.

PUBLIC SAFETY

Consent Decree. The Consent Decree agreement, which was entered into by the American Civil Liberties Union (ACLU), and the State of Hawaii is the over-riding factor affecting the public safety program budget. This agreement is the result of settlement of the lawsuit filed against the State by the ACLU and the National Prison Project (NPP) for unconstitutional conditions at the Oahu Community Correctional Center (OCCC), and the Hawaii Women's Correctional Facility (HWCF). These conditions include inadequate medical and mental health staff and services; environmental conditions; security staffing and staff training; and classification and inmate activities.

Your Committee recognizes the legal requirement and adverse situation the prison system is currently facing and accordingly, has provided the resources necessary to alleviate the over-crowding and deficient conditions cited by the Consent Decree and the three expert panels.

Additional resources were granted to fund (1) salary adjustments for adult corrections officers to attract better qualified individuals; (2) additional mental health and medical services for inmates; (3) construction of Keehi annex at Oahu Community Correctional Center Facility which will alleviate the overcrowding; and (4) expansion of other facilities at Kulani, Maui, Waiawa, and Hawaii's Women's Correctional Facility.

In addition, funds are provided for the Waiawa Correctional Facility to comply with the State's Quitclaim Deed agreement with the U.S. Department of Education to establish a fully operational education-agriculture program by April 1988. Further, funds are included to staff and operate the Halawa Medium Security Facility by July 1, 1987.

INDIVIDUAL RIGHTS

Commerce and Consumer Affairs. Increasing consumer use of government services and deregulation at the federal level have led your Committee to be concerned with the current and future demands on the Department of Commerce and Consumer Affairs. Funds have been provided to the Divisions of Consumer Advocacy for communication, utilities, and transportation services, banking, and insurance to provide continuity of and retain quality in-house services.

Complex banking and insurance conditions necessitate training, funds, and added support personnel to effectively handle major monitoring and litigation functions. Funds have been provided to meet these needs.

Legal and Judicial Protection of Rights. Your Committee has acknowledged the increase in caseload requiring services of the Public Defender and has provided funds for an additional Deputy Public Defender for the second circuit.

GOVERNMENT-WIDE SUPPORT

Distributed Information Processing and Information Resource Management (DIPIRM). Significant progress has been made in the implementation of the State DIPIRM plans. Your Committee has appropriated additional funds to support continued implementation based on the strategic and operational timetables which have been developed by the Department of Budget and Finance.

Comprehensive Net Income Tax (CNIT) System. Your Committee recognizes the critical need of the Department of Taxation in the processing and auditing of tax returns. The implementation of CNIT will facilitate these functions, but additional support staff will be required as a result of the increased amount of documentation generated by this system. In addition, technical support will be required for effective implementation. Funds have therefore been provided to assist in the implementation and operation of CNIT. Your Committee feels that effective utilization of this system will result in significant benefit to the State of Hawaii.

Legal Services. Your Committee is aware of the continued administrative problems in the Office of the Attorney General, and feels that many of these problems could be resolved with the assistance of support personnel in the Administrative Services Office of the department. Funds have been provided for such staff, as well as for additional clerical support for Deputy Attorney Generals to

ensure a more efficient and effective legal services department.

Funds have been appropriated for litigation expenses, which are to be properly managed by the Department of the Attorney General. Your Committee strongly recommends that an accurate projection of litigation and special deputy expenses be made based on historical or other relevant data, for the purpose of future appropriations.

Data Processing Services. The extremely dynamic nature of data processing has resulted in an increased need for competent professional and technical positions. Funds have been provided to allow for this as your Committee recognizes its importance in providing the services which are currently being demanded.

Your Committee is also aware of the problem in recruiting experienced personnel to fill vacant positions and has therefore provided funds to establish a cooperative education program. Your Committee feels that the establishment of such a program will provide a stable recruitment base.

Workers' Compensation Unit. The success of the workers' compensation unit of the Department of Personnel Services in controlling the spiraling cost of workers' compensation has been recognized by your Committee. To support progress in this area, your Committee has provided funds and additional positions to assist workers' compensation activities. Funds for payment of workers' compensation claims were transferred to the Department of Personnel Services. Your Committee feels that such a transfer would provide for greater control of workers' compensation costs through the Department's ability to manage both claims and funds.

Your Committee feels it is the duty of public representatives to act responsibly in meeting the needs of the present while instilling a vision for the future. Your Committee maintained this approach throughout its deliberations and developed a budget that decisively addresses the present service demands while taking strategic action toward designing Hawaii's future.

Additional Medicare Contributions. Due to federal legislation, your Committee has provided moneys to fund employer Medicare contributions for all State employees who are not currently covered by Social Security.

PURCHASES OF SERVICE

This year, your Committee has added \$2.1 million in purchase of service moneys for child abuse and neglect, spouse abuse, elderly services, and culture and recreation. This brings the total statewide purchase of service program to \$24 million in general funds and \$12 million in federal funds. Your Committee has provided this year's appropriation for purchase of service to each department's administration as a lump sum to be used for all purchases of service throughout each department. It is suggested that the departments, in allocating the amounts to various program areas, consider augmenting present services or fill service gaps according to the priorities stated in the budget.

In looking ahead to the next biennium, your Committee requests that each department, in its budget preparation and review of purchase of service funding, exercise restraint in expanding current levels of services. Further program usage of purchase of service should be thoroughly reviewed to ensure that funding is consistent with program direction and emphasis, and the programs being purchased are appropriate to the culture of the clientele being served.

Your Committee also encourages the executive departments to begin to emphasize preventive services so that over time, the high cost of treatment can be reduced.

Finally, your Committee requests that the Department of Health and the Department of Social Services and Housing develop a person abuse and neglect program plan based on assessed need and a funding approach that will effectively alleviate the problem.

CONCLUSION

In conclusion, your Committee has thoroughly reviewed the competing demands

and concerns of our State and strongly believes that this budget bill has addressed these major concerns.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1741-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1741-86, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 65-86 on H.B. No. 1961-86

The purpose of this Judiciary supplemental appropriations bill is to amend the Judiciary Appropriations Act of 1985, which appropriates funds to the Judiciary for the 1985-87 fiscal biennium.

In reviewing the Judiciary's supplemental budget request for fiscal year 198687, your Committee has carefully examined the purposes and amounts of the requested additional funds. In light of current court operations and support service activities, your Committee recognizes the increasing demands placed on the Judiciary's existing programs, particularly in the areas of court filings, juvenile and family services, and related facility and administrative supportive services.

Your Committee has found that over the past few years the Judiciary has made a concerted effort to deal with the added responsibilities and has made significant advances in developing and implementing new methods and techniques to reduce court operating costs. The nationally recognized decrease in case backlogs and the use of arbitrators for resolving civil cases known as the "Alternative Dispute Resolution" program are examples of achievements of our court system.

Yet the Judiciary is still faced with major program and operational problems. Of significance are the problems identified in the recent report issued by the Citizens' Panel on Judicial Administration. The Chief Justice has made a timely initial response to some of its recommendations, and has announced that every effort will be made to review and implement the recommendations contained in the report.

Another concern of the Judiciary is the need to evaluate the current activities of the Office of the Public Guardian to determine the future development and services within the Judiciary.

Also, during the course of the examination of the supplemental budget request, your Committee noted that the budget does not clearly represent a formulation of projected plans with resource requirements. Accordingly, the detailed displays of the Judiciary budget documents should be similarly formatted to those displays contained in the executive budget details accompanying the executive budget. Despite these shortcomings, your Committee was able to gather sufficient information for analysis of the budget requests.

It is apparent that the Judiciary should improve and develop an effective program planning and budgeting system. Emphasis must be given to program planning to effectively determine immediate and future resource requirements in relation to the short and long-range plans developed for the Judiciary system.

Therefore, your Committee requests the Judiciary to do the following:

1. Pursue the implementation of the recommendations submitted by the Citizens' Panel and request that the Chief Justice submit an implementation report to the Legislature twenty days prior to the convening of the 1987 legislative session. The report should identify the administrative changes made and those statutory matters requiring legislative consideration and action.

2. With respect to the pilot project utilizing arbitrators, analyze the cost effective results of the project, and submit a report containing the findings and recommendations regarding the future potential and merits to continue the project on a regular program basis.

3. Develop operational and strategic plans for the Judiciary system. In conjunction with these plans, formulate a six-year financial plan, specifying the program activities and resources required for presentation to the Legislature prior to the next legislative session.

4. Consolidate the operational plans, which describe the programs and tasks to be performed, with the budget request for each fiscal year for consideration by the Legislature. Also provide the Legislature with detailed budget information utilizing the budget justification (BJ) document system for presentation of the 1987-89 Judiciary biennium budget identical to the budget details of the executive branch.

Included in this bill are the supplemental request items which your Committee has found to be most urgent. Additional funds are provided to meet the increase in services to children and the demand for added counseling and mediation services under the purchases of service program. Funds are made available for the repair and maintenance and telephone costs transferred from the Department of Accounting and General Services to the Judiciary. Also included are funds to cover the cost of moving and renting temporary office space during the renovation of the Ali'iolani Hale building.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1961-86, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1961-86, H.D. 2, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. 66-86 on S.B. No. 2048-86

The purpose of this bill is to provide appropriations to meet the needs of the State through various capital improvement projects. As received, this bill appropriates the sum of \$12,702,000 to satisfy this purpose.

This bill in its amended form, appropriates an additional \$9,989,000 in general obligation bonds for capital improvement projects. Therefore, as amended, this bill appropriates the sum of \$22,691,000.

Your Committee has further amended this bill by adding thirteen additional projects to the lapsing section of this bill. These projects have been identified as low priority or have been deferred such that reductions will not have an adverse impact on the planned capital improvement program.

Your Committee believes that the projects contained herein reflect the Legislature's continued commitment to projects which reflect the needs and desires of the people of the State of Hawaii.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2048-86, S.D. 1, H.D. 1, as amended herein, and recommends it pass Final Reading in the form attached hereto as S.B. No. 2048-86, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 67-86 on H.B. No. 1697-86

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

The sugar industry is a vital component of the State's economic base and failure of this industry would have widespread detrimental effects on the economy of the State.

Past research efforts on the development of disease-resistant and high-yielding varieties of cane have greatly benefitted the industry and have been directly responsible for helping maintain industry profitability during this period of depressed prices. Therefore your Committee believes that continuing research on alternate crops and by-products is important for the future of Hawaii's sugar industry.

Your Committee upon further consideration has made the following amendments to H.B. No. 1697-86, H.D. 2, S.D. 2:

(1) The sum of \$2,000,000 has been appropriated for sugar research and development.

(2) Of the amount appropriated above, \$250,000 shall be used for research and development of alternate crops and by-products.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1697-86, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1697-86, H.D. 2, S.D. 2, C.D. 1.

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

Senators Yamasaki, Solomon, Hagino, Machida and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 68-86 on H.B. No. 1856-86

The purpose of this bill is to authorize the issuance of general obligation bonds to finance projects authorized in the Supplemental Appropriations Act of 1986 and the General Improvements Act of 1986.

This bill includes the declaration of findings required by the clause on Article VII, section 13, of the State Constitution which states:

"Effective July 1, 1980, the Legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance."

The effect of the foregoing constitutional requirement is that the Legislature must take into account the debt service on all bonds that count against the debt limit, including outstanding bonds, authorized bonds which are yet to be issued, and bonds authorized in the Act, and demonstrate that the constitutional debt limit will not be exceeded at the time the bonds are issued.

The required declaration is set forth in Section 1 of the bill.

Your Committee on Conference has updated this bill to reflect current data and amounts, including the authorization amount.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1856-86, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1856-86, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 69-86 on S.B. No. 2308-86

The purpose of this bill is to propose a gallonage tax on the sale of liquor in addition to the present excise tax. The tax on gallonage would tax distilled spirits at \$5.20 per wine gallon, sparkling wine at \$2.00 per wine gallon, still wine at \$1.30 per wine gallon, and beer at 81 cents per wine gallon. The bill additionally repeals the exemption of liquor sales to the military and provides the county liquor commissions with the authority to assist the department of taxation in the enforcement of the liquor tax law.

Your Committee finds that the assistance of the county liquor commissions is purely discretionary and that being discretionary is not a mandated program within the meaning of Article VIII, section 4, of the Hawaii Constitution. The assistance of the liquor commissions in this area of taxation should prove to be invaluable. Your Committee is aware of the concern of the Department of Taxation regarding the IRS-State Exchange Program, but finds that the provisions of the bill clearly limit the county liquor commissions to access to documents relating only to the liquor tax. These documents are not part of the IRS-State Exchange Program, and if these documents include information that might be the subject of that program as well as of the liquor tax, then the Department should keep such documents separate or eliminate such information from the documents before allowing the liquor commission to view them. Your Committee finds that the incorporation of the liquor commission in the Liquor Tax Law brings the essence of a free audit program to the Department in an area in which more audit capacity and review are necessary. Your Committee encourages the department and the commission to make every attempt to work together within the constraints of confidentiality.

Your Committee has amended this bill by providing for the repeal of the excise tax on liquor. Although called by some an ad valorem tax, this tax is more accurately and legally termed an excise tax. Your Committee finds that the constitutionality of the excise tax on liquor has been in question in the courts since 1979 and, in 1984, the predecessor to the current law was declared unconstitutional. The present law is also being challenged in court on constitutional grounds. The liquor tax moneys from the 1979 court case and other moneys, because of the present court case, have been deposited in escrow and are not available to the State. Your Committee does not agree that the present excise tax on liquor is unconstitutional, but does find that in order to avoid further court challenges, the loss of revenues during such challenges, and the use of State money to defend these challenges, the taxation of the sale of intoxicating liquor should be changed to a tax on the gallonage sold.

The repeal of the excise tax necessitates the deletion of the purpose discussion in section 1 of the bill as being no longer relevant. Your Committee has added a new section 1 to the bill which provides for automatic adjustment to the tax rates in the bill under certain circumstances. This adjustment is applied to each separate category of tax in each paragraph of section 244D-4(a), Hawaii Revised Statutes. The use of this adjustment provision will allow the State to retain some of the state revenue increases which occur under the excise tax but without the problems inherent in that tax in this State. The following are examples of how this section will work.

<u>EXAMPLE 1:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% INCREASE</u>
Unit Price	\$5	\$7.50	50%
Gallons sold	2	2	--
Total Dollar Volume	\$10	\$15	50%
Liquor Tax Rate	\$2/gallon	\$3/gallon	50%
Liquor Tax Revenue	\$4	\$6	50%

In year 2, there has been a 50% increase in the unit price, and gallonage sold has remained the same, so the liquor tax rate applicable to the category has been increased by 50%. The result is that the gallonage tax revenue increases by the same percentage as the dollar increase in sales.

<u>EXAMPLE 2:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% INCREASE</u>
Unit Price	\$5	\$5	--
Gallons sold	2	3	50%
Total Dollar Volume	\$10	\$15	50%
Liquor Tax Rate	\$2/gallon	\$2/gallon	--
Liquor Tax Revenue	\$4	\$6	50%

In year 2, the increase in dollar volume is due solely to an increase in gallonage sold. Unit price and tax rate remain the same, and liquor tax revenues increase in the same proportion as gallons sold without any change in rates.

<u>EXAMPLE 3:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% INCREASE</u>
Unit Price	\$5	\$7.50	50%
Gallons sold	2	1.33	-33-1/3%
Total Dollar Volume	\$10	\$10	--
Liquor Tax Rate	\$2/gallon	\$2/gallon	--
Liquor Tax Revenue	\$4	\$2.67	-33-1/3%

In year 2, the 50% increase in unit price is due solely to a decrease in gallonage sold; so there is no increase in the liquor tax rate. This example corresponds to an increase in cost with concurrent loss in sales volume, and no increase in total dollar volume.

<u>EXAMPLE 4:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% INCREASE</u>
Unit Price	\$5	\$7.50	50%
Gallons sold	2	4	100%
Total Dollar Volume	\$10	\$30	200%
Liquor Tax Rate	\$2/gallon	\$3/gallon	50%
Liquor Tax Revenue	\$4	\$12	200%

In this example, gallonage has doubled and unit price has gone up by 50%. The liquor tax rate therefore goes M = up by 50%, and the increase in gallonage sold means that the State's revenues increase by the same percentage as dollar volume.

In addition the new provision provides for automatic adjustment to the tax rate in instances where the prices decrease after automatic adjustment of the tax rate upwards. This provision does not allow the tax rate to decrease below the rate set in section 244D-4(a), Hawaii Revised Statutes. The following examples show how this provision will work and it is assumed that the tax rate has previously been automatically increased over the statutory rate.

<u>EXAMPLE 1:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% DECREASE</u>
Unit Price	\$5	\$2.50	50%
Gallons sold	2	2	--
Total Dollar Volume	\$10	\$5	50%
Liquor Tax Rate	\$4/gallon	\$2/gallon	50%
Liquor Tax Revenue	\$8	\$4	50%

In year 2, there has been a 50% decrease in the unit price, and gallonage sold has remained the same, so the liquor tax rate applicable to the category has been decreased by 50%. The result is that the gallonage tax revenue decreases by the same percentage as the dollar decrease in sales.

<u>EXAMPLE 2:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% DECREASE</u>
Unit Price	\$5	\$5	--
Gallons sold	2	1	50%
Total Dollar Volume	\$10	\$5	50%
Liquor Tax Rate	\$4/gallon	\$4/gallon	--
Liquor Tax Revenue	\$8	\$4	50%

In year 2, the decrease in dollar volume is due solely to an decrease in gallonage sold. Unit price and tax rate remain the same, and liquor tax revenues decrease in the same proportion as gallons sold without any change in rates.

<u>EXAMPLE 3:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% DECREASE</u>
Unit Price	\$5	\$2.50	50%
Gallons sold	2	1	50%
Total Dollar Volume	\$10	\$2.50	75%
Liquor Tax Rate	\$4/gallon	\$4/gallon	--
Liquor Tax Revenue	\$8	\$4	50%

In year 2, there is a 50% decrease in unit price with a concurrent decrease in gallonage sold; so there is no decrease in the liquor tax rate.

<u>EXAMPLE 4:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% DECREASE</u>
Unit Price	\$5	\$2.50	-50%
Gallons sold	2	6	+150%
Total Dollar Volume	\$10	\$15	+50%
Liquor Tax Rate	\$4/gallon	\$2/gallon	-50%
Liquor Tax Revenue	\$8	\$12	+50%

In year 2, there is a 50% decrease in unit price, but an increase in gallonage sold; so the liquor tax rate decreases while the liquor tax revenues increase.

<u>EXAMPLE 5:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% DECREASE</u>
Unit Price	\$5	\$2.50	50%
Gallons sold	2	2	--
Total Dollar Volume	\$10	\$5	50%
Liquor Tax Rate	\$3/gallon	\$2/gallon	33%
Liquor Tax Revenue	\$6	\$4	33%

In year 2, there is a decrease in unit price, but the gallonage sold remains the same. Application of the automatic adjustment to the tax rate would result in a reduction to a tax rate of \$1.50; however, the tax rate cannot be reduced below the statutory tax rate of \$2.00.

The automatic adjustment is applied to each tax category individually. For example, if the Department of Taxation determines that distilled spirits showed an increase in unit price then only the tax rate for distilled spirits should be adjusted.

Your Committee has further amended this bill by taking the definition of wine with blending materials and low alcohol out of the definition of beer and creating a separate definition of cooler beverages. This definition contains such blended wines and in addition the definition includes malt beverage coolers which are like wine beverage coolers except they are composed of beer, blending materials, and are of low alcohol content. A new definition of draft beer has been added and a definition of unit price has been added for the purposes of the new section. Other definitions have been amended to reflect these amendments. The definition of sparkling wine has been clarified to provide that it is wine charged with 0.392 grams of carbon dioxide per 100 milliliters of wine, and still wine has been

amended so that it is wine that contains less than such charge.

The taxation of wine gallons has been amended by adding one new category--draft beer, taxed at a rate of 50 cents per wine gallon. Cooler beverages are taxed at a rate of 81 cents per wine gallon. The taxation of cooler beverages is the same as in the S.D. 1 and H.D. 1 versions of this bill which taxed them at the same tax rate as beer--81 cents. The lower tax rate for draft beer reflects the lower price at which beer sells in kegs. The tax rate for beer has been amended by excepting draft beer.

Your Committee has amended the reporting requirements by liquor category to require that permittees report on the gallonage and dollar volume sold in each liquor category, i.e. for distilled spirits, sparkling wines, still wines, beer, cooler beverages, and draft beer. Such information is necessary for the automatic adjustment of the tax rate under the new section. A new section at the end of the bill requires the reporting of such information for the period beginning after March 31, 1986. The reporting of this information allows the automatic calculations to begin after July 1, 1987.

Your Committee has amended the amendment of section 281-79, Hawaii Revised Statutes, in the bill to add a missing paragraph in order to correct a drafting error. The requirement that the Department of Taxation report to the Legislature before the convening of the regular sessions of 1987 and 1988 has been extended to include a report before the regular session of 1989. A provision has been added to provide that the amendments in this bill which create the gallonage tax are repealed on July 1, 1989, and the excise tax provisions of the Hawaii Revised Statutes they amended are reenacted as they read before such amendment. This will assist the Legislature in determining how the automatic adjustment provisions of this bill are working. Other amendments have been made for style and clarity which do not affect the substance of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2308-86, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2308-86, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. 70-86 on H.B. No. 2805-86 (Majority)

The purpose of this bill is to: (1) amend section 237-24, Hawaii Revised Statutes, to exempt amounts received by common paymasters which are disbursed as remuneration to employees of two or more related corporations on behalf of the related corporations and to exempt amounts received as dues by an unincorporated merchants' association from its membership for advertising media, promotional, and advertising costs for the promotion of the association for the benefit of its members as a whole and not for the benefit of an individual or group of members less than the entire membership; (2) amend section 237-18, Hawaii Revised Statutes, to split the transaction and the general excise tax on certain tourism-related services; (3) delete the provision in section 237-20, Hawaii Revised Statutes, presuming certain gross proceeds or gross income not to have been received by a tour provider from the general excise tax law; (4) amend the provision in section 237-20, Hawaii Revised Statutes, relating to reimbursements to provide that, when a reimbursement is made together with additional monetary consideration for the making of an advance, then such reimbursement shall not be exempt from the general excise tax; and (5) add a new chapter to the law to impose a four per cent tax on the gross income or gross proceeds derived from the furnishing of transient accommodations.

Your Committee concurs that a separate tax on transient accommodations will lessen the income loss of transient accommodation operators. Presently, under the general excise tax, if a person prices an item at \$100, the person generally

charges \$104 in order to pass on the 4 per cent general excise tax. However, the general excise tax is on gross collections, which means the person must pay 4 per cent on \$104, or \$4.16. This means that for every \$100 transaction a person loses 16 cents. If the general excise tax itself was increased to 8 per cent, then on a \$100 price, the person would charge \$108, pay taxes on \$108 or \$8.64 in taxes, and lose 64 cents. By creating a new transient accommodations tax at a 4 per cent rate and providing that the general excise tax passed on and collected is not included in the gross proceeds which are taxed under this tax and similarly providing that the gross proceeds subject to the general excise tax do not include collections under the new tax, the amount of the loss is reduced to 32 cents per \$100--total tax paid of \$8.32 composed of the general excise tax of \$4.16 and the transient accommodations tax of \$4.16. The savings under the two-tax system to the industry is appreciable for businesses making thousands of dollars a year. In this manner, the State is able to tax the industry for the benefit of the State, while at the same time minimizing the impact of the tax on the industry.

Your Committee, upon further deliberation, has increased the tax on transient accommodations provided in this bill from 4 per cent to 5 per cent. Your Committee has determined that the added one per cent will not only provide additional revenues sorely needed by the State, but will also offset any cost to the State for the implementation and enforcement of the new tax.

Your Committee has amended this bill to provide that the tax revenues derived under the proposed chapter shall be deposited into the general fund. Accordingly, reference to the earmarking of collected tax revenues and the visitor industry assistance fund have been deleted. It is the intent of your Committee that a portion of such revenues be appropriated for the promotion, stimulation and development of visitor assistance programs which may include, but are not limited to, the development of a convention center, the Hawaii Visitors Bureau for increased promotion of the visitor industry, and grants to the counties for the construction of recreational and other infrastructure to enhance visitor satisfaction.

Your Committee agrees with the Department of Taxation that the present provisions of section 237-20, Hawaii Revised Statutes, as amended by Act 303, Session Laws of Hawaii 1985, must be amended. The Department pointed out that a substantial loss of revenues will result if the provisions regarding reimbursement are not replaced as they read before Act 303. The Department also made a telling statement regarding the possibility of fraud inherent in the provisions presuming that certain gross proceeds or gross income have not been received by a tour provider. Your Committee notes that Act 303 and the applicable provisions of this bill would not have become necessary if the Department of Taxation was correctly carrying out its administration of the general excise tax law and enacting necessary rules to aid the public in paying the appropriate taxes under that law. Proposed rules regarding reimbursement have been in existence since 1968 and yet they have never been adopted as required by chapters 91 and 237, Hawaii Revised Statutes. It is this failure to adopt appropriate rules which led to the section in this bill that requires the department to submit properly adopted rules to the Legislature before the 1987 regular session. These rules regard the operation of the reimbursement provisions of the general excise tax law and the taxation of tourism-related services as provided by this bill.

In reviewing the provisions regarding the presumption against a provider receiving certain income commonly known as the gross up provisions, your Committee agrees with the department regarding the possibility of abuse, tax evasion, or revenue loss resulting from that provision. Your Committee after reviewing the law in this area agrees, with reservation, that under the reasoning of the general excise tax law the need for a gross up provision or the ability to gross up is required. On the other hand, the use of gross up in the area of certain tourism-related services does not serve the interests of the State in encouraging tourism. Therefore, this bill proposes to amend section 237-18, Hawaii Revised Statutes, to place these tourism-related services in the position they are in under Act 303, but without its unhappy aspects. This amendment provides for a split of the gross proceeds from tourism-related services between the travel agency or tour packager and the tour provider. For example, if the tour provider furnished tickets to the travel agency for \$80 which normally sell for \$100, the tour provider will only be taxed on the \$80 received. The travel agency or tour packager will be taxed on the commission it receives. Your Committee also notes that it appears that the financial operations of the industry in this area of taxation could use some improvement.

The concept of gross up being restored to the general excise tax law leads your Committee to note again the lack of rules under the general excise tax law and directs the Department of Taxation to develop and submit rules on the practice of gross up to the next session of the Legislature. While such rules are being written, the Department should not consider expanding the use of gross up past its present practice or apply it retroactively to any business until such rules have been adopted. Further, it is the intent of your Committee, in passing this measure, to hold the Department to its pledge to the Legislature that, as an administrative matter, "it will not pursue the matter of 'grossing up' for those taxpayers who have failed to do so based upon an honest belief that they were unaware of such a requirement, as a result of which the appropriate amount of taxes were not passed on to be collected from the consumer."

While your Committee has restored the law of reimbursement to its pre-Act 303 language, it finds that the amendment would have helped certain businesses or business practices in this State and finds that such businesses should not lose the benefits of Act 303 altogether. These businesses and business practices are particularly affected by the reimbursement provisions of the general excise tax law due to different provisions in the income tax law. In addition, in complying with the general excise tax law, businesses are operating inefficiently with resultant cost increases.

Your Committee has also amended this bill to delete the exemption provided for common paymasters under the general excise tax. However, your Committee has retained the exemption provided for unincorporated merchant associations as they were under Act 303. The exemption exempts the advertising media, promotional, and advertising costs of such associations. In 1968, the Department of Taxation advised the Ala Moana Center Association that dues contributed for these costs were considered by the department as reimbursements and not subject to the general excise tax. Again, in 1973 the Department informed the Pearlridge Center Association of such exemption. In 1979, the Department of Taxation issued Tax Information Release 67-79 superseding these two prior opinions and made such dues contributions taxable.

The effective date of this bill to provide the repeal of the reimbursement and gross up amendments made by Act 303, Session Laws of Hawaii 1985, is retroactive to the effective date of Act 303. Further, the effective dates of this bill with respect to the transient accommodations tax and the exemption provided for merchant associations are January 1, 1987 and June 30, 1986, respectively.

Your Committee has provided the sum of \$779,920 to be expended by the Department of Taxation to implement the tax on transient accommodations.

Other nonsubstantive, technical amendments have been made for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2805-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2805-86, H.D. 1, S.D. 1, C.D. 1.

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

Senators Yamasaki, Fernandes Salling, Hagino, Hee, Holt, B. Kobayashi, Kuroda, Machida, Matsuura, Mizuguchi, McMurdo, Solomon, Henderson and Soares,
Managers on the part of the Senate.
(Senators Henderson and Soares did not concur.)

Conf. Com. Rep. 71-86 on S.B. No. 1933-86

The purpose of this bill is to allow any small business to recover attorney's fees from the State when a court finds that a State agency has sued the small business without sufficient reason. The State agency is allowed attorney's fees if a court concludes that a small business's lawsuit against the State was frivolous and wholly without merit. Fees are to be reimbursed at a specified rate up to a statutory maximum.

Your Committee upon further consideration has amended the bill to clarify the standards controlling awards of attorney's fees to small businesses. The bill now allows attorney's fees if a court finds that an agency's action lacked a reasonable basis. A technical amendment was also made to the language pertaining to the appropriations that the bill will necessitate.

Your Committee finds that small businesses are unusually vulnerable to the risks and costs of lawsuits initiated by State agencies. Small businesses are subject to regulations not applicable to individuals, and are ordinarily not eligible for publically funded legal assistance when disputes arise concerning the interpretation of relevant rules and decisions. Judicial clarification of the propriety of an agency's regulatory conduct benefits the entire community although the costs may fall on a single business. Allowing attorney's fees to be awarded against State agencies will assure that small businesses are not unfairly burdened by the costs of defending against baseless actions.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1933-86, S.D. 1, H.D. 2, C.D. 1, as amended herein, and recommends that it pass Final Reading and in the form attached hereto as S.B. No. 1933-86, S.D. 1, H.D. 2, C.D. 2.

Representatives Tom, Souki, Blair, Crozier, Lardizabal, Metcalf, Tajiri, Tungpalan, Anderson and Medeiros,
Managers on the part of the House.

Senators Yamasaki, Chang and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. 72-86 on S.B. No. 1496-86

The purpose of this bill is to clarify the basis for which the Board of Land and Natural Resources would consider and grant a conservation district use permit for geothermal development in a geothermal resource subzone located within a conservation district.

This bill provides that an application for a conservation district use permit shall be granted by the Board of Land and Natural Resources if the desired uses 1) would not have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property and 2) would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection.

Your Committee finds that the guidelines provided by this bill will facilitate the orderly and timely development of geothermal energy in the State by establishing a consistent basis for approving geothermal development activities by the Board of Land and Natural Resources. This bill will also assist geothermal developers in the preparation of their applications by clarifying the basis upon which land use decisions will be made.

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

(1) Added a third provision to provide that in addition to (1) and (2), if there are reasonable measures available to mitigate the adverse effects or burdens referred to in (1) and (2), the conservation district use permit shall be granted.

(2) Added a six month time limit for the Board of Land and Natural Resources to issue a decision on a conservation district use permit application for geothermal development activities if no contested case hearing is held and a nine month time limit if a contested case hearing is held, provided that the time limits may be extended by agreement between the applicant and the Board.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1496-86, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1496-86, S.D. 2, H.D. 1, C.D. 1.

Representatives Andrews, Say, Metcalf, Tajiri, Tam and Pfeil,
Managers on the part of the House.

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

Conf. Com. Rep. 73-86 on S.B. No. 1843-86

The purpose of this bill is to assure that vigorous assistance in obtaining support will be available to all children for whom such assistance is requested, by substantially increasing the effectiveness of the State Child Support Enforcement Program.

The program of child support enforcement is shaped, in large part, by federal requirements under Title IV, part D, of the Social Security Act. Title IV-D was amended substantially by the Child Support Amendments of 1984, Public Law 98-378. These amendments imposed many new requirements upon the states and by this bill, it is intended that Hawaii will achieve full compliance with Title IV-D.

Federal law requires that the State's Child Support Enforcement Agency (hereinafter "Agency") must be a single unified entity. The functions of the agency at present are not unified under a single department. In order to meet the federally-imposed deadline of October 1, 1986, it is necessary for the functions of the agency to be consolidated under the Department of Social Services and Housing, effective July 1, 1986. No later than July 1, 1987, however, your Committee believes that the agency should be placed within the Department of the Attorney General.

Your Committee believes that the exercise of discretion to prosecute non-supported claims is an executive function which should remain in the executive branch. It is presently the statutory duty of the Attorney General to initiate and pursue nonsupport actions and your Committee believes that the goal of the child support enforcement for those children whose families are receiving public assistance and for those whose families are not receiving public assistance would be well-served by the Department of the Attorney General.

This bill also establishes the position of "special court trustee" to assist any parent, guardian, or custodian materially affected by a court order or decree in approaching the court to modify any provision of the order or decree pertaining to support payments or to enforce visitation rights. These special court trustees, to be distinguished from other court trustees, would have the primary duty of assisting non-custodial parents in facilitating the often complicated and costly process of modifying their child support orders or enforcing their visitation rights. Your Committee emphasizes that although the special court trustees will be working on child support orders and on visitation rights, the two are not connected in any way, and are totally independent and exclusive to each other. Difficulties with visitation rights do not affect the responsibility of the parent to fulfill a child support order. Your Committee amended the bill to emphasize this important distinction.

Your Committee amended Section 27 of the bill to make the duties of the special court trustees discretionary rather than mandatory.

Your Committee also amended this section of the bill to clarify its intention to have the special court trustee placed in the Judiciary branch. The function of recommending reductions in child support payments made it inappropriate to place the special court trustee in the Agency.

Your Committee has appropriated the sum of \$51,561 for the fiscal year 1986-1987, to carry out the functions of the special court trustee. Your Committee has further appropriated the sum of \$2,341,456 for the fiscal year 1986-1987 to provide the necessary resources to implement the State Child Support Enforcement Program as it is described in this bill.

Your Committee amended Section 2-11 of this bill to clarify the powers and duties of the child support enforcement investigators.

Your Committee has provided in Section 26 for the smooth transfer of all functions and responsibilities embodied in this Act by affording the Governor the power to oversee the logistics of the transition. It is your Committee's intent that agreements be reached by the relevant agencies which will enhance the timely implementation of the Act.

To this end a review of the progress made shall be reported to the next session of the Legislature.

In addition, various technical nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1843-86, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading and in the form attached hereto as S.B. No. 1843-86, S.D. 2, H.D. 2, C.D. 1.

Representatives Grauly, Metcalf, Kiyabu, Andrews, Apo, Cachola, D. Ige, Kihano, Leong, Isbell and Jones,
Managers on the part of the House.

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

Conf. Com. Rep. 74-86 on S.B. No. 471

The purposes of this bill are to adjust the salaries or maximum salaries of certain public officers and employees, state explicitly that certain public officers and employees who are exempt from civil service are also exempt from the classification and collective bargaining laws, and make the requisite appropriations.

The salaries of most of the public officers and employees who are subject to this bill were last adjusted in 1982. Your Committee finds that increases to the salaries as proposed under this bill are appropriate at this time.

Your Committee has amended the bill by providing the Governor with a salary of \$80,000 retroactive to January 1, 1986. Your Committee considers this amount to be appropriate when compared to the salaries of other elected executive officers in this State.

Your Committee has also amended the bill by inserting salary increases for other public officers and employees in various amounts retroactive to January 1, 1986. The salary increases represent \$80,000 for the Governor and \$76,000 for the Lieutenant Governor and Superintendent of Education. Salaries for those below the Lieutenant Governor and Superintendent of Education are based on approximately 90 per cent of those above each category. Salary adjustments for all positions are not similar in percentage increases. Specific amounts are identified in the bill. For example, the salary of department heads are 90 per cent of the Lieutenant Governor's salary.

Your Committee has also amended the bill by including salary increases for justices and judges. The Chief Justice's salary is increased from \$56,430 a year to \$80,000 retroactive to January 1, 1986. Your Committee intends that the Chief Justice's salary be equal to the Governor's. The intention reflects the co-equal nature of the judicial and executive branches.

The salaries of subordinate justices and judges retroactive to January 1, 1986 have been established to reflect your Committee's conception of the appropriate ranking within the judicial structure. In addition, your Committee has included in this bill language in sections 571-8.2 and 604-2.5, Hawaii Revised Statutes, to stipulate that district court and district family court judges assigned temporarily to circuit court duties are to be paid at the rate based on the salary of a circuit court judge. Your Committee feels that this amendment makes the temporary assignment process more equitable.

Your Committee notes that the Administrative Director and Deputy Administrative Director of the courts will continue to receive the same salaries as a department head and a first deputy, respectively, and effective July 1, 1986 the salary of the Federal Programs Coordinator is reduced to zero.

As amended, this bill increases the salaries or maximum salaries of the following public officers and employees. The public officers and employees are the: Governor, Lieutenant Governor, Superintendent of Education, Department Directors, Adjutant General, first and second deputies and assistants to Department Directors, Administrative Director of the State, members of the Hawaii Labor

Relations Board, Chief Negotiator, Stadium Manager and Deputy Stadium Manager, Special Assistant to the Governor for Agriculture, Commissioners of the Public Utilities Commission, Assistant, District, and Deputy District Superintendents of Education, State Librarian, Executive Director of the Hawaii Public Broadcasting Authority, Director of the Executive Office on Aging, members of the Hawaii Paroling Authority, Executive Director of the Hawaii Housing Authority, members of the Labor and Industrial Relations Appeals Board, Deputy Commissioner of Credit Unions, Director of the Office of Consumer Protection, Director of the Office of Children and Youth, State Public Defender, Supreme Court Justices, Intermediate Appellate Court Judges, Circuit Court Judges, District Court Judges, District Family Court Judges, Administrative Director and Deputy Administrative Director of the Court, Legislative Auditor, Director of the Legislative Reference Bureau, and Ombudsman and their deputies or assistants, and Executive Director of the State Ethics Commission. Your Committee also notes that, because of sections 401-1 and 431-33, Hawaii Revised Statutes, the maximum salaries of the Bank Examiner and Insurance Commissioner are increased. The necessary appropriations are also inserted.

Your Committee finds that the salary amounts proposed under this bill are fair and will assist the State in recruiting and retaining qualified, competent, and motivated public officers and employees.

In addition, your Committee has made technical, nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 471, S.D. 2, H.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 471, S.D. 2, H.D. 1, C.D. 2.

Representatives Kiyabu, Yoshimura, Crozier, Kihano, Lardizabal, Souki, Takamine and Anderson,
Managers on the part of the House.

Senators Yamasaki, Holt, Machida, Mizuguchi and George,
Managers on the part of the Senate.

SPECIAL COMMITTEE REPORT

Spec. Com. Rep. 1-86

Your Committee on Credentials begs leave to report that it has thoroughly considered the matter of the seating of JAKE MANEGDEG and DAVID Y. IGE as members of the House of Representatives of the Thirteenth Legislature of the State of Hawaii.

Your Committee was referred the communication from the Governor of the State of Hawaii on the appointment of JAKE MANEGDEG to fill the vacancy created by the resignation of former State Representative DONNA MERCADO KIM and the communication on the appointment of DAVID Y. IGE to fill the vacancy created by the resignation of former State Representative ARNOLD MORGADO, JR. After reviewing both communications of appointment and the qualifications of each appointee, your Committee finds the said appointees to be qualified and recommends that JAKE MANEGDEG and DAVID Y. IGE be seated as members of the House of Representatives from the Fortieth Representative District and the Forty-Third Representative District, respectively.

Signed by Representatives Tom, Shito, Andrews, Blair, Crozier, Hashimoto, Hirono, Honda, M. Ige, Menor, Metcalf, Liu and Medeiros.